

# MEETING OF THE PARLIAMENT

Wednesday 2 June 1999  
(*Afternoon*)

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DEPUTY FIRST MINISTER—Jim Wallace MSP

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APPOINTED MEMBERS—Robert Brown MSP, Des McNulty MSP, Andrew Welsh MSP, John Young MSP

## Scottish Parliament

*Wednesday 2 June 1999*

*(Afternoon)*

[THE DEPUTY PRESIDING OFFICER *opened the meeting at 14:30*]

**The Deputy Presiding Officer (Ms Patricia Ferguson):** To begin proceedings for this afternoon—

**Members:** We cannot hear.

**The Business Manager (Mr Tom McCabe):** I shall move the following motion so that the problem with the sound system can be put right.

*Question, That the meeting be now adjourned, put and agreed to.—[Mr McCabe.]*

*Meeting adjourned at 14:37.*

*On resuming—*

14:45

**The Deputy Presiding Officer:** Members should now take their seats.

Good afternoon. To begin the proceedings, I invite Mr George Reid to make a statement on the sad and untimely passing of Kenny Macintyre.

## Kenny Macintyre

14:46

**Mr George Reid (Mid Scotland and Fife) (SNP):** This week, with the death of Kenny Macintyre, this Parliament and its press gallery lost a good friend and a fine broadcaster. Scotland has lost a unique voice—a voice that would have reported and interpreted our proceedings like no other. The tragedy is that Kenny, who awaited this Parliament with such expectation for so long, has left it so suddenly and so soon.

All of us who were privileged to work with Kenny, be it in the BBC newsroom or the hurly-burly of politics, know that he was a man with all the qualities of a great reporter: informed judgment; independence of mind; quite extraordinary perseverance in pursuit of a story; an ability, despite his frenetic flurry of activity, always to meet his deadlines; and a contacts book without equal. This Parliament will wish to record its appreciation of a life well lived in public service and to convey to Kenny's family and widow, who are with us today, our respect, condolences and deep sympathy.

Finally, I propose to the Parliament that, as a permanent memorial, the Scottish Parliamentary Corporate Body should institute, in conjunction with his family and with press colleagues, the Kenny Macintyre annual award, to be given to the press or broadcasting journalist who has provided the best coverage of our proceedings. That would help to recognise in others some of the unique qualities that Kenny brought to his trade. *[Applause.]*

**The Deputy Presiding Officer (Ms Patricia Ferguson):** Are members in agreement with Mr Reid's proposal?

**Members:** Yes.

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

## Business Motion

**The Deputy Presiding Officer (Ms Patricia Ferguson):** Before we move to the first item of business, I would like to make it clear that a revised version of today's business bulletin has been published. It includes motion S1M-30 in the name of Mr Tom McCabe, which is in the programme for this afternoon.

The first item of business this afternoon is consideration of a business motion from the Parliamentary Bureau setting out a business programme. Consideration of that motion will take place in a moment; I intend to put the question on the motion no later than 10 minutes after it is moved. If the motion is approved, the business programme for the remainder of the afternoon will be as set out in today's revised business bulletin.

I call on Tom McCabe to move the motion.

14:49

*Motion moved,*

That the Parliament agrees the following business programme:

### Wednesday 2 June

that the following draft Orders—

The Scotland Act 1998 (Modifications of Schedules 4 and 5) Order 1999;

The Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999;

The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999;

The Scotland Act 1998 (Cross-Border Public Authorities) (Adaptation of Functions etc.) Order 1999; and

The Scotland Act 1998 (Border Rivers) Order 1999

be considered by the Parliament.

*followed by*

Debate on the following motions—

S1M-25 Mr Henry McLeish: That the draft Scotland Act 1998 (Modifications of Schedules 4 and 5) Order 1999, which was laid before the Parliament on 26 May, be approved.

S1M-26 Mr Henry McLeish: That the draft Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999, which was laid before the Parliament on 26 May, be approved.

S1M-27 Mr Henry McLeish: That the draft Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999, which was laid before the Parliament on 26 May, be approved.

5.00 pm Decision Time

### Thursday 3 June 1999

2.30 pm Debate on the following motions—

S1M-28 Mr Henry McLeish: That the draft Scotland Act

1998 (Cross-Border Public Authorities) (Adaptation of Functions etc.) Order 1999, which was laid before the Parliament on 26 May, be approved.

S1M-29 Mr Henry McLeish: That the draft Scotland Act 1998 (Border Rivers) Order 1999, which was laid before the Parliament on 26 May, be approved.

*No later than 4.00 pm*

Debate on the following motion—

S1M-19 Ross Finnie: That the Parliament notes that the Scottish Adjacent Waters Boundaries Order (S.I.1999/1126) in no way alters or restricts the freedom of the Scottish fleet to fish consistent with the Common Fisheries Policy of the European Union; notes that from 1 July the Parliament will be charged with the responsibility of regulating fishing in the newly created Scottish zone of British Fishery Limits and fishing by all Scottish vessels no matter where they fish; and will require consultation with relevant bodies in the preparation of legislation relating to fishing in the Scottish zone.

5.00 pm Decision Time

### Tuesday 8 June 1999

2.30 pm Business Motion

*No later than 3.00 pm*

Motion(s) on the establishment of Committees

*followed by*

Motion on Members' Allowances

5.00 pm Decision Time

### Wednesday 9 June 1999

10.30 am Business Motion

*followed by*

Debate(s) on the Consultative Steering Group report and draft Information Strategy.

*followed by*

Motion on the Parliamentary Recess (to be taken without debate).

12.30 pm Decision Time.—[*Mr McCabe.*]

14:49

**Michael Russell (South of Scotland) (SNP):** I oppose the business motion in Tom McCabe's name. It is with great reluctance that I take this step. According to the consultative steering group report, the business committee—the Parliamentary Bureau—was meant to operate in a “consensual way”; and I know that the business managers, the Presiding Officer, the Deputy Presiding Officers and others have taken that point very seriously. The Parliamentary Bureau is part of a package that should reflect a desire for new politics in Scotland.

I have given notice to the other business managers and to the Deputy Presiding Officers, through the Parliamentary Bureau, that I intend to oppose the business motion. I did that yesterday by minuting my dissent at a Parliamentary Bureau

decision that was made by majority vote—the first vote that we have taken in four meetings.

The “Report of the Consultative Steering Group on the Scottish Parliament”, which was drawn up by a committee chaired by Henry McLeish, was greatly helped by his positive attitude—at that time—to the new politics. It expressed a belief that the

“arrangements for the programming of business in the Scottish Parliament should be inclusive and transparent and should provide reasonable time for business initiated by non-Executive parties, by individual Members and by Committees.”

Mindful of that, the Parliamentary Bureau intended to provide a small allocation of time this week for motions from members who are not ministers. I do not want to go into detail of the full discussions of the Parliamentary Bureau, but I must be able to say that, at last week’s meeting, agreement was reached without dissent that time would be allocated this Thursday for a debate that would reflect motions lodged by members.

After discussion it was agreed that the debate should reflect on the order on the Scottish adjacent waters boundaries, because two motions, from two different groups of people, had been lodged on the matter. I stress that the Parliamentary Bureau wished to consider motions from members in order to reflect the desire of many members to debate current concerns. As there were two such motions, the Parliamentary Bureau asked the principal movers, Euan Robson and Richard Lochhead, to meet to arrange a single motion.

There would have been no difficulty in doing that; the motions were broadly similar and expressed opposition to the boundary order. However, negotiations on the motion were suspended yesterday morning after Euan Robson told Richard Lochhead that the Cabinet was discussing the matter. That was confirmed to me in a telephone conversation with the Liberal Democrat business manager.

Later yesterday morning, after the Cabinet meeting, I was approached and asked whether I would agree with an Executive motion in the name of Ross Finnie. I refused and asked for a special meeting of the Parliamentary Bureau. At that meeting, James Douglas-Hamilton proposed a compromise, which was to debate the matter on a motion from the SNP, with the Executive motion as an amendment. The original Cabinet decision was, however, rammed through on the votes of the Liberal Democrat and Labour business managers.

That is not the substantive issue. The substantive issue is what standing and status this Parliament and the Parliamentary Bureau have in

ordering business. In Henry McLeish’s introduction to the CSG report, he wrote that

“the establishment of the Scottish Parliament offers the opportunity to put in place a new sort of democracy in Scotland . . . people . . . have high hopes for their Parliament . . . in particular our recommendations envisage an open, accessible Parliament; a Parliament where power is shared with the people”.

In the last paragraph he adds:

“The work of this Group has set the tone for the future of Scottish politics.”

It has not yet done that, but we can decide today to set the tone for the future of Scottish politics.

During the election, all parties and most candidates expressed their support for the new politics—a different way of doing things and a move away from the Westminster Government’s dictatorial attitudes to the UK Parliament towards a consensual approach in which there would be debate and discussion on what took place. At the heart of that approach was the existence of the Parliamentary Bureau, which could discuss on behalf of the Parliament what motions would be taken and how they would be ordered.

I oppose this business motion because, within three weeks, we have departed from that practice. The pattern of departure has included the question of Short money, the problem of allowances and staff support and now the ordering of business. This Executive is saying that it will operate on the basis of Westminster business as usual, in which the views of the Government alone count.

I am informed that, regrettably, members of the Executive parties—even the Liberals, who have a proud record of defending democracy and parliamentary institutions—are being whipped to support the motion. They will allow a dark cloud to obscure the new light of Scottish democracy if this business motion goes through. If the motion is rejected, however, I understand that the bureau will meet immediately and a new business motion will be proposed.

The people of Scotland, who on 6 May demanded a new politics, deserve to be heard in this chamber. Most of all, they must be heard by the Executive. The people asked for a different way of doing things, the CSG produced a report which gave that life and the standing orders indicate that we should do things differently.

The obstacle to that lies with the Executive, which is determined to veto decisions of the Parliamentary Bureau as if it were a Cabinet sub-committee rather than a full committee of this Parliament. There is no doubt that the bureau is intended to be a full committee of this Parliament. To allow this motion to go through would be wrong in principle, wrong in practice, wrong for Scottish democracy and wrong for the future of this

chamber. I ask members to oppose the motion.

14:55

**The Business Manager (Mr Tom McCabe):** I will respond to some of Mr Russell's points in a few moments, although it may be helpful if I first summarise the exact content of the business motion.

I prefix my remarks by saying that it is a matter of some moment if members of the Parliamentary Bureau are prepared to oppose a business motion after a decision has been reached; that requires serious consideration. [*Interruption.*] Another matter that requires serious consideration is whether certain non-Executive members should learn to show some manners when other members are on their feet; that could take us some way towards establishing a Parliament that is different from Westminster, which is what so many non-Executive members have spent so much time telling us we should do.

The business motion sets out a programme of business for the Parliament up to and including 9 June. The Parliamentary Bureau intends this to be the first in a series of forward-looking motions, which in each case will normally span at least two weeks. It is proposed that the next business motion should be taken next week.

The main business proposed for today and tomorrow is the consideration to approve five orders under the Scotland Act 1998. Under rule 10.1.3, the Parliament requires that these orders be considered by a full meeting of the Parliament, in the absence of the appropriate committee to which they would normally be referred. It is further proposed that, tomorrow, the Parliament should also debate the Scottish adjacent waters boundaries.

In summary, the provisional business for the following week is that on 8 June the Parliament should debate motions on the establishment of committees and a motion on members' allowances. On 9 June, the Parliament should debate the consultative steering group report and the draft information strategy for the Parliament. In addition, there will be a motion to deal with the proposed summer recess. I should reiterate that the business motion is a decision of the Parliamentary Bureau and that that decision is taken by the business managers of all the parties.

Specific reference has been made to the adjacent waters debate. The bureau agreed that an Executive motion was an appropriate means to introduce the topic for debate. That will afford all members the opportunity to debate the topic; it will not prevent any member from speaking, and it does not preclude the opportunity to amend the motion. Indeed, in bringing forward the motion, the

bureau shows willingness to make use of all available plenary time during what is, after all, a transition period between now and 1 July, when we take on our full powers.

The motion will be taken at a time that would usually be used for Executive business. If non-Executive parties wish to bring forward matters of concern, there are 15 half-day meetings in which they will have the opportunity to decide the topic for discussion. It is not the bureau's intention that this debate should in any way detract from the 15 half-day meetings each year for the non-Executive parties. The bureau will ensure that proper account is taken of the wishes of the non-Executive parties and that those 15 half-day meetings are available to them.

**Mr Alex Salmond (Banff and Buchan) (SNP):** Will Mr McCabe give way?

**Mr McCabe:** I am not prepared to give way.

**Mr Salmond:** What about North Lanarkshire?

**Mr McCabe:** The comment is unfortunate and the geography is wrong—it was South Lanarkshire.

I stress that no dark clouds will hang over this Parliament. The time today is Executive time. There is no attempt to inhibit debate. The subject that non-Executive members want to discuss is being debated. They will have the opportunity to contribute to that debate and to move any amendments. I move the business motion.

**Dennis Canavan (Falkirk West):** On a point of order. The starting time for our meeting on Wednesday 9 June 1999 is omitted in my printed copy of the business bulletin; it states that decision time will be at 12:30 pm but does not state at what time we are due to start. Perhaps Mr McCabe could advise us if that means that the motion, as it stands, is incomplete?

**The Deputy Presiding Officer:** That information will be included in the business list at a later date; it is not necessary for it to appear now.

It is time to put the question on the motion. The question is, that motion S1M-17, in the name of Mr Tom McCabe, be agreed to. Are we all agreed?

**Members:** No.

**The Deputy Presiding Officer:** In that case, there will be a division. There will be a 30-second period in which members may vote; members should not cast their votes until the red light appears on the console. If members wish to agree, they should press the yes button. If they wish to disagree, they should press the no button, and if they wish to abstain, they should record that by pressing the appropriate button. The red light is now on, so members may vote.



**FOR**

Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Galbraith, Mr Sam (Strathkelvin and Bearsden) (Lab)  
 Gillon, Karen (Clydesdale) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (Edinburgh Pentlands) (Lab)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr 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)  
 Mackay, Angus (Edinburgh South) (Lab)  
 MacLean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAllion, Mr John (Dundee East) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McLeish, Henry (Central Fife) (Lab)  
 McMahon, Mr 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)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Ms Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 Smith, Mrs Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Ian (Ayr) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**AGAINST**

Adam, Brian (North-East Scotland) (SNP)  
 Campbell, Colin (West of Scotland) (SNP)  
 Canavan, Dennis (Falkirk West)  
 Crawford, Bruce JP (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Elder, Dorothy-Grace (Glasgow) (SNP)  
 Ewing, Dr Winnie (Highlands and Islands) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Fergusson, Alex (South of Scotland) (Con)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gorrie, Donald (Central Scotland) (LD)  
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Johnston, Mr Nick (Mid Scotland and Fife) (Con)  
 Johnstone, Alex (North-East Scotland) (Con)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 McLeod, Fiona (West of Scotland) (SNP)  
 McLetchie, David (Lothians) (Con)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 Mundell, David (South of Scotland) (Con)  
 Neil, Alex (Central Scotland) (SNP)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Quinan, Mr Lloyd (West of Scotland) (SNP)  
 Reid, Mr George (Mid Scotland and Fife) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Russell, Michael (South of Scotland) (SNP)  
 Salmond, Mr Alex (Banff and Buchan) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Ullrich, Kay (West of Scotland) (SNP)  
 Wallace, Ben (North-East Scotland) (Con)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Wilson, Andrew (Central Scotland) (SNP)

**The Deputy Presiding Officer:** The result of the division is as follows: For 66, Against 46. There were no abstentions.

*Motion agreed to.*

**Alasdair Morgan (Galloway and Upper Nithsdale) (SNP):** On a point of order, Madam Deputy Presiding Officer. You may be aware that several bills that apply to Scotland and deal with matters that will be devolved to this Parliament on 1 July are going through Westminster. Those bills include the Access to Justice Bill, the Health Bill, the Pollution Prevention and Control Bill and the Youth Justice and Criminal Evidence Bill; there may be others that I have not found out about.

I suspect that it is unlikely that those bills will all receive royal assent by 1 July. Has this matter been raised in the Parliamentary Bureau? Even if the content of those bills is innocuous—although I

doubt that that is the case—surely it is setting a bad precedent for Westminster to legislate on matters that will be devolved to this assembly after 1 July and for it to continue to do so after 1 July.

**The Deputy Presiding Officer:** That matter has not yet been raised in the Parliamentary Bureau. If parties have concerns about it, I am sure that it will be raised in future.

## Devolution

15:05

**The Deputy Presiding Officer (Ms Patricia Ferguson):** The next item of business is a debate on motion S1M-30, again in the name of Mr Tom McCabe, requesting that five affirmative orders relating to the Scotland Act 1998 should be considered by the Parliament.

*Motion moved,*

That the Parliament agrees that the following draft Orders—

The Scotland Act 1998 (Modifications of Schedules 4 and 5) Order 1999;

The Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999;

The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999;

The Scotland Act 1998 (Cross-Border Public Authorities) (Adaptation of Functions etc.) Order 1999; and

The Scotland Act 1998 (Border Rivers) Order 1999

be considered by the Parliament.—[Mr McCabe.]

**The Deputy Presiding Officer:** The question is, that motion S1M-30, in the name of Mr Tom McCabe, be agreed to. Is that agreed?

*Motion agreed to.*

**Phil Gallie (South of Scotland) (Con):** On a point of order, Madam Deputy Presiding Officer. These orders have been thrust upon us. Given that one of the orders in particular was scheduled for tomorrow and that I did not arrive here until 2.30 pm this afternoon, could we have a 10-minute adjournment while I obtain the relevant document?

**The Deputy Presiding Officer:** No. Only three orders will be debated this afternoon, Mr Gallie, so that problem does not arise.

**Phil Gallie:** The order to which I refer is the Scotland Act 1998 (Cross-Border Public Authorities) (Adaptation of Functions etc.) Order 1999. I did not come prepared to speak to that today, although it would only take me 10 minutes to obtain the document.

**The Deputy Presiding Officer:** I can give you 24 hours as that order is not being debated until tomorrow.

The next item of business is a debate on the approval of draft orders as detailed in the following motions:

That the draft Scotland Act 1998 (Modifications of Schedules 4 and 5) Order 1999, which was laid before the Parliament on 26 May, be approved.

That the draft Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999, which was laid

before the Parliament on 26 May, be approved.

That the draft Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999, which was laid before the Parliament on 26 May, be approved.

For the convenience of the Parliament, Mr McLeish will formally move only the first of those motions at this stage, but will speak on all three. I invite other members to speak on any individual motion, or on all three motions.

The debate is scheduled to end at 5 pm, and will be followed by decision time, when questions will be put on the three motions. I will ask Mr McLeish formally to move his other two motions before questions are put. I do not propose to set any time limits for members' contributions, although I may review that towards the end of the time that has been allocated for the debate if a large number of members are still waiting to speak.

15.07

**The Minister for Enterprise and Lifelong Learning (Henry McLeish):** When we listen to comments in the chamber, we are aware that there is tension and that there are frustrations; all of us want to get on with the job at hand. Huge responsibilities have been placed on each of us to make this Parliament a great success. Today, in what will not be a scintillating exercise, we have a chance to march forward with the orders that we are debating, because those orders form part of the legislative package that is required to deliver devolution for Scotland. The orders reflect the interface with Westminster and with the UK Government and require the agreement of this Parliament and of the UK Parliament.

The Scotland Act 1998 (Modifications of Schedules 4 and 5) Order 1999 adjusts in a number of areas the matters on which the Parliament will have legislative competence, so as to extend or clarify the Parliament's powers.

The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 provides for what has become known generally as executive devolution, which is the devolution to the Scottish ministers of powers and duties in relation to reserved matters. It is important to note that these functions will be additional to those that relate to devolved matters, which will transfer to the Scottish ministers automatically by virtue of section 53 of the Scotland Act 1998. This draft order is concerned with the transfer of executive powers and duties in areas where primary legislation will continue to be a matter for Westminster. In exercising those functions, the Scottish ministers will, of course, be accountable to this Parliament.

The Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999 assists in

ensuring the proper devolution of functions to the Scottish ministers, either through section 53 of the Scotland Act 1998, because the functions relate to devolved matters, or by the executive devolution order under section 63. In particular, the order clarifies cases where there might be doubt about whether a function is exercisable as regards Scotland. This clarification is necessary to ensure that the relevant function will devolve. I will now deal with the draft orders in greater detail.

First I will examine the order on modifications of schedules 4 and 5, which is to be made under section 30(2) of the Scotland Act 1998, which enables Her Majesty, by Order in Council, to modify schedules 4 and 5 of the act. Those schedules are central to the definition of the legislative competence of the Parliament, schedule 5 in particular, which lists the matters about which this Parliament cannot legislate.

This draft order makes relatively minor modifications to the schedules.

First, the order devolves competence to legislate about the funding of political parties to assist MSPs in the performance of their parliamentary duties, allowing the Parliament to devise its own arrangements.

Secondly, the order reserves the functions of the Secretary of State for Trade and Industry that are exercisable through the Export Credits Guarantee Department.

Thirdly, the order clarifies the Scottish Parliament's legislative competence on freedom of information. It does that by reserving competence to legislate about public access to information that is held by public bodies and office holders, except for information that is held by the Parliament, the Scottish Parliamentary Corporate Body, the Scottish Administration or Scottish public authorities that are under the control of the Scottish ministers. This Parliament will have competence to legislate about public access to such information, unless the information was supplied by a UK minister or department in confidence.

Fourthly, the order clarifies the reservation of health and safety matters. The original reservation did not make a sufficiently clear distinction between the matters that are reserved and those that are devolved. The reservation is intended to cover areas relating to health and safety at work, including the Health and Safety Commission, the Health and Safety Executive and the Employment Medical Advisory Service. However, the Scottish Parliament is to have legislative competence over matters in related areas, such as building control, public health, general fire safety, protection of the environment, food safety, planning and public safety in places of entertainment.

**Nicola Sturgeon (Glasgow) (SNP):** I would like to make a point not of substance but of form. The orders are not open to amendment and members are required to vote for each of them in their entirety. Does Mr McLeish think it desirable that an order should deal with issues that are essentially unrelated? Article 5 of the order that is currently under discussion deals with a proposed addition to the reserved powers under the Scotland Act 1998. Can he reassure members that, in the unlikely event that the Executive proposes further additions to the reserved powers, or, in other words, proposes the removal of powers from the Parliament, it will not do so under the cover of other matters and that members will be able to vote on such issues separately?

**Henry McLeish:** That point is well made, but we are in historically unusual circumstances. This is the first time in 300 years that we have passed major powers from one Parliament to another. The method that we have adopted to do that is democratic and relevant. It allows us to flesh out the Scotland Act 1998 by the respective orders. I hope that, after 1 July, when we discuss matters of importance, we will not have these rather voluminous orders, but will be able to debate issues on their merits in a more informative way.

The final reason that the draft order makes modifications to the schedules is to introduce a minor exception from the reservation of interception of communications. That is necessary to ensure that the reservation does not unintentionally affect existing provision for the interception of the correspondence of a patient in a mental hospital or a prisoner's telephone conversation.

The Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999 relates to section 30(3) of the Scotland Act 1998. Its purpose is to clarify matters, which will be necessary unless we have had experience of the Scotland Act 1998—I know that many members have. Section 53 of the Act provides for the legislative competence on devolved powers to come to the Parliament. It also allows matters that are important in or as regards Scotland, which become the focus for executive devolution on reserved matters, also to come to this Parliament.

In that sense we are talking about executive devolution, which is a substantial addition to the powers that we have in terms of legislative competence. As always, the order contains a very simple phrase, which means not a little to most. It is essentially a technical order. It provides for various functions to be treated as being exercisable or as not being exercisable “in or as regards Scotland”, for various purposes of the Scotland Act 1998, in particular the transfer of ministerial functions. The order is necessary

because the Parliament can only legislate to confer or to remove functions exercisable “in or as regards Scotland” and because only those functions can transfer to the Scottish ministers under section 53 of the Scotland Act 1998 or under the executive devolution order, which I shall talk about shortly.

In the majority of cases, it will be clear that functions will be exercisable in or as regards Scotland. However, there will be some cases where the connection with Scotland may be unclear. An example of that is when a prisoner is transferred from one jurisdiction to another and it might be unclear which ministers should deal with matters such as parole. The order provides that prisoners who are sentenced in Scotland will continue to be subject to the Scottish system, even if they are transferred to prisons elsewhere. Other examples are the regulation of fishing, the implementation of European Community agriculture obligations, the provision of student loans and the interception of communications.

The executive devolution order contains provisions for the Scottish ministers to be consulted on or to agree to appointments of persons to United Kingdom or Great Britain bodies. The order also ensures that a function is treated as being exercisable in or as regards Scotland for the purposes of executive devolution; otherwise, the effect of the order would be unclear. I am conscious that for most people in the Parliament the order may still be very unclear.

I will now deal with the third order, which is the transfer of functions to the Scottish ministers order, known as the executive devolution order. This order, which is made under section 63 of the Scotland Act 1998, gives effect to the white paper commitment that the Scottish Executive will be responsible for carrying out functions in areas in which law-making powers are reserved. That is referred to as executive devolution. Any function of a UK minister, so far as it is exercisable in or as regards Scotland, can be executively devolved under section 63. That applies to statutory or non-statutory functions, including the power to make subordinate legislation. The order also provides for specified functions of UK ministers to be exercisable only with the agreement of, after consultation with, or concurrently with Scottish ministers.

It might be helpful if I outlined the key provisions of the order. Schedule 1 specifies the functions that are to be exercisable by the Scottish ministers instead of by the UK minister. Schedule 2 specifies the functions that are to be exercisable by the Scottish ministers concurrently with the UK minister. Schedule 3 specifies functions to be exercisable by a UK minister only with the agreement of, or after consultation with, the

Scottish ministers.

**Mr Andrew Welsh (Angus) (SNP):** If powers are to be exercised concurrently by ministers, what mechanism will be used to do that formally? If it is to be done by concordat, when will the Parliament get to see that or any other concordat?

**Henry McLeish:** In relation to Andrew Welsh's latter point, we hope to be in a position to discuss that soon. As he will know, the concordats have been prepared for some time. However, they must be signed by the Executive and by the Westminster Government. I hope that we will be able to discuss the concordats reasonably soon. The order takes—

**Mr Welsh** *rose—*

**Mr John Swinney (North Tayside) (SNP)** *rose—*

**Henry McLeish:** I want to finish dealing with Mr Welsh before I deal with Mr Swinney.

**Mr Swinney:** That sounds ominous.

**Henry McLeish:** It is not intended to be ominous.

This particular order looks at the different permutations of the transfer of powers, because some functions are dealt with by UK ministers, some are dealt with by Scottish ministers and some are dealt with concurrently. The mechanisms will be tied in to the provision—informally, we hope—because the order should identify those areas that are to be taken concurrently. That will be done by agreement between the Executive and the Westminster Government. That allows the opportunity for more substantial executive devolution to Scotland, especially when we can share decision making in relation to those concurrent powers.

**Mr Swinney:** On the approval of the concordats, Mr McLeish mentioned in his response to Mr Welsh that the Executive members had to sign the concordats. As it was far from clear from his earlier response, can he say whether those signatures will be added to the concordats only once this Parliament has approved the contents of the orders?

**Henry McLeish:** I confirm to Mr Swinney that the position remains unclear. The concordats deal with areas of government where we need agreements—a working framework for how we take the devolution settlement forward. None of the concordats can be implemented, or act as a working framework, until the Westminster Government and the Executive sign and approve them. At this stage, I am not sure what mechanisms will exist for the Parliament and its members to discuss and debate those issues. However, with my usual courtesy, I would like to

get back to Mr Swinney, in order to confirm what the process for implementing the concordats will be.

Schedule 4, which concludes the sequence of arrangements between the Executive and the UK Government, specifies certain non-statutory functions to be carried out by the Scottish ministers instead of the UK minister.

The functions covered by this order are explained in detail in the guide to the order, which has been made available to members. Examples of those functions include: providing and administering public sector pension schemes; appointment of members and provision for procedural rules for tribunals operating in Scotland; and functions that relate to national lottery bodies. That is only an insight into a whole range of different types of provision that will be covered by the order.

I do not propose to take up members' time by going into more detail on the content of these orders. If possible, I will try to respond to any questions that members may ask. The draft orders are essentially technical in nature. They build on the provision made by the Scotland Act 1998 and make adjustments at the edges of the devolution settlement. I ask the Parliament to approve these draft orders, which will complete the framework for a smooth transition of power on 1 July.

I move,

That the draft Scotland Act 1998 (Modifications of Schedules 4 and 5) Order 1999, which was laid before the Parliament on 26 May, be approved.

15:22

**Michael Russell (South of Scotland) (SNP):** I give a general welcome to the orders. It is not a specific welcome as they contain a great deal of detail and, as Nicola Sturgeon said, items need to be teased out from the vast bulk of documentation that has been presented to us. However, anything that moves forward the Scottish Parliament and the process of decision making in Scotland is to be welcomed, although there are many things to watch out for. In Mr McLeish's contribution, one thing particularly to watch out for is that we must see the draft concordats published before they go anywhere near a fountain pen held by a member of the Scottish Executive or of the United Kingdom Government.

In commencing the debate, I will concentrate on one set of articles in the first of the orders. In articles 2(1) and 2(2) of the Scotland Act 1998 (Modifications of Schedules 4 and 5) Order 1999, there is a means by which the Scottish Parliament is able to set the allocation of moneys for registered political parties—in other words, the Scottish Parliament can implement the system

known as Short money. These two paragraphs are important—although I will come to how Short money might be operated later. The amount of money available is minuscule in comparison with what was contained in the three pages of the equivalent order that was laid before Westminster. However, this order, which was laid on the last day before the Whitsun recess in what was essentially an attempt to sneak it through Westminster, is very worrying. It not only ignores the conventions on Short money and how it is paid, it runs in direct contravention of the recommendations of the Neill committee report on party political funding, and I will concentrate on the ways in which the order does that.

The Short money that was paid from 1975 to last week was, on the very day on which this order was tabled, increased substantially for the Westminster parties. That was in recognition of representations made to the Neill committee by every political party and by many others. The purpose of Short money is to enable Opposition parties to fulfil more effectively their primary duties. In the words of the Neill committee report

“we believe that the Short money scheme is founded on the sound principle that, in a parliamentary democracy, the party in Government should be held to account and kept in check by a vigorous and well-prepared Opposition”.

I think that every member of this chamber accepts that principle. However, like all principles, it is how it works in practice that becomes the issue. There is no doubt that by dramatically reducing the amount of Short money available to parties, which is, in effect, what the Westminster Government's order does, the Labour party is attempting to ensure that the work of the Opposition parties is undermined. If that measure is put alongside the way in which the discussion on allowances has taken place, there is a concerted attempt to undermine not only the work of Opposition parties but the democratic process. The Westminster order should be most strongly objected to, and I hope that arrangements will be made to have the order debated in full at Westminster and not in the dark recesses of a small committee.

It is also important to see whether there is any way to restore a democratic method of funding Opposition political parties. The Neill committee's recommendations on such matters were very clear to this Parliament. The committee said that there should be consultation and discussion between the parties. That has not taken place and certainly did not take place at Westminster. The committee also recommended that this Parliament should have the opportunity to set the Short money, which is what the two paragraphs in the order seek to do.

From 2 July, we will have the opportunity to

produce primary legislation. I understand that it will take such legislation to put in place a scheme for setting the Short money for this Parliament. There are a number of ways of achieving that aim, but I want to bring one particular idea to the debate. The SNP intends to table a motion soon that will ask this Parliament to refer the matter to the members of the Neill committee for their binding views on what the amount of Short money should be.

I cannot imagine why the Executive would object to that proposal. The Labour party was strongly in support of the committee. Indeed, I note that when Ann Taylor was Leader of the House, she objected to the present Short money arrangements—which was one of the reasons why the amount was upgraded—saying that the money was not nearly enough for Opposition parties. That was when the Short money for Labour was £1.5 million.

I hope that the Labour party—and every party in this Parliament—will accept that the Neill committee, which has put forward strong views on the matter, should arbitrate on the issue. That will also give the committee the opportunity to arbitrate on which parties should receive that funding. The order at Westminster allocates the funding to the Liberal Democrats, which is clearly in contravention of the recommendations of the Neill committee report. I have to point out to members that the Labour party, in its evidence to the committee, suggested that the governing party itself should also get the money, so I suppose we should be grateful for small mercies that it was not quite as barefaced as that in this Parliament.

However, the Neill committee could take a considered view on the matter and could consult with each of the political parties in this Parliament rather than force through the matter. Ominously, the order at Westminster anticipates arrangements which recede into the far distance, and I suspect that the Government may feel that, once the Westminster order is passed, it should sit there and undermine the Opposition parties.

I am glad to say that, if we pass this order—and the SNP shall certainly vote for it in that spirit—there will be an opportunity for this Parliament to consider what is appropriate, to support the work of the Opposition and to make sure that there is a balance of forces in the Parliament, instead of a dictatorship from the Executive. That is one of the reasons why I—and the SNP—will support the order.

Furthermore, I hope that we will soon have the opportunity to vote on a motion to take the matter to the Neill committee and to seek the opinion and influence of people who have gone on public record as being somewhat scandalised by the order laid at Westminster.

15:28

**David McLetchie (Lothians) (Con):** Scottish Conservative members welcome the first order, which modifies schedules 4 and 5 of the Scotland Act 1998. We particularly welcome article 2, to which Mr Russell referred.

As Mr Russell pointed out, when the order was laid here, a draft order was laid at Westminster which governs financial assistance for registered political parties. When approved, it will govern arrangements for political parties in this Parliament, pending any subsequent change in the law.

The Conservatives believe that the Westminster order is an affront to this Parliament and flies in the face of the Neill committee recommendations on the provision of Short money, which Mrs Margaret Beckett, the Leader of the House of Commons, was quick to endorse enthusiastically in a Westminster context. In the debate on this subject in the House of Commons, she boasted that the Government had thoroughly honoured the principal outcome of the Neill committee's work and went on to declare proudly that

"Parliament will be stronger as a result".—[*Official Report, House of Commons*, 26 May 1999; Vol 332, c 428.]

What is good enough for Westminster is apparently not good enough for the Scottish Parliament, and the apparent altruism of Her Majesty's Government is only skin deep. In Westminster, Labour can afford to be generous as it is backed—at least for the time being—by a large parliamentary majority. In Scotland, Labour is doing everything it can to suppress opposition to its unprincipled coalition with the Liberal Democrats. Not for us the fair hand of Mrs Beckett, but the devious and partisan hand of the Scottish Executive, whose grubby fingerprints are all over the Scottish Short money order. In short, parliamentary democracy is being short changed in Scotland on Short money.

The deliberations of 22 ministers and law officers are being assisted by the employment of up to a dozen special advisers at a cost to the public purse of more than £500,000. It is remarkable that barely half that sum is to be granted to genuine and authentic Opposition parties in this Parliament to enable us better to perform our duty to subject the Executive to scrutiny and hold it to account. Lord Neill addressed that imbalance at Westminster, but the Scottish Executive is determined to perpetuate it here. It bears all the hallmarks of the Labour-run councils that Mr McCabe and others are so intimately acquainted with.

The biggest scandal of all on this subject is the sleight of hand that will grant funding in this Parliament to the Liberal Democrats, which is a

party of government—not a party of opposition—and should be ashamed of itself. I have to say to Mr Wallace who, unfortunately, is not with us at the moment, Mr Finnie and their friends, who are too ashamed to be here: are the Liberal Democrats not content with portfolios, titles, special advisers, the perks and privileges of office and the resources of the Scottish Office, which are now theirs to command? Why is it necessary to rip the Scottish taxpayer off by another £65,000 so that the pretend party can be a pretend Opposition? Are the Liberal Democrats not ashamed of themselves? Do they have no principles and integrity left? The Liberal Democrats in this Parliament are the boys from the folding stuff. It is not just gizza job—it is gie us the money as well. If they have any self-respect, they should decline this pathetic bribe as even a Liberal lapdog cannot run with the hare and hunt with the hounds at the same time.

I welcome the transfer to this Parliament of legislative competence for these matters and—like Mr Russell—hope that before long fresh proposals will come before this chamber to remove this stain on our reputation for fair play. Mr Russell's suggestion that this matter should be referred to Lord Neill and his committee for consideration is sensible and worthy of further exploration. When they contested the recent election in Scotland, all the parties in the chamber were happy to sign up to a voluntary code of conduct on election spending, which was supervised independently in line with the principles set out by the Neill committee. It seems sensible that we should take this matter forward on the same consensual basis.

I have no particular comment to make on the second order, but I am sure that the Parliament would be disappointed if I did not observe that the executive responsibilities that the third order transfers to our new Administration were more than competently exercised by a team of five Scottish Office ministers barely two years ago. Those responsibilities now seem to require the attention of four times that number of ministers and two law officers in our £5 million Government. I suggest to our new Minister for Finance, Mr McConnell, who has also left the chamber—

**Henry McLeish:** He is too busy; Mr McLetchie can tell me.

**David McLetchie:** I suggest that, in his search for economies in the Scottish budget, Mr McConnell should be sharpening his pencil and wielding his axe on this bloated Administration, because as far as most Scots are concerned the business of government in Scotland has regrettably become our biggest growth industry.

The quest for leaner and smarter government in Scotland is a subject to which we in the Scottish Conservatives will be returning time and time

again in this Parliament. In the meantime, we support the orders.

15:35

**Malcolm Chisholm (Edinburgh North and Leith) (Lab):** Two charges have been made against these orders, especially that on Short money, which is clearly the most controversial element. First, Mr Russell said that they ignore conventions. Secondly, Mr Russell and Mr McLetchie claimed that they are an affront to democracy. Mr Russell said that they undermine the democratic process and Mr McLetchie said that they suppress opposition. Those are serious charges. It is regrettable that such intemperate language has been used: the whole purpose of this Parliament was massively to increase democracy in Scotland. It is simply farcical to say that the party that took the legislation that established this Parliament through the House of Commons, the party that established the voting system to ensure fair voting, and the party that insisted on the great expansion of democracy through the committee system is now undermining democracy. Such a statement beggars belief—it is the opposite of what everybody in Scotland knows from their own eyes and from their own experience.

**Andrew Wilson (Central Scotland) (SNP)**  
rose—

**Phil Gallie:** Does Mr Chisholm believe that members who have gone to the voters and who, by their statements, have given voters to believe that they have firmly held objectives and principles should, when they come into this chamber, reject those principles and objectives? Is that not an affront to democracy?

**Malcolm Chisholm:** I think I can see what Mr Gallie is saying. It is the old debate that we had two weeks ago about a partnership between two parties in this Parliament. I shall repeat what I said then. The new voting system that we set up was always unlikely to give absolute power to one party, so a partnership was always likely.

I would also like to deal with convention. As is well known, I am in reactive mode when it comes to Westminster. I never want to stand here and defend what Westminster does, but the SNP has invited us to do so because it has made the charge that we have ignored convention in the allocation of Short money. It seems to me that that is not so.

**Mr Alex Salmond (Banff and Buchan) (SNP):** The charge was that the Labour party ignored the recommendation of the Neill committee about consultation on these matters. Will Mr Chisholm support the recommendation of the Neill committee so that the issue of Short money in this

Parliament can be determined in a non-partisan manner?

**Malcolm Chisholm:** After 1 July, this matter can be considered in different ways. A section 30 order is being laid, which will allow the Scottish Parliament to deal with assistance to Opposition parties, but we have to get the system up and running now. I am sure that the Opposition parties want this matter to be resolved immediately.

The Westminster system is based on an allocation of money that is based on the number of seats and the number of votes—parties receive so much money for seats and so much money for votes. In this Parliament, the additional members—the list members—reflect the number of votes each party got. Using the Westminster system, the SNP would get £75,000 for their seats and £68,000 for their votes, making a total of £143,000. The Government has proposed £175,000.

By a sleight of hand, the SNP is suggesting that, under the Westminster system, list members are the same as constituency members. In reality, the number of list members in this Parliament reflects the number of votes received—that is the whole point of the additional member system. Therefore, on the basis of the convention, the Opposition parties are getting substantially more than they would under the Westminster system.

**Andrew Wilson:** Will Mr Chisholm reflect on the question put to him by Mr Salmond and on the fact that the seats referred to at Westminster are seats in the chamber, and that the seats referred to here are also seats in the chamber, not seats in terms of geographic area? Short money is intended to finance the functioning of a healthy Opposition—the 35 seats that my party takes up here. If Mr Chisholm cannot concur with that, why can he not concur with Mr Salmond's question? He is known as a man of independent mind: why can he not give us his personal view of why this should not go to the Neill committee?

**Malcolm Chisholm:** That is not the issue we are debating. We are debating how money should be given to the Opposition parties at this moment. The system will change after 1 July and we will be able to discuss that then. We are discussing a particular order to get the system up and running. It is very important that we challenge the idea that this is an affront to democracy. I do not particularly want to defend the convention, but the opening charge made by Mike Russell was that convention was being ignored. That is simply not true. Regarding the position of the Liberal Democrats, I am sure that everyone knows that section 97(3) of the Scotland Act 1998 allows a coalition partner to receive Short money.

We should approve the orders, although we will



obviously have further discussions about this issue as that will become possible after 1 July. I agree with the article in yesterday's *The Scotsman* that made the point that by elevating this issue we are doing the Parliament an enormous disservice, rather than getting ahead with the business it was set up to perform.

15:41

**Donald Gorrie (Central Scotland) (LD):** I hope that Mr McLetchie does not regard me as a lapdog or any other form of four-footed beast. If it is of any interest to him, I voted with Mr Russell against the business motion because I thought that he was defending the interests of Parliament against the Executive, which is what I am here to do.

I could also add that Mr McLetchie's habitually intemperate and vituperative rhetoric was a major factor in persuading a number of my colleagues not to accept my argument that we should go for a minority Government and try to get co-operation among all the parties. My colleagues felt that it would be impossible to co-operate with people who carry on as Mr McLetchie does. That is a mere observation. If Mr McLetchie wishes to continue in his style, it is a free country and that is up to him, but it has a serious repercussion on some of his audience.

I agree with Malcolm Chisholm: Short money at Westminster has been increased substantially and it is divvied up reasonably fairly. There was an attempt to divvy it up fairly in this Parliament. I agree that it is for this Parliament—once it has organised itself—to decide how Short money and the like should be dealt with, so I would quite happily support a proper, neutral examination of the matter in due course.

I will move on to the position of the Liberal Democrats. In the real world, which is not of interest to some members, if the smaller party in a coalition does not have substantial financial resources—unlike two of the parties here—or the facilities to keep on developing its policies, researching, advising its members and developing its contribution to the coalition, it will merely become a tail on the larger coalition dog. If it cannot develop in conformity with its principles, what Mr McLetchie says would come about.

It is essential to the interests of democracy that each party is able to develop its own policies. It is important that in this or any future coalition the smaller party has the resources to develop its ideas. The larger party holds almost all the Government positions and has much more in the way of access to civil servants. Our ministers have access to civil servants, so we might be able to develop in that way, but it is only reasonable that we should get a share, and what is proposed is a

smaller share than we would have got if we were not in the Government. We need some money to develop our own policies. That is in the long-term interests of all parties if we want a healthy, multi-party democracy. In due course, the Parliament should consider the issue, but I do not think that it is all a wicked Westminster plot.

**Alasdair Morgan (Galloway and Upper Nithsdale) (SNP):** I am glad that Mr Gorrie is in favour of the Parliament considering this issue in the future. Does he accept that it will be much more difficult to change the system after 1 July, because it will require the Parliament to produce primary legislation, over which—quite frankly—the Executive will, by and large, have control?

**Donald Gorrie:** That may be so, but at the moment I do not accept that there should be changes. I merely propose that the Parliament should consider the issue. It may be that funding for proper party support in general is inadequate. This is a new arrangement. Westminster, as well as Scottish, money benefits three of the parties in this chamber. We need to take a bit of time to decide whether, taking both of those sources of funding, plus allowances and so on, into account, the Parliament and its members are adequately funded. I am in the lead of those who see Westminster plots all over the place, but I honestly do not see one on this issue.

15:46

**Andrew Wilson (Central Scotland) (SNP):** I will address motion S1M-27 on the transfer of functions to Scottish ministers under section 63 of the Scotland Act 1998.

I welcome and concur with Mr McLeish's comments on the new democracy, but I ask him to reflect on the fact that, to be effective, any Opposition must be fully functioning. From the start of this Parliament, there has been a range of evidence to suggest that the Executive has not driven that view forward.

As Mr Welsh mentioned in his intervention, the second schedule introduced by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 refers to powers that are exercised concurrently and will be governed by concordats. In reply, Mr McLeish said that the concordats will be published in due course. How can we vote on a motion that requires information about the concordats when that information is not available? We are being asked to sign away powers on the basis of concordats that we know nothing about. That is neither open nor democratic. Mr McLeish should consider the fact that we are being asked to vote now.

Schedule 3 outlines the functions to be exercised by Westminster ministers subject to the

agreement of, or in consultation with, the Scottish ministers. As we know, consultation and agreement are two different things. Can Mr McLeish give us any information about the grounds on which functions were determined to be exercisable after consultation as opposed to by agreement? How does that compare with the relevant functions previously administered by Scottish Office ministers? It is possible to consult and then to ignore what is said. I charge the Government with being renowned for doing just that. A recent example involved disability groups prior to the Welfare Reform and Pensions Bill. Very little of substance came out of the consultation.

If some of the functions can be exercised only with agreement, the simple question is, why not all of them? Surely there should be agreement between Westminster and Scottish Executive ministers and not mere consultation with the nodding Scottish Executive which, in its early days, has brought some of the worst practices of one-party state councils together with some of the worst practices of Millbank. That does not bode well for the new democracy that Mr McLeish knows we want in this place.

The consultative steering group has been made a fool of. Some of its members will be wondering why they gave up so much time, energy and commitment when it has been ridden over roughshod. The Neill committee would appear to have been bypassed. I hope that, if Mr Chisholm can come to a decision at some point in the next wee while, we may have some cross-party support for an above board transfer of functions. What we are about to see is a transfer of powers that will mean that this legislature will be left with no role other than to nod, be consulted and then agree.

Finally, I would like to make a positive request for information on the concordats to be clearly set out—perhaps the Executive could place it in the Scottish Parliament information centre—so that we can see what the concordats are about, on what terms they were written and the conditions that will determine whether functions will be exercisable with the agreement of or in consultation with ministers under schedule 3. We need to see in black and white which functions are down for consultation rather than agreement.

Can we have the details of all the functions that are being transferred? Are there any functions that Scottish Office ministers did not hold previously, but Scottish Executive ministers now do? By contrast, are there any that were held, but are not now? Is there any change of status in any of the functions in terms of what Scottish ministers can do now compared with what was previously the case?

Basically, this is an appeal from an Opposition

party that does not have any back-up due to delays and obfuscations on its own side. Can we have something in black and white on which we can form some considered opinions? That would allow us to form an effective Opposition, which I am sure the Executive would like.

**The Deputy Presiding Officer (Mr George Reid):** Members should remember to address remarks to the chair and not directly to one another.

15:50

**Mr Keith Raffan (Mid Scotland and Fife) (LD):** I support these statutory instruments and wish to speak about financial assistance for political parties. I did not intend to speak, but I am encouraged to do so—one might say provoked to do so—by Mr McLetchie's contribution, if that is not too kind a description, and I will use temperate language.

I think that all of us agree that Short money is a good thing. The concept is named after Ted Short, now Lord Glenamara, and is a tribute to the Labour party. I am happy to pay tribute to other political parties when I think they deserve it. We may disagree about the mechanics of Short money, but the principle is something on which all parties in this chamber can agree because it allows each political party to be less in hock to their associated vested interests, be it the trade unions, big business or the occasional Hollywood celebrity. It allows political parties to be financed and resourced independently and so to speak independently.

With regard to Mr McLetchie's remarks, I could perhaps—if the Labour party will allow me—quote Clement Attlee's famous remark to Harold Laski:

"A period of silence from you would be welcome".

Considering the extent to which the Conservatives' election campaign was financed by one man, Mr Irvine Laidlaw, whose permanent residence seems to be a luxurious yacht sailing around the Bahamas in tax exile, Mr McLetchie is being extraordinarily sanctimonious.

Nothing highlights the need for Short money better than the Conservatives' funding. If Short exists thanks to the Labour party, Neill and Nolan exist thanks to the misdeeds of the Conservative party. I happen to know quite a lot about those misdeeds as I used to be a member of the Conservative party. I know what it got up to, which is perhaps unfortunate for it, and it is one of the reasons I left. We must remember the extent to which foreign millionaires financed the party. William Hague sanctimoniously criticises other political parties and their funding, but is remarkably reluctant to name, even now, the

millionaires from Hong Kong and Greece—a group that included Mr John Latsis—who financed the party. They helped Conservative central office to pay off the Royal Bank of Scotland's remarkably generous overdraft of £14 million to £15 million.

I will not go into the issue of brown envelopes or cash for questions—I could go on and on. Rather than shaking his head, Mr McLetchie should sort out his own house and clean up his own party before sanctimoniously preaching to the chamber and the Liberal Democrats. One of the reasons I belong to this party is that it is made up of independent-minded people such as Donald Gorrie. We do not have the financial resources of the Conservative party which, even now, Conservative members refuse to reveal to the public at large.

**Mr Salmond:** Will Mr Raffan give way?

**Mr Raffan:** I am coming to the end of my remarks.

When the Conservatives start to tell us the names of the millionaires from Greece and Hong Kong who finance them and cleared their multi-million pound debt, I may perhaps start to listen to them.

15:54

**Allan Wilson (Cunninghame North) (Lab):**

There has been much self-righteousness and indignation in this chamber and in the press about the principle of democracy when the real issue is the price of democracy. At issue is the use of taxpayers' money to fund political opposition. It seems to me that taxpayers resolved to fund this Parliament, but opposition is not limitless and the public purse is not bottomless. What has been proposed appears to be fair and reasonable to Opposition parties and taxpayers.

The Opposition parties seem to want to have their cake—then more of that cake—and eat it. They cannot have it both ways: aping Westminster when the politics suits, but rejecting Westminster when it does not. The two systems are different. The Westminster system takes account of the fact that some parties, such as the SNP, get a lot of votes but few seats. The Scottish system is distinct. The number of seats is more closely proportional to the number of votes. The total amount of funding for Opposition parties being distributed in Scotland is broadly comparable to that distributed in Westminster. Transposing a new system from Westminster to Scotland would distort the existing system.

**Richard Lochhead (North-East Scotland) (SNP):** Who exactly is paying for the Scottish Executive's special advisers if it is not taxpayers?

**Allan Wilson:** We debated the size of the

Scottish Executive the week before last and we agreed its size. Taxpayers will fund the Executive and it is right and proper that they should. I would not condone extravagance or waste by the Executive or by the Opposition parties.

Our job is to reach agreement on a new system that is suitable for Scotland and reflects the political and constitutional settlement that is this Parliament. Perhaps the first thing we should do is dispense with the term Short money, as any analyst can clearly identify that no Opposition party is going to be short of cash—quite the contrary. That is as it should be: it is democracy and democracy has to be paid for.

In another life, before I came here, I negotiated increases—usually increases—in wages and improvements in conditions for workers in the public sector. That was much more difficult during the Tory years. The arguments then were similar to those that we hear today; the merits of the claim must be set against the ability to pay. If I had negotiated a sixfold increase in public funding for my members I would be a hero and a popular figure among them—probably much more popular than the SNP appears to be with the Scottish people.

**Michael Russell:** Will Allan Wilson give way?

**Allan Wilson:** No, I am going to finish.

What is now being proposed is arguably fair and generous. We will have the opportunity to debate the matter as it is a section 30 order. It is appropriate that the Scottish Parliament should fix things. It is incongruous for a nationalist party to refer the matter outside this Parliament for it to be decided on elsewhere.

15:57

**Roseanna Cunningham (Perth) (SNP):** That is the most extraordinary performance that I have ever heard, from someone whose party clearly knows the price of everything and the value of nothing. To use the word democracy in that context is an absolute disgrace. Some of the members who make speeches today should go away and carefully reflect on the principles that they are advocating for this new Parliament. What negotiations does Allan Wilson suggest took place on Short money and allowances? Absolutely none, and he was too afraid to allow an intervention that he knew would expose that fact. Contributions such as Allan Wilson's do no favours to the future of democracy in Scotland.

I want to speak about one of the other issues raised by the minister, but which members have not concentrated on because they have been diverted—quite rightly—by allowances and Short money. Article 5 of the Scotland Act 1998

(Modifications of Schedules 4 and 5) Order 1999 seeks to insert a new section into part II of schedule 5 to the Scotland Act. That will affect access to information, which is an important issue that is in danger of being overlooked—although given some of the earlier speeches, we can see why the governing coalition might prefer not to have to talk too much about access to information.

The order is an attempt to add another reservation to an already long list of reservations in the Scotland Act, and to do so at Westminster as sneakily as possible. I find it instructive that the ink is hardly dry on the Scotland Act and already Westminster is clawing back powers. I wonder whether that will be a regular occurrence.

Schedule 5 in its present form has already been debated and passed at Westminster, and it is a bit rich that it is being revisited even before the transfer of powers has taken place on 1 July. I notice how it is being revisited and which way the powers are going. One wonders whether Westminster would be quite as sanguine if we presented it with a similar *fait accompli*.

I learn from the media that we are to have a statement on freedom of information from our new Minister for Justice. Last week he promised a freedom of information regime, whatever that means. So we are to have a statement, a regime—no word of a bill. I notice with some dismay that the entire Liberal Democrat front bench appears to have absented itself from this debate, so clearly we will get no clarification from the Minister for Justice, although we need it.

It seems extraordinary to me that the Scottish Parliament does not want to take the opportunity that has been afforded it of forging ahead in this area. This order would help to close down sources of information in Scotland. The Government has already produced a neutered bill at Westminster—a bill that might better have been titled the not very much freedom of information bill. In the debate on that bill, in what we are coming to term the other place, the Liberal Democrat spokesman raised questions about what was proposed, in the hope that further concessions would be made. Are we to believe that in Scotland the same Liberal Democrats not only are without questions, but have no intention of changing the current scenario, and that the governing coalition is not only happy with that, but is content to allow it to be taken even further? That is what is happening here today.

If he is lucky enough to catch your eye, Mr Deputy Presiding Officer, my colleague Kenny MacAskill will highlight some of the important areas in which our freedom to know will be curtailed, and how that will effectively gag Scots on matters that are vital to Scotland. Undoubtedly there will be many more such areas, courtesy of both Labour and Liberal Democrat members—or,

should I say, of their Millbank masters. That does not bode well for Scotland's new Government.

16:02

**Miss Annabel Goldie (West of Scotland) (Con):** If I may respond to Mr Raffan, the trouble with his being a turncoat is that it makes it difficult for us to find him convincing, because we do not know where he will turn up next. [MEMBERS: "Over there."] He is nearer to Mr Salmond than he is to us.

I want to defend my leader, Mr McLetchie, against Mr Gorrie—he is just a lamb, Mr Gorrie, just a lamb. Beside him and behind him are other lambs. The difference between the Conservative party and Mr Gorrie's party, the Liberal Democrats, is that we approach each issue with Scotland's best interests in mind, instead of soldering ourselves into some wee pact for the sake of self-interest.

I am principally concerned with the part of the Scotland Act 1998 (Modifications of Schedules 4 and 5) Order 1999 that refers to Short money. I am tempted to observe that facts are chieftains that winna ding. The facts are very simple and should be obvious not only to this chamber, but to the people of Scotland beyond. Short money exists to allow Opposition parties to do their job effectively. The amount that is currently available at Westminster is £10,000 per member, with a vote supplement. New Labour is halving that for the purposes of the Scottish Parliament.

These are the facts. Short money is not available to Governments. The Liberal Democrats, perceived by the Scottish people first as the smiling and latterly as the gloomy Judases of Scottish politics, are part of Government; if Mr Gorrie thinks that Mr McLetchie is vituperative, he should just wait. Mr Wallace said:

"I am delighted that Nicol Stephen and Iain Smith have joined the Government team. Along with myself and Ross Finnie, this demonstrates again that the Scottish Liberal Democrats are right at the heart of this partnership government."

The Liberal Democrats propose to accept this Short money. If they do, they will take sitting on the fence—admittedly their legendary pastime—to new heights. If they aspire to being in government and opposition at the same time, they will not only have perfected the art of having their cake and eating it, but will find that the fence cuts through their collective political crotch, and the Scottish people will not forget their dishonour in their dismemberment.

In my opinion, the Liberal Democrats would do well not to touch a penny of the blood money. But if the Liberal Democrats reek of obsequious ambivalence, what about the ill-disguised

arrogance of Labour? It is the party that heralded the launch of this new Parliament with the creation of a bloated, padded, opulent Administration, which is costing the taxpayer more than £5 million. What an advertisement for a country that is characteristically associated with prudence and thrift.

Labour has single-handedly transmogrified the Scottish lion into a tartan fat cat. As its members feed themselves at the taxpayers' expense, the Opposition parties are to be put on a starvation diet. How convenient.

That is arrogance—but it is something more sinister: the Government does not want opposition. It does not want the Scottish National party and the Conservative party here asking questions. It does not want them opposing or testing what it is doing, or examining and, where necessary, exposing. Yet this is a Government that proclaims to have set up this Parliament for democracy. It is my submission that that is not democracy. Unless the Opposition parties in this chamber are to be treated fairly and with parity, we do not have democracy; we have suppression, repression and control. That is bad for this chamber, but even worse for Scotland.

16:07

**Mr John McAllion (Dundee East) (Lab):** Unlike Miss Goldie, unfortunately I do not have a speech that I prepared earlier. I will just have to react to some of the points that have been made during the debate.

It is important in this Parliament of all places that we use language carefully. The words that we use should mean something, and should not be devalued by inappropriate, repetitive, casual and offhand use. A phrase springs to mind: new politics. It was first used in the context of the elections to this Parliament. It was an inspirational phrase. Everyone was excited about and looking forward to a kind of new politics breaking out in Scotland. Unfortunately, I do not feel that way now, after just a few weeks here. The phrase has been used time and again—ad nauseam—until it begins to turn the stomach and one wants to throw up, because it is used so inappropriately.

We heard an example this afternoon from Michael Russell, who opposed the business motion. As we all know, the business motion actually dealt with a subject that the Opposition wanted to debate. Any Opposition member was allowed to speak and to lodge an amendment, and all Opposition members were allowed to vote. However, Michael Russell told us that it was a dark cloud hanging over the shining light of Scotland's democracy. If that is the darkest cloud that ever hangs over democracy in Scotland, we

really are living in a big rock candy Scotland,

"At the lemonade springs  
Where the bluebird sings"

and where democracy will live for evermore.

**Richard Lochhead** rose—

**Andrew Wilson** rose—

**Mr McAllion:** That is the tenor which debate in this chamber is now beginning to get dragged into by party politics. It should not be happening. Members of this Parliament should be above such nonsense, and the whole debate this afternoon should be above the Westminster-style confrontational politics that we are seeing.

Let us deal with Short money. In Westminster terms, it is a modernising idea, and 1975 is like the day before yesterday. It is also a principle at the very heart of Westminster-style government. What we have here is an Opposition party that claims to detest Westminster politics, but which is trying to introduce Westminster-style ideas, Westminster-style thinking and a Westminster style of dealing with the Opposition. One thing that Westminster makes clear about Short money is that it should be made available to Her Majesty's loyal Opposition. It is perhaps only some two weeks since the first meeting of this Parliament, but I seem to remember the SNP refusing to be regarded in any way as a loyal Opposition for Her Majesty or for anyone else.

**Michael Russell:** Will Mr McAllion give way?

**Mr McAllion:** I will finish this part of my speech first. Mr Russell will get his chance. So will the lad at the back if he waits.

SNP members are the people who said that that they did not accept the sovereignty of Westminster. That is a perfectly legitimate position to take, but they recognise the sovereignty of the Scottish people. It sticks in the throat a bit for them then to say that they do not want Westminster sovereignty, but they will take the Westminster shilling. That is their position. I will give way to Mr Russell and he can shake his pockets—

**Michael Russell:** I am disappointed by Mr McAllion's comments. He and I were founder members of Scotland United—we believed in the new politics. Even if I were to accept his point about Short money and the point that Mr Chisholm and others made, surely what matters is that there should be consultation about setting the level of any resources available to Opposition parties. That is the main conclusion on the matter by the Neill committee. How does Mr McAllion defend the fact that the order was published at Westminster with no consultation whatever? His and similar arguments might have won out, but publishing it without discussion is certainly subverting the

future of this Parliament and the new politics in which he and I believe.

**Mr McAllion:** If anyone consults me about it, I will say that I do not want the Short principles or Short money introduced into this Parliament—I want it to decide how we organise the Opposition and the funding of political parties. [*Interruption.*] Malcolm Chisholm made the very fair point that Westminster Short money is geared to a first-past-the-post electoral system. I do not like to remind members of the SNP that if a first-past-the-post system had applied to the elections to this Parliament, they would have had seven seats and they would not get the kind of money that they claim is their right in this Parliament, but under the Westminster system. As for the Tories, they would get nothing because not one of them would be here if we operated a Westminster system. There is a whole lot of nonsense and hypocrisy in the debate.

Mr Russell was very confused about the Neill committee, which again is a Westminster committee. First he said that it could make recommendations and that this Parliament would decide on them. Then he said that the Neill committee would not make recommendations but would arbitrate. Why should a committee appointed at Westminster tell this Parliament what it should be doing about funding? I do not accept that, and I am amazed and disgusted that the SNP is prepared to—

**Andrew Wilson:** Give way.

**Mr McAllion:** That honourable member—that chap over there has to speak in every debate and intervene on every other speaker. I am not giving way because it is him.

**Dr Winnie Ewing (Highlands and Islands) (SNP):** Will Mr McAllion give way?

**Mr McAllion:** A great deal of righteous indignation has been expressed this afternoon about the Liberal Democrats. [MEMBERS: “Give way.”] I will give way to the oldest member in a minute.

We are at the beginning of an experiment in coalition government; the Liberal Democrats may not be in government for the next four years. We have not heard the recommendations of the committee of inquiry on tuition fees, and we do not know whether the Liberal Democrats will go along with it. They might be four years in opposition, and they will be entitled to some kind of funding in opposition, if that is what comes to pass.

**Dr Ewing:** Coming from a European Parliament background of 24 years, I want to say that democratic funding for Opposition parties is not a Westminster but a European principle. The Opposition parties are funded in almost every one

of our partner countries in Europe; it is also the principle that obtains in the European Parliament. Therefore, it is not the Westminster model but the normal democratic European model that we want.

**Mr McAllion:** If that really is the SNP's position, why is it not recommending that we listen to the European principle or the committees that recommended it? Why is it saying that the Neill committee and Short money, as applied in Westminster, should be applied in Scotland? That may well be a general principle—but it was the SNP that raised the Neill committee and the Short system. It wants to introduce Westminster politics, even down to the detail of Roseanna Cunningham jumping on her feet every two seconds saying, “Will the honourable member give way?” and shouting “Give way” from a sedentary position: dreadful stuff that I did not think I would see coming from the SNP.

To counter the idea that there is some kind of undemocratic manoeuvre by the Government, I remind members of the committee structure that is about to be set up in this Parliament. The Labour party will be in a minority on every committee, and committees will have a right to initiate legislation and to act as select committees—that is a greater democratic tool than any £10,000, £50,000 or £100,000 that is handed out by any system. Never mind Short money, any Opposition at Westminster would give its right arm and right leg for the committee structure that a Labour Government will deliver to this Parliament. Members of the Opposition should keep their mouths shut and get on with the business that they were elected to carry out, instead of this trivia that we have to deal with all the time.

16:15

**Mr Kenny MacAskill (Lothians) (SNP):** I support motion S1M-27 more in sadness than in anger. I referred before to what the CSG report said about the principles of openness and accountability in the Executive. That is in the past and I will not rake over old coals, but I say this to the Liberal Democrats: we ain't forgotten. We will return to that.

The principles in the report are, as far as we can tell, being sold out just as they were sold out in smoke-filled rooms. They are being buried in small print. I address my remarks to the non-Executive Labour members. I heard what my colleague Mr McAllion said. I have never discussed this with my parliamentary group, but, having listened to him, I thought that I might volunteer myself as a sort of counterbalance to him, as the representative and embodiment of the new values of consensus and the new politics in Scotland. On that issue, I am undoubtedly the man. As Mr Harper is no longer here, I will move on from the discussions that I

have had with him, as I would not want to talk about them in his absence.

We are here to discuss legislation. Legislation can be dry and boring, but it can also be important. Innocuous legislation can have substantive and massive effects. After all, who would have thought that such a feeble-minded piece of legislation as the Abolition of Domestic Rates etc. (Scotland) Act 1987 would eventually have resulted in the melting-down of the so-called iron lady?

We must examine critically two matters: first, the principles; secondly, the issues. My colleagues touched on the principles. Three types of legislation are being delegated: legislation that transfers power; legislation by which powers are supposed to be concurrent; and legislation about which there is supposed to be consultation.

Like other members, I ask what concurrent means. According to Mr McLeish, we will soon be able to discuss the concordat. Well, that is very useful. I do not know how we can take literally the suggestion that things must be done simultaneously at Westminster and here—that the Secretary of State for Scotland and the First Minister must co-ordinate and dovetail. I have no doubt that the Government is on to a winner, even if we have difficulties with new technology here. I heard the secretary of state describe his front-bench team as including three PhDs and a millionaire—Scotland's strike force. Personally, I would rather stick with Billy Dodds.

What does consultation mean? It means "Ah tell ye". That is the difficulty that we have faced in Labour-run Cabinet-type local government. Is that what we can expect here when there are differences between Westminster and the Scottish Parliament?

The issues are fundamental. I see that my illustrious neighbour, the Solicitor General for Scotland, is here with his colleague the Lord Advocate. I will throw in a wee bit free legal advice. From my 20 years' experience as a solicitor, I know that the easiest way in which to examine legislation is to buy an annotated version. It is even better to get a guide. I do not know how many members picked up the guide entitled "The Draft Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999". It deals with the specific effects of the legislation, some of which—detailed on pages 39 and 40—seems very innocuous, as did the Abolition of Domestic Rates etc. (Scotland) Act 1987.

The guide describes the Sewerage (Scotland) Act 1968—doubtless, people who were provided with a student grant, by previous Governments, went to the wire over that back in the heady days of the radical 1960s. Section 37B of that act

relates to

"The function of the Secretary of State to give directions specifying information to be excluded, on the grounds of national security, from a register maintained by a sewerage authority."

Such are the matters—this is the first one—in which there is only concurrent jurisdiction, and on which we await a concordat so that we may have some influence; apparently, we can have influence only through a concordat.

The guide also mentions the Control of Pollution Act 1974—from the heady days of a year in which there was a change of Government. Section 36(2B) of that act deals with

"The function of the Secretary of State to certify that, in the interests of national security, details of a discharge consent application should not be advertised."

That is something fundamental that I would like to know about and that the people whom I represent in the Lothians would no doubt like to know about. It will, however, be subject to a concordat and will be available only if there is agreement between the secretary of state and the First Minister.

#### Section 42A concerns

"The function of the Secretary of State to issue directions and make determinations concerning the exclusion, in the interests of national security, of information from registers maintained by SEPA."

Well, lo and behold. That is something that I would have thought was fundamentally important and that many Labour members would have wanted to have above board rather than secreted away.

On page 40, there is more such innocuous legislation—the Environmental Protection Act 1990, which was doubtless introduced in an attempt to improve our society as we move toward the next millennium. What do we find in sections 21 and 65? Again, we find legislation that is being treated as concurrent. Those sections concern

"The functions of the Secretary of State to issue directions and make determinations concerning the exclusion, in the interests of national security, of information from registers maintained by SEPA."

If something is so important that it should be registered by the Scottish Environment Protection Agency, surely it should be available for all of us.

I am conscious that time is moving on, but I want to comment on one more piece of legislation in this section: the Radioactive Substances Act 1993. Section 12 deals with

"The function of the Secretary of State to give directions to SEPA that, on the grounds of national security, knowledge of a particular application, registration or authorisation should be restricted."

An organisation can make an application for the dumping of radioactive material and SEPA has an

obligation to register it, but the First Minister may have no control over the direction given by the Westminster Government as to what should be disclosed. That is appalling.

As time is of the essence, I move on to consultation. When we say, "Ah telt ye", what do we mean? Look at page 49 of the guide, which refers to the Food and Environment Protection Act 1985. What does that deal with? It deals with powers over which discussion is all that will be required. Ah telt ye, and that's it.

#### Section 5 deals with

"The functions of the Secretary of State as licensing authority in relation to deposits of substances or articles in the sea or under the sea bed, the scuttling of vessels, loading with a view to such deposit and towing or propelling with a view to scuttling."

#### More important, section 6 deals with

"The functions of the Secretary of State as a licensing authority in relation to incineration of substances or articles at sea or loading for that purpose."

Those powers are not being disclosed to us. SNP members believe that is shameful. It maintains the culture of secrecy that comes from Westminster. All the fine words and rhetoric in the consultative steering group report will be going for a Burton when this transfer of powers takes place, because all those matters will be restrained or restricted. What about consultation on this matter?

I know that many Labour members share the worries and fears of my SNP colleagues about the civil and military use of nuclear power and its effect on the environment. We are flagging up a problem that is covered by this legislation. We are asking members to think about what they are being led into by the inadequate powers that Westminster is devolving. In a nutshell, the past year is being sold, the powers are being sold out, and the Parliament and people are being sold down the Swanee.

The SNP will support this legislation—[*Laughter.*—but we are justifiably anxious about the restrictions that Labour is allowing to go through. Labour members may laugh, but our only options are to support or to reject the orders, and we will accept the modicum of powers that is provided. However, if Labour members think that the matters that I have flagged up are not worthy of public disclosure, they are failing in their duty to their constituents, never mind to the people of Scotland. [*Applause.*]

**The Deputy Presiding Officer:** A further seven members have indicated their wish to speak. If members keep their remarks tight, we will just about get them all in before Mr McLeish sums up at 4.50 pm.

16:25

**Tommy Sheridan (Glasgow) (SSP):** I am a keen teetotaler, but I recently had a conversation in a pub with a fire-fighter. He wondered whether some of the new members of the Parliament were shaving yet. I said that I did not know, but wondered why he asked. He replied that he had been a fire-fighter for 12 years and was earning £20,000 a year, while some of the youngsters in Parliament were earning £40,000 a year.

I give that illustration because I am astounded by some of the remarks that I have heard this afternoon about public money. It is important that we remember that we are all reliant on public money. Mr Allan Wilson referred to the fact that he used to negotiate what were mostly pay rises—I will take his word for that—and that that made him popular. Perhaps I will make myself unpopular if I say that if this Parliament wants to create a genuinely new politics—in Mr McAllion's words—we should be moving towards a wage reduction for members.

According to the Scottish Low Pay Unit, the average wage of a skilled worker in Scotland is currently £20,000 per annum. Do we think that we are above and beyond skilled workers in Scotland? That is the wage of a train driver, a fire-fighter or a senior nurse. I do not think that any one of us is better than anyone in those professions. Perhaps we could astound the Scottish electorate by moving for a wage reduction for members of Parliament and accepting the average wage of a skilled worker instead—then we could get on with discussing the substantive matter here, which is the funding of effective opposition.

Obviously, Opposition parties want the advice and research that will be necessary to counter what is the biggest growth industry in Scotland—that of the spin doctors. Some 12 special advisers were recently appointed, at a cost to the public of £600,000. It is a pity that more money was not spent on real doctors instead of on spin doctors for new Labour in Scotland.

I will take no lectures on the theme that those who are calling for more appropriate support for effective opposition are prepared to call for the rejection of Westminster-style politics and Westminster-idea politics but are prepared to accept the Westminster shilling. We are all guilty of taking the Westminster shilling. Everyone is guilty of repeating some of the mistakes that have led to the general populace seeing politics as full of people who are in it for themselves. I hope that some members will reflect that it would be better if we were to propose an early motion to relate our wages more closely to those of skilled workers in Scotland.



My final point concerns what Mr MacAskill said. It is important that Mr McLeish publishes details as soon as possible about how decisions will be worked out on matters that are partly reserved and partly shared and that could lead to conflict. I hope that, early in this session, the minister responsible for roads and highways will reflect the overwhelming opinion of the people in Scotland and bring forward an order to remove nuclear weapons convoys and nuclear material transports from our roads and highways so that we can create a genuinely nuclear-free Scotland. That would obviously result in conflict, as the Secretary of State for Defence may have something to say about it. It is important that such decisions are as transparent as possible and that there is detail about how conflicts will be worked out.

16:30

**Ben Wallace (North-East Scotland) (Con):** I have to say to Mr Sheridan, from the other side of the chamber, that as a public servant I believe that I should stand for value for money for the people who put me here and who pay my wages. As a soldier, my wage was set by an independent pay review board. If such a board said that, as politicians, our wage should reflect the average, I would be happy to join Mr Sheridan in voting for that. Our concern is value for money and Short money is about providing an effective opposition.

John McAllion talks about the new politics, but we should be talking about actions, not words. One judges people by their actions; a lack of consultation on the changes in Short money is a measure of the new politics in the Labour party.

I will take no lectures from Mr Raffan when he talks about money and the Conservative party. For the past year I have been living off a war pension, after suffering an injury in Northern Ireland. I do not have a Bernie Ecclestone to bail me out. I do not have a friend with £379,000 to lend me so that I can buy a house, so I will take no sanctimonious lectures from new Labour.

Short money allows people such as me, who are new to politics, to live by integrity and honour, which is what the new politics is about. It is about reminding us, as politicians, that people put us here to espouse integrity, honour and principle.

It is rank for the Liberal Democrats, who have sold their principles, and the Labour party, which talks about things but submits them without consultation, to put forward these orders. I will support the orders because I want this Parliament to get up and go and to start working. However, I ask members to remember that Short money is a real issue that will affect us all and the way in which this Parliament will work.

16:32

**Dennis Canavan (Falkirk West):** I seek clarification on one point regarding the drafting of the statutory instrument referring to financial assistance for political parties. I am pleased that the Lord Advocate is here—perhaps he would like to reply on this point or ask Mr McLeish to reply on his behalf. I assume that the Lord Advocate and his office were involved in the drafting of the statutory instrument that proposes amending paragraph 6 of part I of schedule 5 to the Scotland Act 1998 so as to devolve the power for making payments to any political party for the purpose of assisting members of this Parliament who are connected with that party to perform their parliamentary duties.

What is the import of the word “any” in that context? The statutory instrument does not refer specifically to Opposition parties at all; it mentions “any political party”. Was it deliberately drafted to allow public funds to be given to the Liberal party, or the Liberal Democratic party, or whatever it is called now? It is not a party of opposition; it is a party of government. Indeed, it seems to be hell-bent on using its governmental power to grab some of the Opposition seats in this Parliament. Although I have a personal interest in that matter, I have no personal axe to grind on the broader issue of the funding of political parties.

I am unique in this Parliament in that I am not a member of a political party. A certain political party is still hounding me for funding, despite the fact that it squandered a considerable fortune trying to prevent me from getting into this Parliament. That is by the way. I can look at the funding of political parties more objectively than any other member of this Parliament. I look forward to future debates, when we will be able to discuss the principles of this important matter.

There is a case for the public funding of political parties in general, but we will come to that debate later. At this point, I am seeking clarification on whether the statutory instrument was drafted deliberately to accommodate the Liberal Democrats, so that they could qualify for public assistance.

**The Deputy Presiding Officer:** I think that the minister has noted that point. I now call Mike Rumbles, but I ask him to keep his remarks brief.

16:35

**Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** The public funding of political parties is an important issue. All political parties in this chamber receive adequate political funding. My friend Donald Gorrie mentioned the good use to which we will all put that money, but what struck me was the sheer nerve of the Tories in talking

about value for money. Annabel Goldie referred to the £90,000 plus of Short money that the Conservatives will get as a starvation diet of public money. As a group of individuals serving the Parliament, Conservative members may well receive in the region of £1 million of public money in allowances.

In future, I will listen carefully to comments from that part of the chamber about the use of public money, so I hope that the Conservatives' language will be moderate. To show that I know how to be short, I will end by asking Annabel Goldie what, if £90,000 is her view of a starvation diet, her view of a good lunch is.

**The Deputy Presiding Officer:** That was indeed short, so we have time for a brief speech from Sandra White.

16:37

**Ms Sandra White (Glasgow) (SNP):** The word democracy has been much bandied about today, particularly by Labour members. Perhaps Mr Chisholm and Mr McAllion have forgotten about the so-called democracy that was bandied about within the Scottish Labour party—if so, they have very short memories. Mr McAllion's speech seemed to be all about "do as we say or do as we do, or else".

Unfortunately, to me and to perhaps most of the people in the public galleries, democracy seems to have rolled over and died in this chamber since the formation of the Lib-Lab pact. The Labour party and the Liberal party in particular should be ashamed of themselves. They talk about effective opposition, but how can we have effective opposition if only the Liberal Democrat party gets any Short money? Why are the other Opposition parties not allowed to put forward their positions—not only the position of their parties but the position of the Scottish people who voted for them? This Parliament is supposed to be all about the Scottish people—the voters—and not about the Labour and Liberal parties getting together to form a pact so that they can deliver what is best for them.

The people in the gallery today have seen what I would call anti-democracy at work. This is supposed to be a new Parliament, but we are debating the same old things. The Labour party tells us that everything is wonderful for it, but because we—the SNP, the Tories and the three independents—are in opposition, we get nothing while the coalition party gets everything. That is all I have to say.

**The Deputy Presiding Officer:** I will take a similarly brief speech from Phil Gallie.

16:39

**Phil Gallie (South of Scotland) (Con):** I will explain to Mr Rumbles that Annabel Goldie's suggestion that funds were insufficient was made in comparative terms: compare the many millions of pounds that support the Government—the Liberals and the Labour party—with the £90,000 that Opposition parties receive.

Mr McAllion's speech was most unusual, because he and his party got into Government on the intemperate, inaccurate words that they used at Westminster. What stood out in his speech, above all, was his comment that members of the Opposition should sit here and keep their mouths shut. He might have supported that in the past—when he supported the socialist states in the Soviet Union—but we do not believe that that would be right for Scotland or right for democracy.

I have two serious questions for the minister. First, he referred to changes in the health and safety inspectorate. Will those changes allow the Scottish ministers to change the rules for that body so that it will impose charges on the oil industry? Secondly, Mr McLeish mentioned the transfer of prisoners. Will the Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999 give him and other ministers the opportunity to control prisoners who have been deported to Scotland from other countries under parole conditions that were imposed in those countries?

16:40

**Mr John Swinney (North Tayside) (SNP):** My colleagues Mr Wilson, Mr MacAskill and Roseanna Cunningham have raised a number of points about the orders affecting areas other than assistance to political parties.

Mr Russell raised points about the assistance to political parties that arise from changes to schedules 4 and 5 of the Scotland Act 1998. It should be noted by the chamber that every Labour member who has spoken this afternoon, with the exception of Mr McLeish, of course, has talked about assistance to political parties. I have sat in the House of Commons for a couple of years and have listened to Mr McAllion's considered inputs to discussions there.

When one listens to Mr McAllion delivering a speech of bile and rant to the chamber of the Scottish Parliament, one understands that the Labour party in this chamber has something to be defensive about in relation to the provisions that are being brought forward. Maybe that is why Mr McConnell, our distinguished, publicly funded Minister for Finance, was not prepared to engage in debate on the radio this morning with my colleague Mr Russell. I have debated with Mr Russell on many occasions, and he has a

fearsome reputation, but he is not that bad in public debates. For Mr McConnell to be too terrified to go through the process suggests that he is not as courageous as Allan Wilson is in defending the allocations that have been made to the vast number of special advisers.

Who are those advisers paid by? By the taxpayer. We will not take any lessons—absolutely none—from any Labour member, not least from Mr McAllion, who may be laughing now, but who will live to regret the comments that he put on the record this afternoon about the way in which public money has been used properly to support the democratic process in Scotland.

I will address the Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999, where powers have been used under section 53 of the Scotland Act 1998. I seek some clarification from the minister on the implications of paragraph 11 in schedule 1 of that order. That paragraph relates to the powers of the former secretary of state concerning the Education (Student Loans) Act 1990 and gives ministers the power to execute the functions under that act that relate to past, current and future students whose home address is in Scotland.

I want to press the minister on the thinking that underpins some of the points that have gone into paragraph 11. My interpretation is that the Scottish ministers will have no influence in executing functions in this area in relation to students from outwith Scotland who are studying at institutions in Scotland. That is particularly relevant to the debates that we are likely to have in the future, because there is a likelihood that some of the loans that are undertaken by students from outwith Scotland will include a component of tuition fees, either for the four-year duration of the course, or, more specifically, for the payment of the fourth-year anomaly that the Labour Government has inflicted on students from outwith Scotland.

Some students who are studying at higher education institutions in Scotland may not come under the jurisdiction of Scottish ministers as they carry out certain functions of the powers that this order gives rise to.

It is important that we remind ourselves of the issues that are at stake and of the significance of the fourth-year anomaly, which has yet to be resolved—just another anomaly that has yet to be resolved in higher education funding.

First, only students from England, Wales or Northern Ireland run the risk of having to pay a fee for their fourth year at Scottish institutions. Scottish and European Union students will not be affected. Secondly, as a result of this measure there is a danger that a disincentive is created for students from outwith Scotland who wish to study

in Scotland. Thirdly, students from outwith Scotland are responsible for an estimated £210 million of expenditure within the economy of Scotland. That is a sizeable input to the economy, which Scottish ministers seem to be allowing to slip out of their jurisdiction as a result of decisions that have been taken here.

I am sure that Mr McLeish will respond to my points in his summing up by saying that we have a sensible geographic demarcation. Some SNP members are becoming sceptical about Mr McLeish and geographic demarcation, particularly in relation to fisheries, where he has let a bit of Scotland slip away from us already. He can clarify the Government's position on demarcation lines when he responds.

Other views are worth consideration on the issue of demarcation. The Garrick report, which has been conveniently ignored in most of the Labour party's thinking on higher education funding, talked about the implications of tuition fees having to be considered for

"participants in Scottish higher education".

I stress "participants" as I want the minister to understand exactly the point that I am driving at.

The 29<sup>th</sup> recommendation of the Garrick report lay a duty on the ex-Secretary of State for Scotland—the post that will be no more once those powers come to the Scottish Executive—to look after the interests of the

"participants in Scottish higher education".

Yet, as Mr MacAskill mentioned earlier, under this order, some of the powers over higher education institutions in Scotland are slipping away. New ground is opening up before us—almost as much ground as there is between Mr McLeish and Mr Stephen, his deputy minister, on the issue of tuition fees.

There are many outstanding issues. Perhaps Mr McLeish could clarify the Government's thinking on the geographical point in the paragraph. It obviously relates to some of the points relating to the fourth-year anomaly that will be addressed by the inquiry to be chaired by Sir George Quigley, whose input we will consider carefully. I ask Mr McLeish to clarify the arrangements in this part of the schedule and to give us an assurance that the Scottish ministers are not losing influence over key parts of the academic community in Scotland.

The confusion and uncertainty about the Government's position on student funding, higher education and support to the academic community is such that the point of geographical demarcation needs to be clarified beyond any reasonable doubt. We should not have to face further uncertainty and lack of clarity as the implementation of the order rolls forward.

16:48

**Henry McLeish:** John Swinney asked for an assurance that the Scottish ministers are not losing influence. He has that assurance. Our discussion relates to the Education (Student Loans) Act 1990. I have a fairly technical response that, with my usual courtesy, I will be happy to provide for him. He wanted to extend our debate to the greater issue of student funding, and I am confident that the Parliament will have an early opportunity to discuss that issue.

The Scottish ministers are not losing influence. The administrative aspects of providing support to students in higher education are a devolved matter, but the Education (Student Loans) Act 1990 is a Great Britain enactment. The measure seeks to move that forward, with no diminution of influence, to come to an administrative arrangement to create a reasonable framework to deal with existing and future loans.

The debate has raised a number of general issues. I echo the sentiment that we need to concentrate on issues and policies. I know that excitement has been generated by the set of orders that I put before the Parliament today—I did not think it would be. The orders seek to take the devolution settlement forward. Kenny MacAskill is simply and utterly wrong. He may be a good lawyer, but constitutional law is not one of his strong points. It is not one of mine either, but I can say that there is no attempt to pull wool over anyone's eyes.

Taking Andrew Wilson's comment into consideration, I believe that we have a substantial devolved package, in addition to which we have executive devolution of matters that are reserved to Westminster. That adds to the package and the arrangement is not intended to give the impression that any of our powers have been undermined by some technical administrative orders.

The other point that I want to stress is in answer to the SNP's question about Short money. We now have the legislative competence to deal with that. Is not that a step forward? Is not that what devolution is about? I hope that Mike Russell would agree with me. He warmly welcomes the fact that there is a new devolved measure in the orders, which provides for the parliamentary funding of parties in the Scottish Parliament. That is a step forward.

Another point relates to the question of freedom of information, which was raised by Roseanna Cunningham. Anyone who reads the orders and the Scotland Act 1998 carefully will know that we have got another settlement that will allow the Scottish Parliament, in relation to Scottish bodies, to prepare its own freedom of information act. I hear people say that they want it to be better than

at Westminster. Now we have the chance to do that. The Parliament should welcome the fact that the orders add to the powers that we already have.

**Mr Salmond:** Before Mr McLeish leaves the matter of Short money—

**Henry McLeish:** I am coming to that.

**Mr Salmond:** In that case, this will be a starter for ten. Will the minister explain why there was no consultation with the other parties before the levels were set in the Westminster order? Will he accept the view that if the matter were to be referred to the Neill committee it could be determined in a non-partisan manner when it is discussed and decided by the Scottish Parliament in the future? Will he support such a reference?

**Henry McLeish:** It is very interesting that the Neill committee referred the question of detailed provision at Westminster to Westminster. What a sensible thing to do. It also recommended that the Scottish Parliament should consider what was appropriate here. As we will have the responsibility, I think it is important that we take it seriously. I will return to the issue of Short money in a moment.

Phil Gallie raised a question about prisoners from abroad. Although Phil Gallie has been out of active politics for some time, he should know that we are working on that issue completely separately from anything contained in the orders. The problem of bringing prisoners back from other countries is a very vexed one. That matter is being addressed separately, and I hope that he will take my assurance on that.

The Opposition, particularly the SNP, has had a wild few days on the issue of Short money. Tommy Sheridan made a valid point about public funds. After this settlement, £130,000 or so will be given to the SNP from Westminster, £175,000 will be given to the SNP from the Scottish Parliament, and that adds up to more than £300,000. The central question for the SNP is, what is it going to do with £130,000 at Westminster? Who is manning the fort? How will the money be spent? If we are talking about a financially prudent Parliament, we should be asking searching questions about how that particular section of cash will be used.

**Roseanna Cunningham** *rose—*

**Mr Salmond** *rose—*

**Henry McLeish:** I asked a simple question, I have given way once and I want to continue to address the issue of Short money.

**Mr Salmond** *rose—*

**Henry McLeish:** I am not giving way. Alex Salmond may grin in that inane manner, but the

facts are simple. We have heard questions raised about the Liberal Democrats. The members of the SNP have read the Scotland Act 1998; at least I presume that some of them have. Section 97(3) provides for the possibility of giving that money to parties in a coalition government. I am also struck by representations that were made to the Neill committee by a very senior member of the Scottish National party, who said:

"One of the options to be considered if all parties are minority parties is whether the Scottish equivalent of Short money might in fact be available to all parties, regardless of whether they are in government or in opposition."

I am not one to gloat on such comments, but I am aware that people change their minds, and that is acceptable. However, what concerns me is that such people have selective amnesia. It is high time that, if we are to have so-called principled debate in Scottish politics, we address some of the statements that we have made in the past, and that we acknowledge that, at the time, these statements may have been a sensible contribution to the debate. Certainly, for the Scottish National party, that comment was made in the mists of time.

Coming closer to home, we want an effective opposition, and the suggestions that the new democracy is on its last legs are complete and utter rubbish. This Parliament has been in existence for two to three weeks, and we do not need to be turning every technical molehill into a political mountain. That is the central problem of this kind of debate. If we have perspective—

**Michael Russell** *rose*—

**Henry McLeish:** I will not give way to Michael Russell.

**Dr Winnie Ewing (Highlands and Islands) (SNP):** The minister must give way. We are the Opposition.

**Henry McLeish:** I hear a sedentary point about the Opposition. An effective Opposition should try to intervene, and I am always willing to allow interventions.

Some £300,000 of public money is at stake. The point that the SNP led with was to wonder why Westminster was taking action on Short money. As we have no legislative competence at present, we could have taken the devolved power and waited until after July, and then entered into discussions. We would not have been able to start providing this so-called effective Opposition with money until after 1 July. In its infinite wisdom, Westminster decided, "Let's put an order through Westminster. Let's help the SNP because they are so keen to be an effective Opposition." That is the charity of a Labour Government in Westminster seeking to ensure that the SNP can be an effective Opposition.

I sincerely hope that these orders will be accepted. They are a way forward for Scotland and a way forward from 1 July, and I recommend them to the chamber.

**Mr Swinney:** On a point of order, Mr Deputy Presiding Officer. Mr McLeish should be invited to clarify to the chamber whether the Short money that is proposed in the Westminster order will commence before 1 July or on 1 July. He should be asked to confirm that point.

**The Deputy Presiding Officer:** That is not a point of order.

Before we move to decision time, I ask Mr McLeish to move formally motions S1M-26 and S1M-27.

*Motions moved,*

That the draft Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999, which was laid before the Parliament on 26 May, be approved.

That the draft Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999, which was laid before the Parliament on 26 May, be approved.—[*Henry McLeish.*]

## Decision Time

17:00

**The Deputy Presiding Officer (Mr George Reid):** I will put the questions on the motions discussed during the debate in the order in which they appear in the business bulletin.

The first motion in the name of Henry McLeish is:

That the draft Scotland Act 1998 (Modifications of Schedules 4 and 5) Order 1999, which was laid before the Parliament on 26 May, be approved.

The question is, that the motion be agreed to.  
Are we all agreed?

*Motion agreed to.*

**The Deputy Presiding Officer:** The second motion in the name of Henry McLeish is:

That the draft Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999, which was laid before the Parliament on 26 May, be approved.

The question is, that the motion be agreed to.  
Are we all agreed?

*Motion agreed to.*

**The Deputy Presiding Officer:** The third motion in the name of Henry McLeish is:

That the draft Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999, which was laid before the Parliament on 26 May, be approved.

The question is, that the motion be agreed to.  
Are we all agreed?

*Motion agreed to.*

*Meeting closed at 17:01.*

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