

# **MEETING OF THE PARLIAMENT**

Wednesday 1 November 2000  
(*Afternoon*)

Volume 8 No 14

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## Scottish Parliament

*Wednesday 1 November 2000*

*(Afternoon)*

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

### Time for Reflection

**The Presiding Officer (Sir David Steel):** Good afternoon. As members know, this term we have invited people who have connections to the political parties to lead our time for reflection. Today we welcome the Reverend David Miller, the former general secretary of the Scottish Liberal Party and current chaplain of Saughton prison.

**Reverend David Miller (Chaplain of Saughton Prison):** Here's tae us—wha's like us? Damned few and they're a deid.

In the Christian tradition, today—1 November—is all saints' day. For at least 1,500 years, on this day Christians have honoured all those who have kept the faith. At different times, the "saints" who were thus honoured have come from different categories: founding fathers; martyrs; leaders and notables of the recent past; and those close to and loved by individuals. Perhaps because of our need to honour the great faithful ones, and also to remember with thanks our own loved ones who have died, the Church evolved two days on which to remember the saints: all saints' day for the great ones; and all souls' day—tomorrow—for the rest.

In olden times, fast and vigil would be observed during the evening before all saints' day—hallowe'en. Just how a reflective vigil of preparation was transformed into a kids' party with swinging pumpkin lanterns, trick or treaters, apple dooking, and spooks and skeletons is a mystery to me, but for many the hallowe'en party is the beginning and the end of remembering the saints.

A favourite passage of scripture for all saints' day comes from the letter to the Hebrews:

"Therefore, since we are surrounded by so great a cloud of witnesses . . . let us run with perseverance the race that is set before us."

The writer pictures an athletic stadium filled to capacity with those who have kept the faith, cheering us on—we, who in our turn, are on the track in the race, surrounded by a great "cloud of witnesses"—television cameras, journalists, commentators, lobbyists, pressure groups, constituents and critics. The pressures on anybody in public service increase day by day as the information revolution rolls on. Above the

critical chorus it must be hard to hear the supporters' cheers.

One line in the ancient creed of the Church states:

"I believe in . . . the communion of saints."

The picture here is not of an athletic stadium that is filled with supporters, but of a neighbourhood—a community and an extended family of all those who have kept the faith supporting one another. It is of a generous and inclusive community of all those who have persevered in the race that is marked out for them. Today—all saints' day—we honour the faithful and we are reminded that we are kept company by them.

Here's tae us—wha's like us? Damned few and they're a deid. But listen—they are cheering us on.

Let us pray.

Lord of Life, guide those who direct the governance of Scotland. Sustain them in their work, support them in their anxieties, strengthen them in their commitment to seek the well-being of all the people. Give them joy in their service, pride in their successes and the approval of a good conscience in all their endeavours. May our community be renewed in beauty, happiness and peace, through Jesus Christ our Lord. Amen.

**The Presiding Officer:** As members will be aware, this afternoon we will debate motions on the appointment of ministers and junior ministers. Before we do so, I inform members that I received a letter this morning from the First Minister advising me that John Home Robertson, Frank McAveety and Iain Smith have today demitted office from the ministerial team.

## Ministers

**The Presiding Officer (Sir David Steel):** We move now to the debate on motion S1M-1297, in the name of the First Minister, on the appointment of ministers, and an amendment to that motion

14:35

**The First Minister (Henry McLeish):** I am very pleased to move that Jackie Baillie and Angus MacKay be appointed to the Cabinet. The purpose of the motion in my name is to get the approval of Parliament for those appointments. We would, thereafter, present their names to Her Majesty the Queen.

Although we are appointing two new ministers, it is important to remember that they will be part of a team that delivered for Scotland under the late Donald Dewar and will continue to do so in the months and years that lie ahead. Today we are strengthening the coalition, which is working well for Scotland. I intend to ensure that the coalition is strengthened and that it continues to serve the people of Scotland.

We have to deal with a rich legacy of policies and legislative and spending programmes. That legacy gives us a load of work immediately. The Cabinet—including its two new members—has high hopes, but much hard work will be required.

It is important to note that one of the two new Cabinet ministers will handle the social justice portfolio. That is important because much of the debate during the past two weeks has been about Donald Dewar and social justice. I have decided that we need a more effective focus. That is why we have decided that social justice and housing—which is vital—should be a stand-alone portfolio.

I will give a flavour of the Administration that I want to lead. When we discuss social justice, some people might not recognise that we are still talking about deprivation, poverty and disadvantage. In my Administration, the core issue will be the self-worth of every Scot—that deserves to be treated seriously. I hope that if the appointment of Jackie Baillie is approved by Parliament, she will take up the legacy and the great challenges that lie ahead.

This is a very short debate, and I intend to be brief. Sir David, I see that you are already glowering slightly at me over your spectacles.

As I mentioned, we have a programme for government, which we will ensure is implemented. A promise means nothing to ordinary people until it is delivered. I am delighted that we have a substantial spending programme. We must roll that out in the coming weeks and months to the

benefit of the people of Scotland. We also have a substantial legislative programme. When we hear people criticising Parliament and the Executive, it is important to recall that a tremendous job has been done during the first 18 months. The new team is committed to driving forward enthusiastically with Parliament.

I have said enough in this brief debate. I am delighted that my two colleagues are being nominated for appointment.

I move,

That the Parliament agrees that Jackie Baillie and Angus MacKay be appointed as Ministers.

14:39

**David McLetchie (Lothians) (Con):** I speak in support of the amendment in my name, which objects to the appointment of Angus MacKay.

Despite rumours to the contrary, I am not singling him out because he and I have different football loyalties, although I shall be monitoring closely the frequency with which the numbers 6 and 2 appear with undue prominence in future financial statements. Rather, I object to his appointment because it would represent an unacceptable increase in the number of Cabinet ministers from 11 to 12.

Of course, I could have objected to Jackie Baillie's appointment on the same ground, but I am far too much of a gentleman to do that. Moreover, as the nominee for the position of Minister for Finance and Local Government, Angus MacKay should set an example to his colleagues. Although I acknowledge that the reshuffle has not increased the overall size of the Administration, the overall cost to the Scottish taxpayer has increased by £16,520, as a result of the extra salary that will be enjoyed by the new Executive minister.

From day one, the Scottish Conservatives have consistently argued that the Executive is bloated and should be cut down to size. The number of ministers is more than four times the number who ran the Scottish Office under the previous Conservative Government or, indeed, under the Executive's Labour predecessor. It is not as though Mr McLeish was short of candidates who were due for the chop, but instead of weeding out the ministerial duds, he has split the transport and environment portfolio so that Sam Galbraith and Sarah Boyack will do part-time jobs on full-time pay. As part of his phased retirement plan, Sam Galbraith has even managed to retain a deputy to deal with sport and culture. It is not hard to detect the reason for that extraordinary failure of nerve on the part of the First Minister—this is the pay-off for the ministerial payroll vote that won him the leadership election.

The Conservatives believe that leaner government will produce better government for Scotland. One way to achieve that would have been for the First Minister to have taken our advice and created a new department for enterprise and transport, which would acknowledge the importance of transport to the development of the Scottish economy. Instead, Sarah Boyack remains in charge of the transport portfolio—most likely at odds with Wendy Alexander—free to burden our motorists and businesses with her new tolls and taxes.

Sadly, the new ministerial team is yet another demonstration of the weakness that looks set to be the hallmark of Mr McLeish's time as First Minister. Party management appears to be his highest priority, which leaves little room for the development of a programme of government that addresses real concerns. The First Minister is sadly mistaken if he thinks that one more chair around the table will do anything to improve the reputation of his Executive. We do not need more ministers—we need better government.

I move amendment S1M-1297.1, to leave out "and Angus MacKay".

14:42

**Nicola Sturgeon (Glasgow) (SNP):** I reassure Mr MacKay that the SNP's support for the amendment in David McLetchie's name is not personal. Any personal animosity that is felt towards him by the leader of the SNP is entirely of a sporting variety.

Our support for the amendment reflects genuine concerns over the potential conflict of interests that arises from the proposal that Angus MacKay should hold two portfolios. In one capacity, he will be the custodian of the public purse and in the other, he will be in charge of a major spending department in the Scottish Executive, which will require to compete with other spending departments for the allocation of funds. Perhaps the First Minister can talk us through exactly what will happen during budget negotiations.

When it comes to negotiating local government settlements, which hat will Angus MacKay wear? Will it be that of the finance minister—in which case, the people of Scotland are entitled to ask who will argue the corner of Scotland's hard-pressed local councils—or will it be that of the local government minister, whose responsibilities will come to the fore? If the latter were the case, would we be entitled to ask whether the local government minister's influence would hold greater sway with the finance minister than the influence of Susan Deacon, the Minister for Health and Community Care, or that of Jack McConnell, the new Minister for Education, Europe and

External Affairs? Frankly, the arrangement is inappropriate.

The Public Finance and Accountability (Scotland) Act 2000—which was ably steered through the Scottish Parliament by Jack McConnell—was about ensuring openness and transparency in Parliament's financial dealings. The finance minister's being given simultaneous responsibility for a spending department simply raises questions about a conflict of interests. They are serious questions, which the First Minister must answer in the debate.

It is no secret that there are power struggles within the Scottish Executive. Clearly, Jack McConnell thinks that he will not have enough to do in running the education system in Scotland, so he has also secured the external affairs brief. Only 18 months ago, his Labour boss did not think that such a brief was necessary in the Scottish Executive.

If the appointment of Angus MacKay as Minister for Finance and Local Government is an attempt to balance the distribution of power in the Executive between the First Minister's allies and those whose allegiance is slightly more suspect, the attempt is misguided. It would be far better for the orderly running of affairs of the country if the two portfolios were separated. That is why the SNP will support amendment S1M-1297.1.

14:45

**Lord James Douglas-Hamilton (Lothians) (Con):** It seems that the size of the Cabinet has increased, and is increasing. It ought, however, to be diminished. An increase by one member might appear to be extremely insignificant, but the Scottish taxpayer must again pay the bill. The number of ministers is, as was mentioned, more than four times that of the previous Administration. As far as I know, ministers in the previous Administration did not object to having to do four times the amount of work. The Conservatives take the view that big is not always beautiful and there is no doubt that there is scope for a leaner Government.

The most important questions are whether the reshuffle will signal a change in policy on the Sutherland report and new taxes on motorists and businesses and whether law and order will be given the top priority that it deserves.

I support amendment S1M-1297.1.

14:46

**Andrew Wilson (Central Scotland) (SNP):** I repeat the comment that was made by Nicola Sturgeon—our support for the amendment is not a slight on Angus MacKay's ability. He is certainly as

good as the rest of the Cabinet—although given the competition, that is no great boast.

The point is that it is necessary that the finance minister should not also hold a spending portfolio. I can find no other example from Europe, or around the world, of the finance minister of a legislature or Parliament running a spending department at the same time as arbitrating over the people's money.

Local government accounts for a huge chunk of the nation's budget and has come under more pressure than any other spending area within the Executive's competence. Local government has decreased its share of the overall budget faster than any other budget element. How can we trust Angus MacKay as finance minister to have a rational view of how to deal with that, given that that is the spending portfolio on which his performance will be measured and judged? There is a rational reason why the two posts have always been and should always be separate. That separation must be maintained.

As Nicola Sturgeon said, the combination of the two posts is an absolute nonsense—it is born of the First Minister's over-eagerness to please his Labour colleagues. It is not right that Jack McConnell can claim the Europe portfolio in compensation for his move, leaving Henry McLeish having to overcompensate Angus MacKay for the adjustment. The position is not sustainable or sensible. It is an imprudent use of Cabinet postings and demonstrates that Labour is happy to play internal politics with the people's money.

**The Presiding Officer:** As no other member has asked to speak, I invite the First Minister to wind up the debate.

14:48

**The First Minister:** The political points that the SNP has made do not begin to address the seriousness of electing a Cabinet or junior ministers—we will move on to that in a minute. Nicola Sturgeon makes a non-point. In the previous Cabinet, Jack McConnell was the Minister for Finance and was responsible for local government finance. Was that lost on SNP members? Perhaps they did not pick that up during the past 18 months. This is a good opportunity for them to apprise themselves of what the Executive is doing.

The Conservative attack is fascinating because, if I remember correctly, they sought a minister for tourism, a minister for Glasgow and a minister for Parliament. To top it all—Conservative arithmetic has never been good—I heard on the radio on Sunday that they think that there are 23 ministers. They even got that wrong. There are still 22

ministers—despite the changes that have been made, the Administration remains the same size.

Today, we are considering the suitability of the people we are recommending for ministerial posts. I have no hesitation—nor should Parliament hesitate—in agreeing entirely that they are the right people.

However, I must say that the football issue is becoming rather difficult. Jackie Baillie has instructed me never to use another football analogy—she is sick of them.

**Roseanna Cunningham (Perth) (SNP):** Hear, hear.

**The First Minister:** That proposal has been seconded from across the chamber.

I have realised that both the leader of the SNP and the leader of the Conservatives support Heart of Midlothian. We also find that the new—if approved—finance minister supports Hibs. David McLetchie should not remember a score of 6-2. Mr MacKay suggests that he should remember 7-0—the biggest drubbing that Hearts has had for many years.

**Robin Harper (Lothians) (Green):** I am a former Aberdeen—and East Fife—supporter, and I would like to hear a reply to Mr McLetchie's points about the division of the transport and the environment portfolio. It was insupportable that it was given to one minister for a whole year without any support. The division is a positive step.

**The First Minister:** If anyone says publicly that he has been involved with both Aberdeen and East Fife, I cannot—as a former East Fife player—top that.

The question about transport and the environment is important. Environment issues must and will be taken seriously—that department is a key part of the Administration. Transport is also vital to Scotland—to our great cities and to our rural hinterlands. Those matters need due attention. The portfolio was split and both subjects were given a minister with Cabinet rank.

I hope that members will support the motion and allow us to make progress soon.

**The Presiding Officer:** I will put the questions on the motion and the amendment to the motion.

The first question is, that amendment S1M-1297.1, in the name of David McLetchie, which seeks to amend motion S1M-1297, in the name of the First Minister, on the appointment of ministers, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.



**FOR**

Adam, Brian (North-East Scotland) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Campbell, Colin (West of Scotland) (SNP)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Grahame, Christine (South of Scotland) (SNP)  
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Johnston, Nick (Mid Scotland and Fife) (Con)  
 Johnstone, Alex (North-East Scotland) (Con)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 MacDonald, Ms Margo (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 McLeod, Fiona (West of Scotland) (SNP)  
 McLetchie, David (Lothians) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Mundell, David (South of Scotland) (Con)  
 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)  
 Scott, John (Ayr) (Con):  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Tosh, Mr Murray (South of Scotland) (Con) ,  
 Ullrich, Kay (West of Scotland) (SNP)  
 Wallace, Ben (North-East Scotland) (Con)  
 White, Ms Sandra (Glasgow) (SNP)  
 Wilson, Andrew (Central Scotland) (SNP)

**AGAINST**

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)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Galbraith, Mr Sam (Strathkelvin and Bearsden) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 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)

Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 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)  
 McMahan, 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)  
 Munro, Mr John (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Ochil) (Lab)  
 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)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**The Presiding Officer:** The result of the division is: For 43, Against 66, Abstentions 0.

*Amendment disagreed to.*

**The Presiding Officer:** The question is, that motion S1M-1297, in the name of the First Minister, on the appointment of ministers, be agreed to. Are we agreed? [*Interruption.*] Not again. I ask members who wish to disagree to the motion to shout "No".

Did I hear a no? I did not.

*Motion agreed to.*

That the Parliament agrees that Jackie Baillie and Angus MacKay be appointed as Ministers.

## Junior Ministers

**The Presiding Officer (Sir David Steel):** The next item of business is motion S1M-1298, in the name of the First Minister, on the appointment of junior Scottish ministers.

14:53

**The First Minister (Henry McLeish):** I have tremendous pleasure in moving that Malcolm Chisholm, Margaret Curran, Tavish Scott and Allan Wilson be appointed as junior Scottish ministers. We should not delay the chamber further this afternoon—we have important business to get on with. The appointees will strengthen the team and I look forward to working closely with them. They will serve Scotland with pride and distinction, and I hope that colleagues will support them this afternoon. [MEMBERS: “Hear, hear.”]

I move,

That the Parliament agrees that Malcolm Chisholm, Margaret Curran, Tavish Scott and Allan Wilson be appointed as junior Scottish Ministers.

14:54

**Miss Annabel Goldie (West of Scotland) (Con):** They say that the proof of the pudding is in the eating—at first sight, the junior ministerial pudding looks a tad indigestible. I suspect that the principal difficulty that confronts the four proposed new junior ministers may be making their mark outwith the chamber, in the perception of the Scottish public. In what I hope is a mood of characteristic bountiful magnanimity, I have one or two tips for them.

If Mr Wilson, in his new role as Deputy Minister for Sport and Culture, can lift the game from wisecracking jokes in the chamber about football to something meaningful on the national football pitch for Scotland, I might be prepared to have another look at that pudding.

If Mr Chisholm can explain to a constituent of mine why he cannot get a flu jab despite the fact that he is a priority health case, his performance too might bear serious consideration.

The most onerous task of all lies with Mr Tavish Scott, who must perform the most delicate balancing act imaginable. He will either achieve that with distinction or be labelled the biggest toady of all time. I do not envy his role.

Ms Curran, I believe, is the proclaimed crusader of women, and I extend all good fortune to her in that pursuit. I just ask that, in effecting that pursuit, she does not antagonise the entire male populace

of the chamber, nor their counterparts outside.

In making those suggestions, which I hope are constructive, I am greatly disturbed by what we do not have, such as a second deputy for the enterprise and lifelong learning portfolio. I find it incomprehensible and astonishing that a portfolio of such significance—happily, that significance has been recognised outwith the Parliament, and has been commented on in relation to the Enterprise and Lifelong Learning Committee—no longer has two deputy ministers, but one.

While I listened to the First Minister's warm words on the motion to appoint ministers, I thought that the proof of the pudding is definitely in the eating. I wish the appointees well, but I am not holding my breath.

14:56

**Mr John Home Robertson (East Lothian) (Lab):** David McLetchie has just accused Henry McLeish of rewarding those who voted for him in the leadership election. I only wish that that were true. [Laughter.]

This is my first opportunity in this Parliament to speak about anything other than fishes and trees. I have enjoyed working for people in both those sectors, and I hope that I have achieved a little bit for them. My main disappointment is that it will not be for me to make the final announcement on the new Scottish sea fishing safety scheme. That initiative has taken time and will cost a lot of money. However, I think that it will be a very good scheme, which should save fishermen's lives.

People in our fishing communities can depend on Rhona Brankin and Ross Finnie to stand up for their interests, and I whole-heartedly support both my colleagues.

If I may, Presiding Officer, I wish to raise a point that affected my work as a junior minister, and which I think is significant for the whole Parliament. We have a Scottish ministerial code, which, quite rightly, has been adopted to prevent sleaze and to prevent ministers from taking decisions that could create financial advantages for themselves or for their families.

The chamber may be interested to hear about my experience of the application of that code. On 19 May 1999, the Parliament voted to accept my appointment by Donald Dewar as Deputy Minister for Rural Affairs, to work with Ross Finnie on all aspects of the responsibilities of the Scottish Executive rural affairs department, including agriculture.

It was public knowledge at the time—I reminded the First Minister and the permanent secretary to the Scottish Office of this when I met them—that I was a very dormant sleeping partner in a family

farming business. My family has had no remuneration from that business for many years. A series of Tory farmers have served in agriculture departments, most recently Jamie Lindsay and Hector Monro, and, initially, nobody raised any objections to a Labour minister with farming experience. However, on 6 June 1999, we were advised that the National Farmers Union of Scotland had notified the agriculture secretary at the Scottish Office agriculture, environment and fisheries department—now the Scottish Executive rural affairs department—that the union objected to my involvement in any aspect of agriculture policy because I might be perceived to have a personal financial interest. The NFUS has subsequently denied having made that objection, but I have a letter from a very senior civil servant asserting that it did.

Leaving aside the question why the NFUS had a problem with a Labour minister who was perceived to be a farmer, despite not objecting to my Tory predecessors, I simply invite colleagues to consider where we are going with such a wide interpretation of the paragraph of the Scottish ministerial code that states:

“Ministers must ensure that no conflict of interest arises, or appears to arise, between their public duties and their private interests”.

A fresh interpretation of that rule was triggered to shut me out of a substantial part of the job that the Parliament had assigned to me. That meant that Ross Finnie had no support from a deputy on agricultural matters.

Obviously, it is vital to have comprehensive safeguards to prevent impropriety on the part of ministers, but does it make sense to exclude people who have direct experience of business or the professions from related ministerial offices? Should a doctor be barred from being a health minister? Should someone whose spouse is a lawyer be barred from office in the justice department? Where would we stop—and does it make sense? I invite colleagues to reflect on the possible implications of that new interpretation of the rule. It curtailed drastically my contribution to the rural affairs department and it could prevent people from bringing the benefits of business and professional experience to Government, not only in Scotland but in all parts of the United Kingdom.

I am grateful for this opportunity to raise that concern. I whole-heartedly support Henry McLeish's motions on ministerial appointments and wish all my colleagues well in their dealings with the Opposition and, perhaps more important, with the civil service.

**Tricia Marwick (Mid Scotland and Fife) (SNP):** On a point of order. The ministerial code is not yet a matter for this Parliament; it is a matter for the First Minister and for Downing Street. We have a

code of conduct for members, but that code does not extend to ministerial responsibilities, which the Executive and the First Minister have said in the past are a matter for the Cabinet alone. If there are problems, I suggest to Mr Home Robertson that he take them up with the First Minister so that we can get the changes that he wants.

**The Presiding Officer:** Points of order should be addressed to me. What Mr Home Robertson said was entirely appropriate and in order on the motion to appoint new junior ministers.

15:03

**Lord James Douglas-Hamilton (Lothians) (Con):** I confirm that we will not oppose the motion. However, the question has arisen whether the First Minister has made appointments to curry favour with back benchers or whether the appointments genuinely reflect a ministry of all the talents. We must wait and see how the appointees get on in their roles and how they tackle the serious problems that face Scotland, including rising crime, transport problems and the crisis in the rural economy. We will engage in constructive opposition. The new ministers and their colleagues will be judged on whether they are ready, willing and able to deliver policies that will drive back the frontiers of poverty, ignorance and disease.

**The Presiding Officer:** No one else has asked to speak. I take it that the First Minister does not wish to respond.

**The First Minister:** No.

**The Presiding Officer:** The question is, that motion S1M-1298, in the name of the First Minister, on the appointment of junior Scottish ministers, be agreed to.

*Motion agreed to.*

That the Parliament agrees that Malcolm Chisholm, Margaret Curran, Tavish Scott and Allan Wilson be appointed as junior Scottish Ministers.

**The Presiding Officer:** I declare both results valid. Parliament has agreed the First Minister's recommendation that he recommend to Her Majesty that she appoint Jackie Baillie and Angus MacKay as ministers and Malcolm Chisholm, Margaret Curran, Tavish Scott and Allan Wilson as junior Scottish ministers. [*Applause.*]

## Executive Accountability to Parliament

**The Presiding Officer (Sir David Steel):** The main debate today is on motion S1M-1299, in the name of the First Minister, on official information and accountability to Parliament, and two amendments to that motion. Before we begin, I should say that we intend to be generous in the time we allot to members. We finished the debates on ministers and junior ministers sooner than we had expected.

15:04

**The First Minister (Henry McLeish):** I take it that there is not unlimited time for my contribution.

**The Presiding Officer:** You are down for 10 minutes, but if you want longer, that is okay.

**The First Minister:** Thank you.

I am delighted that the first substantive debate in the Parliament to follow completion of the parliamentary processes needed to approve the new Administration should be about accountability. In the preparations for devolution and the work of the consultative steering group, which brought together representatives of all the major political parties, I was determined that our system of governance in Scotland should be open, accessible and accountable. That remains my firm commitment.

Our intention today is to stimulate a mature debate about the fundamental principles that should underpin the relationship between the Parliament and the Executive. If the Executive motion is carried, we will have taken a major step forward in setting a robust framework for effective relationships between the legislature and the Executive, which will help to enhance the standing of both institutions in the eyes of the people of Scotland.

Good government means open government. It also means responsible government. I want to explain today the steps that the Executive is taking to deliver those commitments, and the principles that we believe should underpin and promote open and responsible dealings between this Parliament and the Executive. Our approach to this issue is founded on the belief that relations between ministers and Parliament should be characterised by mutual trust, integrity and confidence: trust between party leaders; trust between party leaders and ministers; trust between ministers and committee conveners; and trust between committee conveners and committee members. Integrity, which the public want to see, is a key characteristic of the Parliament and the Executive.

The public must have confidence in everything that we do. This is their Parliament. By definition, it is absolutely right that they should have confidence in us. With that in mind, the proposals in the motion reflect a genuine desire to find an acceptable way forward that will allow Parliament and its committees to scrutinise the Executive effectively and hold ministers to account. We have no wish to play party politics and I hope that others will approach this debate in the same constructive spirit.

We have made our intentions clear from the outset. The "Code of Practice on Access to Scottish Executive Information", which we debated on 23 June last year, takes as its starting point the principle that in all cases

"information should be released except where disclosure would not be in the public interest".

We intend to go further than that. The Executive is committed to the early introduction of an effective statutory freedom of information regime based on a presumption of openness. We published a consultation paper setting out detailed proposals late last year, the thrust of which has broadly been welcomed. We intend to publish a draft bill around the turn of the year for further consultation and pre-legislative scrutiny.

I firmly believe that open and transparent government is central to a modern, mature and democratic society. It empowers people and reflects our belief that, in the long run, better scrutiny must mean better government. That does not mean that information can or should be made available in all circumstances, because good government also means responsible government. I know of nowhere in the world where the right of access to official information is unqualified, even in countries with strong and effective freedom of information regimes, such as Australia, Canada, New Zealand and Ireland. There is a balance to be struck between the public's right of access to official information and the public interest in good government. Today, I want to suggest how and where that balance should be struck.

It is essential that ministers of any political complexion can receive frank and impartial advice from their officials and engage in vigorous argument and debate within the Government. That is necessary and healthy in any democratic society. It is unrealistic, and shows a complete lack of understanding of the processes of government, to suggest that papers relating to those purely internal processes should be made freely available. Good government would be impossible if advice from officials to ministers, and deliberations between ministers, could not be carried out on a confidential basis. The same might be said—this is an important point—of the work of the committees of the Parliament, which

find it necessary to take advice in confidence from the clerks and to meet in private from time to time. Of course, that does not mean that there is any lack of accountability—far from it.

Let us be clear about who is accountable to whom. The basic principle that underpins the operation of government is that officials are accountable to ministers and ministers in turn are accountable to the Parliament. That means that, although officials can and should assist the Parliament and its committees by providing factual information, it is for ministers to answer for the policy decisions that they take. We are drawing up guidance that sets out the duty of officials in giving evidence to committees. We will, of course, publish that guidance.

A good deal of nonsense has been talked in recent days about eroding the impartiality of civil servants. There is no question of politicising the civil service. Ministers are perfectly entitled to obtain party political advice, but not from career civil servants. There must be a complete distinction between those who give political advice, in the context that I have described, and career civil servants who give high-quality, impartial and objective advice to whomever is in government.

It is precisely to maintain the impartiality of the civil service that a clear distinction must be made between the role of officials and the role of ministers in their dealings with Parliament. Against that background, I will set out, for the benefit of colleagues, the principles that we believe should underpin a grown-up relationship between the Executive and Parliament.

First, on behalf of the Executive, I want to renew our commitment to a policy of openness, accessibility and accountability in all our dealings with the Parliament, its committees and the public. That commitment was reflected in the work of the consultative steering group, which I chaired, and has been referred to many times, especially by SNP members. It was one of the key principles in the CSG report and it is reflected in our commitment to a strong and effective statutory freedom of information regime. Let us remember that the group included Jim Wallace, Alex Salmond, Paul Cullen—from the Conservatives—and me. There was all-party support for the openness that we can now implement in our new Parliament. That is reflected in our response today to the report of the Procedures Committee on parliamentary questions. We are fully committed to working with the committee to improve the provision of information to Parliament wherever we can.

Open, accessible and accountable government depends crucially on the relationship between the Parliament and the Executive. I do not dispute the

Parliament's right and duty to hold the Executive to account. Effective parliamentary scrutiny is the cornerstone of democracy; it is what we all worked to deliver on the CSG.

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** Does the First Minister accept that, in its inquiry on the exams crisis, the Parliament is doing its job in scrutinising an issue of great public concern? As part II of the "Code of Practice on Access to Scottish Executive Information" states, it would have been open to the Executive to disclose internal civil service documents on the basis that the public concern outweighed any notional harm that might thereby have resulted.

**The First Minister:** I do not accept the points that Fergus Ewing makes, but I am three lines away from dealing with the central issue of the Scottish Qualifications Authority.

There is a reasonable presumption about documents and material being provided for open access. There must be a safeguard. I have described what that is and I will now explore how it works in practice, especially in relation to the SQA inquiry.

I said that a balance must be struck; it is vital that we get that balance right. I accept that the Parliament and its committees have the right, under section 23 of the Scotland Act 1998, to require anyone, including ministers, to give evidence and to produce documents in relation to devolved matters. That power is not in question; it is provided for in the act and it can be deployed. However, I believe that it should be regarded as a weapon of last resort. Colleagues may remember that our late colleague, Donald Dewar, described it as the nuclear option. If we can develop a positive and mature relationship between the Executive and the Parliament, with mutual respect and trust, I believe that the Parliament should not have to exercise its functions under that section.

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

**The First Minister:** I will let John Swinney intervene in a minute.

The point was made that section 23 should be deployed. I suggest to the chamber that that would have been an admission of failure and an admission that the procedures of the Parliament were not being properly and effectively used.

As one of the architects of the Scotland Bill at Westminster, and as one of the architects of the CSG, let me say that no one can deny the existence of section 23. The issue for this Parliament is how we decide to use that power and, more important, what we can do in terms of principles and procedures to address an issue

before it gets to that point.

**Mr Swinney:** The First Minister has made it quite clear that he was the author of the Scotland Bill and, as a result, section 23(1). Did he and his Administration have any intention of producing detailed guidelines to support and explain section 23(1) and set it in context? Why has it taken 18 months for those guidelines to be introduced?

**The First Minister:** We must consider section 23 and I will do so in relation to John Swinney's attempt to use it. I have a question: what has happened to the SNP's motion on section 23? Let me spell out the crucial issue. We had reached a situation where there was an evolving process of discussion and dialogue between ministers and the conveners and members of committees. On 5 October, Sam Galbraith and I participated in the Enterprise and Lifelong Learning Committee's deliberations with Alex Neil as convener. On 6 October—the day of John Swinney's parliamentary question on section 23—there was a meeting at 1.30 pm between Sam Galbraith, Mary Mulligan and Alex Neil. At that point, there was about to be a process which meant that agreement could be reached on providing confidential information to the committees with the committee conveners. That was with the agreement of the parliamentarians on the committees. What happened to the SNP's motion? Although I do not know about the internal machinery of the SNP, I will hazard a guess. When the leader of the SNP stood up to ask Donald Dewar his question, he did not know that such an agreement was in embryonic form.

**Mr Swinney:** Will the First Minister give way?

**The First Minister:** If Mr Swinney lets me finish my point, I will let him in right away. This is important. We had a situation where the nuclear option of section 23—and it is a nuclear option—was about to be deployed without, in my judgment, the right discussions having taken place between colleagues in the SNP. If the SNP leader had known what was happening, he would not have attacked the late Donald Dewar by saying that he had failed to deploy that option. By doing so, he usurped and undermined what happened in those discussions.

**Mr Swinney:** The First Minister is on very dangerous ground. He had better explain to Parliament whether the Labour convener of the Education, Culture and Sport Committee is required to do the Labour party's bidding in that committee. I do not expect the convener of the Enterprise and Lifelong Learning Committee, who happens to be a member of the SNP, to do the bidding of my party. He is not accountable to me; he is accountable to the members of the Enterprise and Lifelong Learning Committee and to Parliament. The First Minister had better

confirm the relationships between Labour committee conveners and Labour ministers, because I have set out the basis of those relationships in the SNP.

**The First Minister:** I fear that we might have touched a raw nerve. I will take the Parliament very slowly through this issue, because we must ensure that section 23 is put into perspective. Quite frankly, in this context, the suggestion about the convener of the Education, Culture and Sport Committee is a complete red herring. I do not want to ask John Swinney the specific question, because it might be embarrassing. However, I would want to know sometime whether, at 2.30 pm on 6 October, in question time, he, as SNP leader, who is entitled to know what is happening in Parliament, was aware of—

**Mr Swinney:** That is an absolutely outrageous argument.

**The First Minister:** Well, it seems quite sensible and straightforward to me. I would want to know whether the leader of the party was aware that discussions had taken place—

**Roseanna Cunningham (Perth) (SNP):** On a point of order, Presiding Officer. Perhaps you could give us guidance in this debate about the relationship between committee conveners, committee members and the Parliament. When I was a convener, I regarded conversations between me and my clerk as a matter not for my party convener but for my committee members and the Parliament. Is that relationship now to be redefined? Are we now in a situation where committee conveners are responsible first and foremost to their parties and not to this chamber?

**The Presiding Officer:** The only point of order for me in that remark was a reference to the clerks, who have so far not been brought into the discussion. I suggest that we hear what the First Minister has to say; the next speaker will be Mr Swinney, who will have plenty of time to respond to what Mr McLeish has said.

**Mrs Mary Mulligan (Linlithgow) (Lab):** On a point of order. Is it appropriate for the leader of the Opposition to come into this chamber and make allegations about the convener of a committee of the Parliament, when members of his party know that the committee had agreed that I should attend that meeting on behalf of the committee?

**Mr Swinney:** I made no allegation in this chamber. I simply asked the First Minister whether he had a line of accountability to a Labour-nominated committee convener. I made no allegation; I asked a question. The First Minister was the man bandying around the allegations.

**The Presiding Officer:** Those of us who did not have the benefit of being at those meetings are a

bit mystified by the matter and are anxious to hear the argument continue. Let us hear Mr McLeish first and then Mr Swinney.

**The First Minister:** Yes, Sir David, let us continue in a measured way—[*Interruption.*] Hurling abuse across the chamber is not my preferred way of debating anything. The core of the issue is that I expect leaders of political parties, including me, to be slightly aware of things that are going on in the Parliament and in committees.

My point is simply this: section 23 revolves around the words “require” and “request”. When John Swinney spoke to Donald Dewar, there was a request from committees for information, not a requirement. John Swinney has made a political gaffe. He weighed into the debate that afternoon accusing the then First Minister of not understanding, not being aware of or not deploying section 23. Really, there was no challenge to be knocked back, because, at that point, processes in the Parliament, committee conveners and ministers were at work. Then, hey presto! Whether with opportunism or naivety, John Swinney weighed in and made a complex situation more difficult.

My question is: what has happened to the SNP’s section 23 motion? Let us have an answer on that point; that would be useful.

**Mr Lloyd Quinan (West of Scotland) (SNP)** rose—

**The First Minister:** I see that Mr Quinan has an answer for me.

**Mr Quinan:** I have two questions for the minister.

**The First Minister:** I shall not give way in that case.

**Mr Quinan** rose—

**The Presiding Officer:** Hang on a minute, Mr Quinan. If you have a few questions, I suggest that you speak in the debate.

**Mr Quinan:** I have one very clear question.

**The Presiding Officer:** If you have a straight question, you may ask it.

**Mr Quinan:** The Executive’s motion says that

“Parliaments with strong freedom of information regimes do not disclose the terms of . . . exchanges”

between officials and ministers. Does the minister agree with the New Zealand Parliament’s ombudsman who said that exemption provisions have been developed

“to recognise that at certain stages of the policy making process information must be protected for the sake of the process. These withholding provisions protect the process

rather than the information . . . But once the process has been completed it no longer requires confidentiality; then the emphasis frequently changes in favour of disclosure”?

That is an interpretation of the Official Information Act 1982 of the New Zealand Parliament. He made direct reference to the New Zealand Parliament. Why do not we get the same treatment as New Zealand does?

**The First Minister:** All modern countries are in favour of providing factual information. I do not want to prolong the SNP’s agony, but I want to ask my question again.

**Mr Quinan:** Will the minister give way?

**The First Minister:** I will not give way, although I can hear the abuse from SNP members. The point is that, on the afternoon of 5 October, two or three questions were put to the First Minister. After that, a motion on section 23 was submitted to the Parliament. I shall leave the matter there, but I want to find out what has happened to that motion. Has it been withdrawn because of the mistakes that were made? Has it been withdrawn because the committee procedures are dealing with the issue in a sensitive way? Alternatively, is it still lurking around on the business bulletin in the hope that it might be deployed?

I have asked so many questions and got so few answers that it might be best now to move forward. It seems that the SNP is no longer pursuing its motion on section 23 in relation to SQA inquiries. I hope that that is because of my central thesis that, at the end of the day, the section 23 option is a nuclear one. If the Parliament cannot come up with ideas and implement procedures to stop short of using that option, we are failing as a legislature.

It is a pity that, when the Executive and the committees were in the process of reaching agreement, the leader of the SNP felt it necessary to intervene in the way that he did. If we can develop a responsible and mature relationship between the Executive and the Parliament, characterised by mutual respect and trust, I believe that the Parliament should not find it necessary to exercise its formal powers under section 23. With that in mind, my motion sets out a number of principles that, we propose, should inform and underpin the relationship between the Parliament and the Executive.

The Executive will, as a matter of course, make as much information as possible publicly available. We will respond positively to requests from committees for information, as we have in relation to the SQA inquiries being carried out by the Education, Culture and Sport Committee and the Enterprise and Lifelong Learning Committee. Officials will always be prepared to provide factual information, just as ministers will be ready to

appear before the committees to answer for their policy decisions.

I have explained the need to preserve the confidentiality of internal processes within the Government, which, I hope, committees will usually be prepared to respect. Exceptionally, committees may find it necessary to scrutinise exchanges between officials and ministers on policy issues. I hope that arrangements can be made to ensure that the confidentiality of such exchanges is respected, which is what the Education, Culture and Sport Committee and the Enterprise and Lifelong Learning Committee have done. In my view, that is a good example of how the Executive and the Parliament can work together constructively to mutual advantage.

It is important to stress that those two committees have a menu of items available to them. The committees can select areas that they require and a factual, objective response will be given to them. However, to ensure that what is in the documents is right, the conveners of the committees will get access to the confidential information that goes between ministers and between officials and ministers. In this extraordinary set of circumstances, is not that a fair way in which to deal with the issue? [MEMBERS: "No."] SNP members say no, but I think that it means that we have a Parliament and an Executive that are working together. The committees are getting what they want and the Executive can ensure that confidentiality is a key part of what it does. Surely that is a success for good and reasonable government.

Openness, accessibility and accountability are principles that lie at the heart of our devolved institutions and the relationship between this Parliament and the Executive. Open government is an on-going commitment that is central to the shaping of a new, modern, democratic Scotland. I firmly believe that there need be no conflict between good government and proper parliamentary scrutiny. It is in the interests of everyone in Scotland that we get the balance right. I commend the motion and the principles that it contains to the Parliament.

I move,

That the Parliament notes that the Executive is committed to a policy of openness, accessibility and accountability in all its dealings with the Parliament and its Committees; further notes both the Parliament's right and duty to hold the Executive to account including the power to invoke section 23 of the Scotland Act and the public interest in maintaining the confidentiality of exchanges between officials and Ministers concerning policy advice; observes that other Parliaments with strong freedom of information regimes do not disclose the terms of such exchanges; calls, to that end, for the Executive and the Parliament to observe the following principles:

- (i) consistent with its policy of openness, the Executive

should always seek to make as much information as possible publicly available as a matter of course and should respond positively to requests for information from the Parliament and its Committees;

- (ii) officials are accountable to Ministers and Ministers in turn are accountable to the Parliament and it follows that, while officials can provide Committees with factual information, Committees should look to Ministers to account for the policy decisions they have taken;

- (iii) where, exceptionally, Committees find it necessary to scrutinise exchanges between officials and Ministers on policy issues, arrangements should be made to ensure that the confidentiality of these exchanges is respected,

and commends these principles to Committees as guidelines to be followed in their dealings with the Executive.

**The Presiding Officer:** All members who would like to speak in the debate should press their request-to-speak button, so that a judgment can be made about the timing of back-bench speeches. I will give John Swinney the same latitude on time as I gave the First Minister.

15:28

**Mr John Swinney (North Tayside) (SNP):** I welcome the First Minister to his first parliamentary debate. After that performance, I can assure members that it is a warm welcome, because the First Minister demonstrated just how good he is at delivering gaffes. I thought it was just last week that we were getting gaffes, but it seems that we are getting them this week as well.

The First Minister started out by saying that he wants to have a mature debate. I would have been all for a mature debate if the First Minister had made fewer tasteless remarks. He talked about trust between the Parliament and the Executive and between the party leaders. I am all for that concept and made it quite clear to him the moment he was selected that if he required to come to me, as leader of the Opposition, to discuss issues of sensitivity confidentially, I would respect that confidentiality, which was the type of confidentiality that the First Minister appreciated when he was Minister for Enterprise and Lifelong Learning and I was convener of the Parliament's Enterprise and Lifelong Learning Committee.

The First Minister has made a fundamental mistake. He has talked about the guidelines that are mentioned in his motion and he has talked about getting the relationship between the Parliament and the Executive right. He is talking about introducing guidelines that will be sponsored by the Executive, put to the Parliament and voted through by the Executive parties—which I freely accept have a parliamentary majority. However, if we are to develop guidelines, I would have thought it more appropriate to do so as a Parliament, so that every member of this Parliament, of whatever political persuasion, can be content with them.



The amendments proposed by the Conservatives and the SNP raise questions about the guidelines. My amendment is about ensuring that the First Minister reconvenes the consultative steering group, which I freely accept—as I have put on record in this Parliament many times—is held in high regard for its achievements in setting up the rules of this Parliament. I suggest that the First Minister reconvene that group and invite the four party leaders to take part in the discussions to formulate the guidelines. That is a practical suggestion that would bind us all in so that we can formulate new parliamentary guidelines and rules for the release of information that satisfy us all and that we can all respect. My suggestion would ensure that my party is not forced into a corner in a parliamentary vote—after what I would describe as a pretty unpleasant hour and a half of debate, led by the First Minister—and is not forced to oppose the First Minister's principles.

**The First Minister:** The guidelines are being reviewed. They will be published. That does not rule out a debate on them at a later stage. That would give the Parliament and ministers an opportunity to discuss them in open forum, with the press and public present.

**Mr Swinney:** This debate might have been more straightforward if the First Minister—in his first debate as First Minister in this Parliament—had started off by saying that there is some merit in the SNP's amendment, which seeks to ensure that all parties are behind any guidelines. I shall have some substantial things to say about those guidelines in a moment. We could all have been together. If the First Minister's speech had reflected the merit of our amendment, I would have been right behind him; he would have been able to come to me, in confidence, with guidelines; I would have talked about them, would have taken ownership of them on behalf of my party, and would have delivered my party's support for those guidelines—which I would have agreed on a private basis. There would have been no question about it. However, Parliament is being asked, in a debate of an hour and a half, to accept principles that I do not think clarify any of the relationships on which we need clarity.

At the heart of this debate are the legitimate tensions between Parliament and the Executive, which will always exist in any parliamentary democracy. I am determined to ensure that whatever arrangements are put in place last not just for four years, but for a great deal longer, and that they give Parliament its proper position, so that when we are on the benches that Labour members occupy now, they are on our benches and we are running this Parliament—that time is not far away—the Labour party will have the protection of the rules that all of us will have worked on together and that command the support

of us all.

**Pauline McNeill (Glasgow Kelvin) (Lab):** I hear what John Swinney is saying, but I have to point out that some of us on this side of the chamber—and I include Liberal Democrat members—have been involved in this project since its conception in the constitutional convention, while SNP members have not. Mr Swinney now wants to lecture the Parliament about open government.

**Mr Swinney:** We took a particular stance on the constitutional convention. When it came to the referendum, Labour and the Liberal Democrats were perfectly happy to work with the SNP to deliver the Scottish Parliament, and we were happy to work in that way. I am not sure whether I am allowed to refer to my colleague, the Deputy Presiding Officer, who was a member of the consultative steering group and a representative of my party and who worked with Mr Wallace, Mr McLeish and Paul Cullen from the Conservatives to put the rules in place. I would say to Pauline McNeill that we have moved on—this is a new debate. I would encourage everyone to move on and to have a mature debate about how this Parliament should progress and about how we can strengthen the relationship between the Parliament and the Executive, building that relationship properly and effectively.

The Scottish Qualifications Authority debacle has brought this issue to the fore. I will not labour the SQA saga, but I want to remind members of the commitment that Mr Galbraith gave to Parliament on 6 September. He said, in response to a question from my colleague Nicola Sturgeon:

"I have already answered a parliamentary question to the effect that we will make all the necessary material available for the committee."—[*Official Report*, 6 September 2000; Vol 8, c 27.]

To me, that is a very clear statement. I would say that it is absolutely consistent with section 23(1) of the Scotland Act 1998, which makes it clear that Parliament is able to have all the information it requires and that that power can be delegated to committees.

It is a matter of regret that Mr Galbraith's statement was rowed back from. Committee conveners and representatives of committees have had to put in a great deal of effort to get more information out of the Executive, which—to put it charitably—has been far from willing to release it. Securing it has required intense negotiation. If Mr Galbraith's statement had been followed up, the Executive would from the outset have co-operated fully with parliamentary committees. However, almost immediately we were into changed territory.

There have been demands for information—

information of a sensitive nature about civil service advice that has been released to committees in other Parliaments, including the Westminster Parliament. We want absolute clarity about how that advice will be released in the future. In section 23, the Scotland Act 1998 stipulates that Parliament is able to have all that information. I am not a lawyer, but I am led to believe that an act of Parliament has supremacy over voluntary codes of conduct and voluntary guidance. I would be interested to hear—perhaps Mr Wallace will confirm this and give us some free legal advice from his old profession when summing up—whether the motion that we will be asked to approve later this afternoon is beyond challenge. It may mean that Parliament is not fulfilling all its responsibilities under section 23(1), because the terms of the motion may constrain Parliament in its ability to deliver on that section.

**The Deputy First Minister and Minister for Justice (Mr Jim Wallace)** indicated disagreement.

**Mr Swinney:** Mr Wallace is shaking his head. If what I have just suggested is a misconception, he may clarify that at a later stage.

Section 23 of the Scotland Act 1998, which Mr McLeish introduced, sets out clearly Parliament's power to compel the release of all the information it requires. In his statements to the House of Commons in 1998, Mr McLeish could not have been clearer. He said:

"Clause 23(1) and clause 23(2) specify the matters in relation to which the Parliament should be able to compel the attendance of witnesses and the production of documents. Those matters can be summarised as fully or executively devolved matters. They are the matters for which the Parliament and the Scottish Executive will be responsible."—[*Official Report, House of Commons*, 29 January 1998; Vol 305, c 597.]

Having argued two years ago for absolutely everything to be made available to Parliament and its committees, Mr McLeish is arguing today for a constrained regime. Was he right in 1998 or is he right today? This Parliament needs to debate what it finds acceptable: the 1998 answer to the House of Commons or the 2000 statement to the Scottish Parliament. Mr McLeish said to the House of Commons that this Parliament could have all the information it wanted, but he is saying to the Scottish Parliament that there will be constraints and limitations.

The Executive's motion contains an inherent contradiction. The first part of it states:

"That the Parliament notes . . . both the Parliament's right and duty to hold the Executive to account including the power to invoke section 23 of the Scotland Act and the public interest in maintaining the confidentiality of exchanges between officials and Ministers concerning policy advice".

That says to me that the Executive is prepared to pay lip service to section 23(1) of the Scotland Act 1998 but will always invoke the public interest to protect the relationship between ministers and civil servants. [*Interruption.*] Mr Wallace is muttering. If he wants to intervene, I would be happy to give way to him so that he can explain the position to me. It is easier to hear him when he stands on his feet than when he sits beside the First Minister and mutters.

**Mr Wallace:** Mr Swinney asked for legal advice. Perhaps the best legal advice to give him is the advice that I give to many constituents—to get himself a lawyer. He has quite clearly misunderstood this issue. Section 23 exists and there is nothing that this Parliament can do to constrain its ambit. It is primary legislation passed by the Westminster Parliament and we do not have the competence to place limits on it.

It has already been made clear that section 23 is the nuclear option and would be invoked only if a majority of the Parliament thought it necessary to do so. There must be many ways in which a mature, grown-up Parliament can agree methods by which the Executive, the Parliament's committees and MSPs are able to access information without invoking that nuclear option. What we are looking for in no way impinges on or limits the ambit of section 23, should it be required to invoke that provision.

**The Deputy Presiding Officer (Patricia Ferguson):** Mr Swinney, you must begin to wind up.

**Mr Swinney:** Mr McLeish was given 23 minutes, while I was allocated seven. I have taken only 11 minutes so far. I wish—

**The Deputy Presiding Officer:** You have spoken for almost 12 minutes.

**Mr Swinney:** I wish the protection of the chair to answer the nonsense that the First Minister came out with.

**The Deputy Presiding Officer:** None the less, you must begin to wind up.

**Mr Swinney:** I am glad for Mr Wallace's clarification but, before he gave it, I was making a point about the public interest, which is specifically referred to in the First Minister's motion.

A Scottish Executive official gave the following evidence to the Justice and Home Affairs Committee on 16 February:

"Our understanding is that the public interest is defined nowhere in legislation. It is not defined in the UK bill, and we are not aware that it is defined in any other legislation that refers to requirements to consider the public interest in making a decision or disclosure. That is partly because no single factor can define the public interest.

Consideration of the public interest is made case by

case. We intend to provide Scottish public bodies with some guidance on the factors or criteria by which an assessment of public interest should be made when disclosing information. We do not necessarily see that as easy to do, but we think that it is necessary to attempt to give some guidance. That is an area of further work.”—*[Official Report, Justice and Home Affairs Committee, 16 February 2000; c 801.]*

As Mr Wallace, who is the minister responsible for freedom of information, is present, perhaps he could give us some further clarity on the public interest and all that it involves. The Parliament is being asked to support a motion that depends on the definition of the public interest, which civil servants cannot define. I will be staggered if the Deputy First Minister is able to give us a definition by 5 o'clock this evening.

The Executive recognises that a problem exists, given the toughness of section 23(1) of the Scotland Act 1998, and it has proposed a particular solution. The Conservative amendment raises questions about the interpretation of where the rules in the Executive's proposal could be relaxed. The Conservative party has some unease about the Executive's proposal, as has my party. We want to know exactly what type of information we can access and by what routes.

We have proposed a solution and indicated our willingness to have discussions that would involve the consultative steering group and the four party leaders bringing before the Parliament detailed guidelines. Our solution would allow the Parliament to judge those guidelines line by line. Before us today is a set of vague principles that are absolutely typical of team McLeish—vague to the last, specific about nothing and giving us no clarity. The SNP will have nothing to do with those vague principles because we want to protect the Scottish Parliament and its relationship with the Executive. We want to deliver sensible guidelines that will allow us to know where we stand, both as the Opposition today and as the Government in years to come.

I move amendment S1M-1299.2, to leave out from “that the Executive” to end and insert:

“the need for openness, accessibility and accountability in the workings of the Executive and calls upon the First Minister to convene a meeting at which the Leaders of the political parties in the Parliament and the members of the Consultative Steering Group develop guidelines for access to information in relation to the scrutiny of the Executive by the Parliament and its committees and to bring the proposed guidelines from the meeting before the Parliament for debate.”

15:43

**David McLetchie (Lothians) (Con):** I will be pleased to move the amendment that is in my name, as there is an urgent need for the Executive to clear up some of the confusion that John

Swinney referred to and that surrounds the Executive's policy on the disclosure of official information and the Executive's accountability to Parliament.

In my view, the terms of the First Minister's motion raise more questions than answers. Some glaring inconsistencies in the Executive's policy have been revealed over recent weeks, particularly regarding its attitude towards civil servants and the advice that flows from them to ministers.

The Executive has posed as the champion of impartiality and independence in protecting the confidentiality of civil service advice to ministers, but when we come to the Parliament's inquiries into the SQA fiasco, that principle is set to be weakened or at least compromised.

As members know, the Executive was, at first, inclined to refuse the committees access to that advice for the purposes of their inquiries. Then it agreed a compromise that allows the information to be scrutinised by the committee conveners, subject to their signing the Official Secrets Act.

Although I accept the need for confidentiality in the relationship between civil servants and ministers, there is more than a hint that the Executive uses that argument when it is convenient for it to do so. This is not the first time the Executive has used the justification of confidentiality to withhold information. For example, the Minister for Health and Community Care, Susan Deacon, refused repeatedly to release the report of the national health service division that examined whether the centre for paediatric cardiac surgery should be at Yorkhill hospital in Glasgow or the Royal Hospital for Sick Children in Edinburgh, despite widespread rumours that she and the report came to different conclusions. All of that raises doubts about the Executive's motives and its commitment to open government. It will have to raise its game significantly before people believe that its commitment is more than skin deep. The Executive seems to publish when it suits and suppress when it does not.

We are still waiting for Mr Wallace's freedom of information bill, although I was interested to hear the First Minister say that it is likely to be published at the end of the year. It has had a gestation period of elephantine proportions. With every month that passes, fears increase that the exemptions are becoming more widely drawn, which has been the history of Jack Straw's freedom of information bill at Westminster.

The Executive still has to answer some crucial questions about freedom of information. I understand why legislation is necessary to compel councils and other public bodies and agencies to

disclose information, but I do not understand why an act of Parliament is necessary to force the Executive to disclose information that is in its possession. If the Executive is as committed to freedom of information as Jim Wallace and other ministers insist it is, it can publish anything it wants—there are no legal constraints upon it.

The traditional—and somewhat trenchant—defence of civil service confidentiality has been rather undermined in the past week by the First Minister's paper "Bringing politics back to the heart of Government", which seemed to compromise the impartiality of the civil service. At first glance, it appeared to offer Labour back-bench members privileged access to civil servants for briefing purposes.

I wrote to the permanent secretary of the Scottish Executive, Muir Russell, about the threat to the independence of the civil service and the apparent blurring of the distinction between government and political party. Bearing in mind the complicated arrangements necessary to protect the confidentiality of civil service advice in the context of the current parliamentary inquiries into the SQA, I was particularly interested to know whether MSPs would be required to sign the Official Secrets Act before they could attend such briefing sessions. Imagine my surprise when I received a remarkably swift reply from Mr Russell—who, as I have discovered in recent days, is a most interesting correspondent—telling me that the civil service briefings will be confined to factual information and not policy advice.

Since we can obtain factual information any time we want, through parliamentary questions and so on, it seems that the First Minister's promises to his back benchers amount to nothing much at all. It was another typical new Labour triumph designed to gull the gullible. This time, however, the gulls are nesting on the Labour back benches.

**Fergus Ewing:** Given the revelation that Mr McLetchie has just made—that we are to get access only to factual statements from civil servants, and not advice—will the Conservatives reverse their position, which is the same as the Labour party's position: to deny the Scottish people access to the civil service advice in relation to the exams inquiry?

**David McLetchie:** No. Our position in relation to the inquiry is that we support the agreement that was reached with the conveners of the committees, as we judge it to be a sensible compromise. My colleagues on the committees concerned have concluded that the method that has been adopted is a sensible way to deal with the matter to the satisfaction of the Parliament and, I hope, of the Executive. There will be no change in our position in that respect.

The SQA inquiry shows that the Executive's statement of policy, as set out in the motion, is riddled with contradictions that need clarification. For example, what are the exceptional circumstances that are referred to in paragraph (iii) of the motion? Does an exception arise at any time on any subject when a parliamentary committee chooses to inquire into it, or does the exception arise only when the minister decides that a subject is exceptional and chooses to come to an arrangement such that which was reached in the parliamentary inquiries into the SQA? Where will the SQA precedent lead us in terms of the relationship between the Executive and the Parliament and its committees? I see nothing in the motion that will give us the clarity that is needed on that important question.

Of course, as we heard in the exchanges between Mr Swinney and the First Minister, there has been much discussion of section 23 of the Scotland Act 1998—the nuclear option, as it was described by the late Mr Dewar. It is worth pointing out that section 23(1) does not impose an unqualified obligation on the people at whom it is directed. There is also a list of subsections, one of which—subsection (9)—interestingly says:

"A person is not obliged under this section to answer any question or produce any document which he would be entitled to refuse to answer or produce in proceedings in a court in Scotland."

I do not regard myself as an expert in public law, but I would argue that that means there is a statable case that the courts might well recognise the concept of Executive privilege and confidentiality, having regard to the conventions of our constitution. Therefore, section 23(9) will operate in many ways to qualify the so-called nuclear option in section 23.

I do not pretend to know the absolute answer, but given the animated discussion on section 23 between the leader of the SNP and the First Minister, I think it is important that the section as a whole is properly analysed and that we are given guidance on its operation. I do not think that high-flown aspirations or high-blown words are any substitute for clear and practical guidelines on this important issue.

I move amendment S1M-1299.1, to insert at end:

"and further calls upon the Executive to clarify (a) in what circumstances exceptions to these principles are acceptable to it in relation to advice given to Ministers by civil servants and (b) how the proposals entitled "Bringing politics back to the heart of Government" presented to Labour MSPs by Henry McLeish on 24 October 2000 (and any subsequent clarification of same) are reconciled with these principles."

15:53

**Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** To say the least, it is unfortunate that we are having this debate on official information and accountability to Parliament. I can say without fear of contradiction that the success story of the Parliament has been the effectiveness of our parliamentary committee system. I, for one, have been keen to ensure that any changes to the way in which we do things in the Parliament that are made as a result of our learning experiences over the past 18 months do not threaten the independence and powers of the committee system.

Members will know that one of the main functions of committees is to hold the Executive to account. I would fiercely defend that function and, in normal circumstances, would be the first to object to any suggestion that the Executive was trying to tell the Parliament how to vote. It is clear that our committees have the power and authority to demand the production of any documents that are held by the Executive that they require to see. That is a wide-ranging and powerful weapon that can be used to ensure that ministers cannot hide anything from the Parliament. However, with that power comes responsibilities. Parliamentarians need to be very careful and sure of their ground before they use the powers that are at their disposal. That is why it is only right that when a committee conducts an investigation and examines the actions of ministers—I have some experience of that—the decision on whether to use the powers under section 23 should lie with the committees.

We are having this debate because the Executive has been understandably provoked by the actions of an irresponsible Opposition and has reacted to the huge mistake that was made by John Swinney when he lodged his motion on the release of Executive documents relating to the examination results. It is a pity that John Swinney is not here; I would like to ask him why he lodged his motion. I notice that it is supported by Dennis Canavan and Robin Harper, who are not here today. I hoped that they would have known better than to support such interference in the work of our parliamentary committees.

It is obvious that John Swinney has lodged his motion for party political purposes. He is not even paying lip service to the authorities and responsibilities of the Enterprise and Lifelong Learning Committee and the Education, Culture and Sport Committee. I say to John Swinney that this issue is too important for such party political games, and that he should not be interfering in the role of the committees. It is because of his interference that the Executive motion is being debated.

The Executive motion reaffirms that our Parliament is committed to a policy of openness and accountability in all its dealings. I could not believe John Swinney when he said that he objected to those principles. The motion further notes the Parliament's right and duty to hold the Executive to account, including the power to invoke section 23 of the Scotland Act 1998. It identifies three principles that are extremely useful for guidance: that the Executive should always seek to respond positively to the requests for information that are made by the committees; that committees should look to ministers to account for the policy decisions that a minister makes; and that where, exceptionally, committees find it necessary to scrutinise exchanges between ministers and officials on policy issues, arrangements should be made to ensure that the confidentiality of those exchanges is respected by the committees. That is the point. Nobody is hiding the information.

Those are all commendable principles. Although I would have preferred them to have emanated from the Procedures Committee rather than the Executive, the fact is that they are before us for debate. It is far more important to protect the rights of our committees to make up their own minds on whether to demand rather than request information from the Executive and to invoke section 23 of the Scotland Act 1998. So far, I have been impressed by the responsible way in which our committees are working.

We also need to protect our committees from outrageous party political interference such as we have seen today on the issue of the SQA debacle—interference that is typified by the motion that was lodged by John Swinney.

**Michael Russell (South of Scotland) (SNP):** Will Mr Rumbles give way?

**Mr Rumbles:** I would have given way if John Swinney had had the courtesy to remain to hear the four parties of this Parliament giving their views on this motion.

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

**Mr Rumbles:** I ask Michael Russell to be quiet. We have heard enough of the SNP's party political games.

**Roseanna Cunningham:** Will Mr Rumbles let Michael Russell intervene, then?

**Mr Rumbles:** I am coming to a conclusion. I have only one more sentence to say, if members will listen.

The principles that are outlined in the Executive motion should have the full support—and John Swinney said that he objected to the principles of this motion, which I find amazing—of all MSPs. On behalf of the Liberal Democrats I urge the

Parliament to support the motion.

15:59

**Scott Barrie (Dunfermline West) (Lab):** In his opening speech, the First Minister emphasised the importance of trust, not only between the Parliament and the people of Scotland, but between the Executive ministers and the rest of the Parliament. We have heard from the First Minister and from Mike Rumbles of the vital role that the parliamentary committees play in our new democracy, and I am sure that most members who are present would agree with that sentiment.

What we are discussing is indistinguishable from the wider issue of a freedom of information regime. When people discuss freedom of information, the issue is ensuring openness and the disclosure of information unless it is believed that such disclosure constitutes a possible harm. If that harm is not outweighed by public interest, information should be disclosed.

It is true that other countries—Commonwealth countries such as New Zealand, Australia and Canada—have had strong and effective freedom of information regimes for some two decades. It is a tragedy that it is only comparatively recently that the UK has begun to talk about introducing such a regime at Westminster and in Edinburgh. We must consider what is happening in those countries that have such regimes. I am not an expert, but from what I have read, I understand that those countries also have exceptions to disclosure. That is what we are discussing this afternoon.

We must consider what constitutes effective government and whether we impinge on that if we disclose every little thing that happens. It is not vital that we know the exact detail of every single conversation or memo that passes between civil servants and ministers. However, it is important that those ministers are held to account for their actions. Nothing that I have heard in the debate indicates that the ministers are not being held to account publicly for their actions. Unless a minister is caught lying or deliberately misleading a committee, I do not see what the problem is.

**Mr Duncan Hamilton (Highlands and Islands) (SNP):** On a point of pure logic, Mr Barrie has just said that he does not think that it is important that we have all the detail—that it is not necessary—but he then said that it is vital that ministers are held to account and that we do not think that any minister has been lying. If we do not have the detail, how on earth would we know?

**Scott Barrie:** If Duncan Hamilton had not interrupted me, I would have reached an answer to his question. I said that it was not necessarily vital that we know the exact detail of every single conversation, unless it is believed that a minister is

lying or deliberately misleading a committee. That is when such information is important. There are various ways in which that information may not find its way into the public domain or to a member of Parliament. Surely that is the time when people would be able to raise the issue, to question and to elucidate whether their case is established.

We want effective government in Edinburgh, now. We must ensure that we strike the correct balance. That is what we should be discussing. We must ensure that we have a more open and accountable way of doing things and, at the same time, that we have effective government.

16:03

**Michael Russell (South of Scotland) (SNP):** Before I begin my substantive points, I want to make two observations on the debate. Mr Rumbles gave an extraordinary speech and, for once in his life, he looked excited. As a Liberal, he has had more wool pulled over his eyes than most people—one could probably shear him by now. I wanted to intervene on him to tell him that his touching faith in the compromise that was brokered with the committee conveners was not shared by his colleague Jamie Stone, who voted with me—against the compromise—in the Education, Culture and Sport Committee. I am sure that one Liberal does not speak to another very often.

**Mr Rumbles:** Would Mr Russell like to take an intervention?

**Michael Russell:** Not at the moment. I would like to make a little progress.

I am sorry that Mary Mulligan is not here, because I think that she misunderstood the point of debate between the First Minister and John Swinney. I have a clear recollection of the fact that Mary Mulligan consulted the Education, Culture and Sport Committee members individually before she went to the meeting. She came back and consulted the committee members on the result of the meeting and then the committee voted on it. Mary Mulligan behaved impeccably, as, I understand, did Alex Neil. Alex Neil did not go talking to his party and Mary Mulligan did not talk to hers. The First Minister's suggestion that Alex Neil and Mary Mulligan should have done that is the crux of the matter. It is an outrageous suggestion and not worthy of the First Minister. The First Minister has shown that he plays in the second division of Scottish politics, just as he used to play in the second division of Scottish football.

Let us go to the heart of today's debate, which is the SQA inquiry and the compromise that has been brokered between the conveners, the committees and the ministers. The majority on the committees voted for that compromise; I did not

vote for it. I disagree with it and, following the meeting of the Education, Culture and Sport Committee this morning, other people who voted for it are beginning to have doubts.

An attempt is being made to continue to withhold information. The committee has received a confidential document, which I am holding now and which I suppose that I must hide in case anyone sees its contents. The Education, Culture and Sport Committee and the Enterprise and Lifelong Learning Committee were meant to receive that on Monday, but did not receive it until this morning. The civil service demands the responses to the document by tomorrow night. Civil servants briefed journalists about the document yesterday, yet the committee did not see the document until today.

The paper lists 33 documents and gives one-sentence descriptions of their contents. To make any sense of the list, it is necessary to cross-reference the dates, the people involved and the subjects of the documents with all the other evidence that the committee has received. That evidence fills three lever arch files, three ring binders and two other files. Committee members must perform that cross-referencing in 48 hours. That is unreasonable and cannot be done, despite the committee's special meeting at lunch time tomorrow. There is an attempt to stop the committee from asking the right questions. The committee's task is similar to searching for a black cat in a coal cellar at night.

**Mr Rumbles:** Does Mike Russell recognise that, despite the arrangements already made by the committee, it is up to the committee to decide whether to utilise section 23 of the Scotland Act 1998 and demand the documents?

**Michael Russell:** Under the arrangements, the committee cannot demand the documents. I am surprised that Mr Rumbles does not know that. The committee can ask questions based only on the one-sentence descriptor in the document and any evidence that we have received. That does not represent access to information. Information is being obscured and prevented from entering the public domain.

**Mr Kenneth Macintosh (Eastwood) (Lab):** Mr Russell implies that the civil service is doing this deliberately to stop us accessing information—that is supposition. In a letter to the committee, an official from the education department says that the timetable was sent because of the time scale of the Enterprise and Lifelong Learning Committee and the Education, Culture and Sport Committee for getting the report out. The letter states in black and white:

"I enclose a proposed timescale for this process. . . . It is . . . based on the understanding that the Enterprise and Lifelong Learning Committee wishes to complete its final

report by mid-November."

**Michael Russell:** The point I made, if Mr Macintosh had been listening, was that the material was delivered to us late in terms of the department's own timetable. We are being disadvantaged by its actions. The committee would be quite able to set its own time scale and to say it needs more time. Indeed, as the member knows from this morning's discussion, it may need to do so.

I do not know whether it is the civil service that is attempting to suppress access to information. Throughout the entire SQA inquiry, Her Majesty's inspectorate has obfuscated day after day. It may well wish to restrict access to information—it is a real enemy of openness and accountability. Or it may even be ministers. Anyone who witnessed the glib, contemptuous performance of the former Minister for Children and Education before the Education, Culture and Sport Committee may realise—

**Mr Macintosh:** The only thing contemptuous were the insults hurled by members of the Scottish National Party.

**Michael Russell:** I listened to Mr Macintosh for most of the morning. I do not want to listen to him for most of the afternoon.

The contemptuous performance of the minister in front of the committee would indicate that ministers do not want to release the information. I ask people to support the SNP amendment to the motion, because it opens the debate up for discussion and allows consideration of the results of the compromise that has been put in place. So far, the results are woeful.

16:09

**Lord James Douglas-Hamilton (Lothians) (Con):** I welcome the commitment to openness, accessibility and accountability and the desire to make as much information as possible available on behalf of officials and ministers.

Only once have I seen officials wringing their hands in anguish, which was when a senior official wished to pass me some papers but his secretary had left them in an Edinburgh pub. When an attempt was made to recover them, she discovered that they had found their way to the front page of the *Edinburgh Evening News*. A helpful tip to the Deputy First Minister is that when he has an extremely turgid, boring, tedious and uninteresting policy, if he puts the papers in a file marked "Secret" and leaves it in Deacon Brodie's, there is a good chance that it will get extensive coverage.

However, I have a complaint of an unusual kind to register with the First Minister and Deputy First

Minister. I learned by accident that the papers of ministers over the 18 years from 1979 have been systematically destroyed. I found that out because I had to make a minor, peripheral statement on BSE. When I asked to see relevant papers on which I had given comments or recommendations, I was informed, after a long, painful silence, that all my papers—on which I had written—had been obliterated.

I asked the head of the civil service on whose authorisation all such ministerial papers had been destroyed. He replied that individual destruction of papers—as consistent with established practice—required no specific authorisation. Neither incoming nor former ministers were informed of that. Is that not an example of Her Majesty's civil service operating rather like Her Majesty's secret service? After all, ministers come and go, but civil servants go on for ever.

I then inquired about what papers were retained. I was told that papers of secretaries of state and of certain civil servants were retained. I must ask the Deputy First Minister this: if the electorate, in their wisdom, should return another Administration in a Scottish Parliament election, would it be right for the civil service, without reference to anybody, to shred all the papers relating to what Mr Jack McConnell got up to in his department? Would it be correct for the civil service to eliminate the papers of Ms Wendy Alexander—no doubt bursting with every kind of new idea? Would it be appropriate to dispose of the papers of Mr Malcolm Chisholm, a man of strong principle and conviction, and deal with his papers as though they were not even fit for fish-and-chip wrappings?

Everyone knows that the Scottish civil service, along with the Foreign Office, contains the brightest civil servants in Britain. It had to in order to deal with the huge range of subjects on which Scotland's secretaries of state or First Ministers would have an interest. I would describe Scottish civil servants as the salt of the earth—

**Mr John Home Robertson (East Lothian) (Lab):** Ha!

**Lord James Douglas-Hamilton:**—in spite of the contempt being expressed by the member just a few feet away from me.

However, for all their immense ability, civil servants are not elected. Their wanton acts of vandalism against political records are an indication that even civil servants should not be permitted unrestricted power.

**Euan Robson (Roxburgh and Berwickshire) (LD):** Does Lord James, with his long experience, agree that part of the problem is that, for many years, the civil service in Scotland was not fully accountable—that accountability was minimal—but that there has been a considerable

improvement in the situation with the advent of the Scottish Parliament? Does he agree that the civil service has perhaps yet to come to terms with that situation?

**Lord James Douglas-Hamilton:** I think that civil servants are accountable when ministers are aware of what they are doing. I am pointing out that, over 18 years, ministers' papers were systematically destroyed, without the knowledge of incoming or past ministers. I am only suggesting to the Parliament that that was not correct.

I wish the First Minister and Deputy First Minister every good fortune, but hope that, in future, ministers' papers will fare better than those of their predecessors.

16:14

**Mr John McAllion (Dundee East) (Lab):** As one of the gulls resting on the Labour back benches, as described by Mr McLetchie, I can assure Conservative members that I have already signed the Official Secrets Act. I did so back in 1968, when I left the civil service in London. I do not know whether that qualifies me for access to confidential Executive policy papers, but I am willing to lend a critical ear to any discussions that ministers or civil servants wish me to take part in. I will certainly promise them not to leave any information that I have in Edinburgh pubs, unlike the civil servants that Lord James was so impressed by during his time as a Scottish Office minister.

We have to remember the context of the Scottish Office civil servants who now serve this Scottish Executive and this Parliament. For a long time, those civil servants were in no way held to detailed and close account by any elected body. I speak from the experience of 12 years at Westminster and of the relationship between back-bench MPs down there and civil servants here in Edinburgh, which was, to say the least, very distant. It is very important that the way we control accountability in the Scottish Parliament is got right.

Whether the Executive is willing or unwilling to disclose confidential advice from civil servants lies at the heart of the question of how serious it is about bringing forward a meaningful freedom of information act. The Executive position is ultimately a matter for it—different considerations apply to the Parliament. I am delighted by the consensus so far in this debate. No one is seriously questioning the right of the Parliament to demand such information—enshrined in section 23 of the Scotland Act 1998—with the exception of Mr McLetchie, who believes that the courts may take a different view. I think he was on his own in arguing that.



The question we must address is if, when and how we use the power to demand information. I suggest that a one-and-a-half-hour debate without any previous detailed discussion by any parliamentary committees or by any political groups in the Parliament is not the way to decide what the Parliament's attitude to exercising its section 23 powers should be. I suggest that, whatever the result of the vote on this debate today, it is an issue to which the Parliament must return, to get it absolutely right.

Various speakers have referred to the late Donald Dewar as the first to describe the section 23 powers as the nuclear option. As a long-time member of the Campaign for Nuclear Disarmament, that is not a phrase I like. Given that Donald believed that having a nuclear option meant never having to use it at all, that is not a useful analogy for the section 23 powers. I can foresee circumstances in which it would be right for the Parliament to demand private information from civil servants or ministers. Details about when a minister received advice, the nature of that advice and how the minister acted upon it may be of direct interest to the Parliament. We should reserve the right to demand it whether or not ministers want to give it.

**Ms Margot MacDonald (Lothians) (SNP):** On the particular point of when and how ministers are advised by civil servants, the Parliament had an experience in relation to that which, in my estimation, probably led to the Parliament reaching a different decision from the one it otherwise might have done. I refer to the debate on 5 April 2000, when we were misinformed, and, I believe, misled, on the seriousness of Enric Miralles's illness. Had the Parliament and ministers been properly informed at that stage, the Parliament might have reached a quite different decision on whether to proceed with the Holyrood project.

**Mr McAllion:** That is a fair point but not one for this debate.

I note what the Executive said about the public interest being served by maintaining the confidentiality of exchanges between civil servants and ministers on policy advice, and that there are other Parliaments with very strong freedom of information acts that contain such reservations. Canada, Australia, Ireland and New Zealand were mentioned, but that list is hardly exhaustive. There are other democracies around the world where there is access to that kind of information. The United States of America springs immediately to mind. It is not a favourite country of mine, but it has rights that we do not have to freedom of information. If information is wanted about what the British Government is doing in foreign policy, often going through the US can get information

that British citizens cannot get in this country. There are certainly other countries with very strong powers of disclosure, which we should have.

As a result of the Watergate inquiry, President Nixon had to release his private tapes of personal conversations between him and his aides. No one can say that that was not in the public interest. I am not making a comparison between our First Minister and Richard Nixon—Nixon never played left half for East Fife, for one thing. On the ground of propriety, nobody would suggest for a minute that there is anything about Henry McLeish that is like Richard Nixon, but Henry McLeish will not always be the First Minister in this Parliament. We do not know who will be the First Minister in five, 10, 15, 20 or 25 years. We do not know who the members of the Executive will be in the future. It is essential that we get the basic relationship between the Parliament and the Executive correct, without reference to who the First Minister or members of the Executive happen to be at one particular time.

I understand the compromise that has been reached with the Education, Culture and Sport Committee and the Enterprise and Lifelong Learning Committee over access to confidential information about the Scottish Qualifications Authority. That is a matter for those committees to decide with the Executive. But the Parliament as a whole has to think about the mechanism by which it exercises the important right that is given to us under the Scotland Act 1998. I do not want that right to be controlled by a majority vote in this chamber that is whipped in favour of the Executive of the day, forcing the Parliament not to be able to access information.

There should be a mechanism. Perhaps we could set up a committee of senior conveners to which the Executive would have to prove that it was in the public interest not to disclose information. That would be a meaningful way forward for this debate. Whatever we do, we should not regard the vote at the end of this debate as the end of the debate; it is the beginning of the debate. The committees of the Parliament should get down to finding out a way in which we can all use the power under section 23 of the Scotland Act 1998. We will not always be in power, and Opposition members may be uncomfortable in five or six years' time when we are chasing them for information that they do not want to disclose.

16:21

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** At the beginning of August, school pupils who participated in the higher still examinations throughout Scotland expected to

receive their results, as students had done for many decades before. They did not receive them. Subsequently, many of those pupils received the wrong results. Some of them still have not had their appeals settled. Around Scotland, hundreds of thousands of people have been affected.

It is axiomatic that all members of this Parliament must recognise that the inquiry into the exams fiasco is of the greatest public interest and concern. If anyone disagrees with that proposition, I would be happy to give way to them now. Since no Labour member disputes that the issue is of the greatest public concern, I argue that the Executive has broken its own code of practice.

I raised this issue with the First Minister earlier in the debate, and the *Official Report* will show that the answer he gave was factually wrong. The "Code of Practice on Access to Scottish Executive Information" states:

"The following categories of information are exempt from the commitment to provide information in this Code. In those categories which refer to harm or prejudice, the presumption remains that information should be disclosed unless the harm likely to arise from disclosure would outweigh the public interest in making the information available."

If Jim Wallace and the First Minister accept that no issue is of greater public concern at present, surely they must accept that a decision has been made by the Executive to deny the Parliament and our constituents—the Scottish public—access to documents that are relevant to determine the outcome of the exams inquiry. How can we get at the truth if we do not have the facts?

**Mr Rumbles:** I am delighted that Fergus Ewing has given way on the issue of the facts. The fact before us is the motion, which sets out the Executive's policy. It asks Parliament to note the policy and to commend the principles to committees as guidelines. Nobody is restricting the power of the committees, and if the two committees that are involved in the exams inquiry require and demand information, it is a legal requirement that that information is produced. The committees have not done that, and nobody is denying them the information. The committees have the authority.

**Fergus Ewing:** I found that intervention rather hard to follow, but SNP members on the committees that Mr Rumbles referred to have demanded that the civil service documents be made public. That has not happened, because Liberal and Labour members clubbed together—occasionally with Conservative assistance—to deny the public access to internal documents.

The wording of the code is clear. Mr Galbraith, in evidence to the committee, made it plain that the Executive had to abide by the code—it would be pretty odd if the Executive could just depart from

the code. The code refers to the public interest outweighing the harm and that leads us directly to the question of what harm there could be in disclosing civil service advice. Why is it right that SQA officials can be judged on their conduct, but we cannot judge civil service officials?

The First Minister referred to New Zealand. A report that was published in October 1997 concluded:

"Since 1982 there has been a fundamental change in attitudes to the availability of official information. Ministers and officials have learned to live with much greater openness. The assumption that policy advice will eventually be released under the Act has in our view improved the quality and transparency of that advice."

This is an interesting document by the Campaign for Freedom of Information, one of whose co-chairmen is Archy Kirkwood MP, a gentleman whom I believe Mr Rumbles knows.

In the motion, which I imagine Mr Rumbles will vote for, paragraph (iii) states that

"where, exceptionally, Committees find it necessary to scrutinise exchanges between officials and Ministers on policy issues, arrangements should be made to ensure that the confidentiality of these exchanges is respected".

Who elected me to keep secrets from my constituents about the greatest issue of public concern that has arisen since I was elected 18 months ago? Who elected Deloitte & Touche, who had access to all the documents? If Deloitte & Touche had stood for election, it might have pipped the Natural Law Party at the post, but it would not have done much better than that.

**Michael Russell:** It might have pipped the Liberals.

**Fergus Ewing:** That is the first relevant intervention that has been made during my speech.

The serious issue, which has not been addressed by any Liberal or Labour member, is what is the harm? If civil servants operated on the basis that their advice could be exposed to the legitimate process of public scrutiny—after the decisions had been taken, but not before—that would inform and in the long run would be likely to improve the process of government. If members disagree with that, what would they say about the conclusions of Lord Phillips's inquiry into the BSE fiasco? Do they think that that secrecy was good for government?

I am astonished and appalled by the approach that the Executive has taken. I am amazed that anyone who calls themselves a Liberal Democrat could have adopted this approach of masonic secrecy. The only code that the Executive preserves is the old Sicilian code of omerta—silence unto death.

16:28

**Mike Watson (Glasgow Cathcart) (Lab):** It has now been confirmed that Fergus Ewing has developed hyperbole to an art form; he illustrated that conclusively in his speech.

It is unfortunate that the debate has, perhaps not surprisingly, centred on the SQA. The motion in the business bulletin, which is being debated today, concerns the Executive's policy on official information and accountability to Parliament. The debate should not have been used as another opportunity to pick up a stick to beat the Executive, or certain members of the Education, Culture and Sport Committee, about the SQA.

The issue should not be the subject of party political point scoring, because it involves all members of the Parliament. The code applies to the whole Parliament. It has existed for almost a year and a half, and has not been criticised until now. We are all bound by it. That is why I resent the fact that the debate has been used in this way.

David McLetchie took things a step further by referring in his amendment to an internal Labour party document. The suggestion that civil servants were to be compromised has never been sustained. Civil servants' main concern about MSPs—of all parties, incidentally—having access to them was that that would represent further demands on their time, which is already at a premium.

The independence of civil servants is paramount. I am not aware that it is being questioned. All of us have a right to expect that independence, as a matter of course, as I believe we do. Civil servants will not, and cannot, be compromised. It is unfair to drag them into the debate, because fundamental to the way in which they operate is the fact that they do not have the right of response. It is also fundamental that, at the end of the day, civil servants advise and ministers decide. However, the Parliament decides on the standards that operate as far as disclosure of information is concerned in the codes of practice.

The "Code of Practice on Access to Scottish Executive Information" was introduced in July 1999, not long after the Parliament began, and its approach to accessibility and accountability in matters of government is quite clear. It is

"based on the assumption that"

official

"information should be released except where disclosure would not be in the public interest".

I accept that we could debate from now until a week on Tuesday the definitions of "public interest" and "harm". However, as those words are, almost by definition, incapable of definition, there is no point in debating the issue endlessly.

Internal discussions and advice, including the proceedings of Cabinet and policy advice, have traditionally never been released by UK Governments or by Governments in Commonwealth countries such as Canada, Australia and New Zealand, which Scott Barrie and others have mentioned. The suggestion that something underhand is happening, and that there has been some kind of subterfuge, simply does not stand up to close scrutiny.

Only when the SQA inquiry developed was the issue thrust into the limelight. I can understand that; my constituents have been as concerned by the system's failure as have Fergus Ewing's. However, the committees are the most effective way of holding the Executive to account and all members will accept that the clearest example of the Parliament's success in its first year and a half has been the operation of the committees. That is why I particularly regret John Swinney's scurrilous attack this afternoon on the probity and integrity of Mary Mulligan as convener of the Education, Culture and Sport Committee. [MEMBERS: "That is not true."] I know that John Swinney tried to deny it, but he failed to do so.

**Michael Russell:** That is not true.

**Mike Watson:** It was crystal clear. Mike Russell says that it is not true; we can check the *Official Report* tomorrow. No one in the chamber, the gallery or the press benches was in any doubt about what John Swinney was saying.

**Michael Russell:** I do not know whether Mr Watson was in the chamber—

**Mike Watson:** I was.

**Michael Russell:** I made it clear, as a member of the Education, Culture and Sport Committee, that Mary Mulligan consulted the members before and after the meeting and that there was a vote in the committee. Neither Mr Swinney—nor I—or anyone else—has said anything against her. As I said in my speech, the problem lies with the First Minister, who made an accusation against the conveners, with no justification, and got himself into hot water. There is no justification for what Mr Watson has said and I advise him to withdraw his comments. The view is not held by committee members or by SNP members; it is not sensible to repeat a falsehood.

**Mike Watson:** My comments are based on Mr Swinney's remarks. Members saw Mary Mulligan's reaction when she rose; if what Mr Russell says is true, why was she so angry at those remarks? I am not a member of the Education, Culture and Sport Committee; however, her reaction was perfectly clear. As a committee convener, I would have resented such comments if someone had made them about me. Every committee convener acts independently of their political party. We are

here to serve the Parliament and, through the Parliament, the people of Scotland.

**Michael Russell:** The First Minister made the accusation.

**Mike Watson:** Then why was Mary Mulligan—

**Michael Russell:** Will Mike Watson give way?

**Mike Watson:** I will not give way again. We are getting dragged into one issue instead of discussing the substantive matter of the way that accountability—

**Michael Russell:** Mike Watson started it.

**Mike Watson:** Nor will I get into playground name calling.

The forthcoming freedom of information bill, to which the First Minister referred, will introduce strong and effective legislation on freedom of information, which is something that we have needed for a long time and will shortly have. The cornerstones provided by that bill, the “Code of Practice on Access to Scottish Executive Information” and the committee system, allied to the probity of the civil service, will mean that the Parliament will have effective measures in place to ensure accountability to Parliament and that official information will be made available whenever possible to enable the committees to carry out their business.

16:34

**Donald Gorrie (Central Scotland) (LD):** I suppose that this is teeth-gritting time. I will vote for the motion, because it represents a distinct improvement on the previous position. The conflict between elected representatives and civil servants is more of a 1,000-year war than a 100-year war. The motion contains some serious steps along the road in this marathon. I think John McAllion made the point that this is not the end of the marathon, but merely a step along the road.

The most useful point that has been made so far came from the First Minister, who indicated that he would consider the possibility of an all-party group to take the matter further. It certainly must be taken further. At certain times during this afternoon’s debate, I have rather despaired of the democratic process. However, I am encouraged by the fact that there have been some good speeches, or good bits of speeches, as well. If we are to have an inclusive approach, we must set aside the yah-boo politics of saying, “Well, on 23 September, you said this,” and all that sort of rubbish. We all make mistakes but we have to get a move on. It is most important that we progress and that there is an all-party group to look at where we go from here.

The first problem is that there is no mechanism

in the Parliament for initiating anything at all. The committees can do various things, but the Parliament as a body cannot. I think it was John McAllion who suggested a small group of leading conveners. There has to be some mechanism. I have suggested previously a back-bench trade union committee, as it were, which may be considered unduly subversive. One way or another, there must be a voice for Parliament. The Presiding Officer and Deputy Presiding Officers do a grand job in their way, but we must have ways of speaking for Parliament. The motion should not have come from the Executive; it should have come from Parliament.

The issue of our relationship with civil servants is critical. I have great confidence in politicians of all shades. I have no confidence whatever in the civil service collectively. From experience here and in the House of Commons, I know that, when I ask questions, I get answers that are not really answers at all, but lies by omission if not by commission. I object to being treated as a complete idiot by a force that I am supposed to be in charge of. We have to make the point that the civil service is responsible to the Parliament, not to the Queen in Parliament—whatever sort of concept that may be—which is the official position at the moment.

**Andrew Wilson (Central Scotland) (SNP):** Given the attacks on the civil service that have been made throughout the debate—I see some former ministers nodding—it is worth reflecting on the fact that, under the Scotland Act 1998, the civil service remains a UK responsibility and a reserved matter. Is Mr Gorrie arguing that the Liberals would support the removal of that reserved power and the devolution of that responsibility to the Scottish Parliament?

**Donald Gorrie:** I do not have great prowess in speaking for the Liberal Democrat party, but I would personally support that. I think that that is a defect in the Scotland Act 1998, but I fully understand why it happened. However, this is a gradual process and we do not want to frighten the horses.

Civil servants must be capable of being held to account. It is not acceptable for ministers to act as a nanny, taking responsibility for what the children do. The civil servants must be held to account when they go seriously wrong. The present situation is simply not satisfactory.

**Mr Quinan:** I appreciate what Mr Gorrie is saying, but he has also said that he will support the motion. Does he agree that the line of the motion that refers to

“the Scotland Act and the public interest in maintaining the confidentiality of exchanges between officials and Ministers concerning policy advice”

amounts to our ministers bowing to the pressure of the civil service, and that the motion is about protecting the civil service rather than the ministers?

**Donald Gorrie:** I said that it was teeth-gritting time, and I must say that I do not agree with that part of the motion. However, I do not see why civil servants should not be open in their advice; local government officials are. I know that local government is unfashionable and sneered at, but local government officials put their opinion on the line, producing written reports by which they stand or fall. If civil servants are so much better than local government officials, why cannot they do the same?

Everyone I have spoken to about this issue has expressed absolute astonishment at the proposition that information that is denied to elected representatives, as in the exam fiasco, is to be given to accountants brought in from Deloitte & Touche. The fiction that those people become temporary civil servants and are therefore subject to the Official Secrets Act gives rise to this whole ludicrous position, which we should not support. We need to make serious progress on the matter, but the motion at least takes us a number of steps along the road. We should therefore support it and look forward to Jim Wallace's freedom of information bill, which I hope will lead to future improvements.

16:40

**Pauline McNeill (Glasgow Kelvin) (Lab):** For me, the most critical point in the debate was made by John McAllion, who said that prior to the devolution settlement, we had in Scotland the least amount of scrutiny of the civil service. We have the opportunity to change that. The openness and accountability debate is key in what I refer to as the post-devolution settlement. The post-devolution settlement, for me and others, is a continuation of the project started by Henry McLeish, Donald Dewar, the Churches, the trade unions, the Liberal Democrats, the Green party, the Labour party, the Campaign for a Scottish Parliament, Scottish businesses and many others. For us, the debate is about not just what is happening today, but what has been happening for the past 10 years and what we wanted to achieve through devolution. The theme is not new.

I will respond to John Swinney's point about the reason why we must move on, but it is important to talk about the work of the Scottish Constitutional Convention. For me, the situation is not vague at all; it is absolutely clear where we must go. The very nature of devolution is to bring government closer to the people. Elected parliamentarians must consider how they can be more accountable to the people. Inevitably, members of the Scottish

Parliament, whatever party they represent, have found that they are probably more accessible and more accountable than representatives of any other layer of government in the UK. That is as it should be.

There have been many examples of openness in our procedures. If I may, I will say a word or two about the committee that is chaired by John McAllion and served by me, Sandra White, Christine Grahame, Helen Eadie and Margaret Smith. The Public Petitions Committee is often thought of as a committee that is perhaps of less importance, but in some ways it could be the committee of most importance in future, because it is the most living example of giving Scots direct access to parliamentary structures. There have been cases of single petitioners petitioning the Parliament, promoting a good cause and having their issue aired in the chamber. That is what open government is all about.

We all want to talk about the access that we, as parliamentarians, should have, but let us not forget that the debate is also about the access that the people whom we represent should have. That must be emphasised. I support, as we all do, the freedom of information regime. It is a measure of our success that Scotland will go further on that than the rest of the UK. Freedom of information is at the heart of open government and will benefit ordinary citizens. My colleague on the Justice and Home Affairs Committee, Michael Matheson, has talked about the fact that what matters is not just legislating for freedom of information, but creating a culture that ensures that everyone in the process, whether the Government or public bodies or authorities, understands their duty in relation to giving information to members of the public.

On the information that should be given to MSPs and the Parliament, I think that we should have better access to technical information. I cannot understand Fergus Ewing's argument. He talked incessantly about access to advice, but he does not support access to technical information from civil servants, which I believe is a must for back benchers.

We must be sensible about section 23. We could argue all afternoon, and I am sure that lawyers will, about its interpretation. However, if we took it to the extreme, it could be argued that the phrase

"The Parliament may require any person . . . to produce documents in his custody"

means that the Parliament could demand that the SNP or the Conservative party produce documents in their possession. That cannot be sensible. Let us have some common sense.

We must think of new ideas on getting information more quickly, which is what back

benchers want, and on our obligations to the general public.

If we truly have moved on—and we have all asked to move on—let us get on with the job of making things happen.

16:45

**Miss Annabel Goldie (West of Scotland) (Con):** This afternoon's debate has been significant and helpful but, predictably, it brought out some of the more alluring thespian attributes of the SNP. Among the histrionics, it is important to consider some of the basic facts.

The issue is important. What is it reasonable to expect any Government, of whatever party, to produce by way of information in the public domain? The Conservatives are broadly sympathetic to the Executive's motion—I concede that there are areas of activity where confidentiality must be maintained. That confidentiality might be necessary to preserve the political neutrality of the civil service, or it may simply be a good commonsense way of ensuring that a civil servant gives a minister the best and most candid advice that he can.

**Mr Home Robertson:** In the spirit of open government, I can disclose one of the last bits of advice that I received from a civil servant a week or so ago, but I will conceal his identity for evermore. He said that if civil servants thought that there was any risk that their submissions would be published in future, ministers would get even worse advice than they get now.

**Miss Goldie:** I thank Mr Home Robertson for making the point better than I could make it. It is perhaps a matter of regret that he is not still a minister.

I would like to turn to what has been described as the nuclear option. The SNP has attached huge significance to section 23 of the Scotland Act 1998. The opening speech from the Executive commented on that. I do not wish—as a lawyer—to bore the chamber, but it is obvious from reading section 23 that one would reach the stage of invoking it only if one was faced by a recalcitrant, obdurate and secretive Executive that would not volunteer information willingly. If that were the case—here is the irony—there would not be a hell of a lot in section 23 to give comfort. No measure would be implemented unless one had the support of a majority in Parliament, which is clearly unlikely if that majority is the very agency that was obdurate about not producing information. We must be clear about the limited practical significance of section 23.

In my opinion, the ministerial code of practice offers more hope. The only difficulty is that it has

no legal standing—a fact that we should perhaps question. The code of practice is advisory, but undoubtedly persuasive. Within that code, there are some extremely important presumptions which, in the interests of Parliament, I hope the Executive is prepared to honour. I hope that the Executive, in the pursuit of good government, is prepared to breathe life into its recommendations and to accept a presumption of disclosure, which should be denied only for exceptional reasons.

I am concerned by the repeated intervention of party political interests. My colleague Mr McLetchie was right to lodge his amendment because, although we accept the spirit of what the Executive seeks to do, we feel that some important issues arise. In any consideration of a matter as sensitive as this, the public must be reassured that party politics is not getting in the way of good and open government. There might have to be a restatement of the code of practice to put it into a more meaningful form. As has rightly been said, phrases such as “public interest” must be defined.

The sensible way to defuse an undesirable party political influence is to send the matter to the Procedures Committee, the Standards Committee or perhaps to both, and for those committees to have a sensible and rational debate on how best to make progress. The Conservatives accept that the Executive is willing to consider the issue of disclosure of information, but we must do that consistently and in a way that makes clear the principles and—equally important—clarifies what rules will attach to any departure from those principles.

16:50

**Roseanna Cunningham (Perth) (SNP):** I listened carefully to the First Minister's speech at the beginning of the debate and I did so with growing bewilderment about what any of it meant. From his comments, I managed to glean that he wanted to renew a commitment to openness, accessibility and accountability and that, in his view, the section 23 power was not in question. After that, he stepped in sewage up to his oxters, with his nonsensical attack on John Swinney for not being in cahoots with the convener of the Enterprise and Lifelong Learning Committee in respect of behind-the-scenes negotiations. That said a great deal more about the First Minister's attitude and, perhaps, the Executive's attitude to their relationship with committee conveners than it did about Mr Swinney, who has behaved impeccably throughout. If, instead of turning his back on proceedings, Mike Watson had listened to the comments that the First Minister made and to which Mr Swinney reacted, he would understand perfectly well what the problem was. He would

know that what the First Minister said was outrageous and that it has serious implications for the way in which the Executive deals with Parliament's committees.

Apart from opening a huge can of worms, what was the First Minister's speech about? As I said, the First Minister wants to renew his commitment to openness, accessibility and accountability and he said that the section 23 power is not in question. In order to get to that we heard not a blizzard, but rather a drift of words that meant very little, but which implied that everything is fine and dandy as it is and that there need not be any change.

It is interesting that comments about the need for the Executive to be accountable have revolved mostly around its accountability to Parliament. We have forgotten the other side of the equation—the responsibility of Parliament to the people of Scotland. The Executive is required to be accessible, open and accountable to all the people of Scotland. At the moment, that is patently not the case.

This Parliament was supposed to be a fresh start—it was supposed to represent a change from the practices of Westminster. I listened to what Mike Watson said about that, but even at Westminster, the Belgrano and Westland investigations resulted in material being made available, such as that which we are discussing.

This afternoon, members of the Executive and a number of Labour and Liberal Democrat MSPs have uttered fine words about freedom of information. The motion also speaks in those terms. However, this is about promising and never delivering. We have heard how the Executive's claimed commitment to openness fell at the first hurdle, with the handling of the documents that were associated with the SQA crisis. Others know a great deal more than I do about the ins and outs of that—I will not rehearse the arguments, some of which we have heard this afternoon. I am considerably more concerned about the general issue that has been raised as a result of the exam crisis and the debate, and its implications for the future.

Let us consider some of the arguments that have been deployed. We have heard about the nuclear option. I listened to Annabel Goldie's speech—she is right to say that until back-bench Labour and Liberal Democrat MSPs are prepared to stand up for themselves, we will not be able to exercise the powers of this Parliament in full. However, there is nothing in the wording of section 23, or in the debates that took place in 1998, to suggest that it was to be deemed a nuclear option. Some other sections of the Scotland Act 1998 that were termed nuclear options during the debate on the Scotland Bill have been used rather more

frequently than section 23 has.

Following on from David McLetchie's remarks, I would like to draw members' attention to the exception regarding procurators fiscal under section 23(10), which suggests that the section was designed almost as a mini freedom of information act within the Scotland Act 1998. It seems that the section is being put to one side and that an attempt is being made to subordinate it to codes of conduct that do not have statutory backing.

I listened to what Pauline McNeill said—she might want to read the first few lines of section 23. That will provide her with the answer to her rather pointless question about its extent.

In my view, the "Code of Practice on Access to Scottish Executive Information" cannot be put in section 23's place. Much reference has been made to freedom of information. As John McAllion said, it is vital that we have that debate. At the moment we do not have a freedom of information act, with or without an acceptable regime. If this afternoon's debate is anything to go by, that does not matter. We can legislate on freedom of information until the cows come home, but we will not get an acceptable regime from the Executive. That is an absolute disgrace.

The debate will continue, because we have a duty to the people of Scotland. I believe that the First Minister has shown today that—within a couple of weeks of coming into office—he is utterly bereft of any ability to understand what the Parliament is really about and what the people of Scotland really want. All he does is put together cliché after cliché, while we are expected to listen and to believe that what he says is something new. It is nothing of the sort.

This afternoon, the First Minister has been found seriously wanting and the Executive has been found bereft of principle.

16:55

**The Deputy First Minister and Minister for Justice (Mr Jim Wallace):** It is a pity that a debate that dwelled on the important relationship between the Executive and Parliament may have been marred by the somewhat excessive language that was employed by Ms Cunningham in her winding-up speech.

I emphasise again that the Executive is committed to a policy of openness, accessibility and accountability. It is a misdirected criticism to accuse the First Minister of not being signed up to that policy when he not only was the minister who steered through the bill that contained section 23, but chaired the consultative steering group, which put openness, accessibility and accountability at

the heart of our Parliament's principles.

We have proved our credentials in a number of ways. Annabel Goldie made considerable reference to the code of practice for ministers which, in fairness, was developed by the Conservative Government in 1994 and which we rolled forward to the Scottish Parliament. It became effective for Parliament and the Executive from July last year.

Annabel Goldie asked for reassurance on the presumption in favour of openness. Perhaps I can do no better than quote the "Code of Practice on Access to Scottish Executive Information", which states:

"The approach to release of information should . . . be based on the assumption that information should be released except where disclosure would not be in the public interest".

We believe that that code of practice is insufficient. Unlike some of the reservations that were expressed by Mr McLetchie when he questioned the need for the statutory provision of freedom of information, we believe that there is a need for a freedom of information act, which we are intent on delivering. We have held a widespread consultation which, despite Ms Cunningham's criticisms, received widespread support. Near the turn of the year, we will introduce a draft bill for Parliament and its committees to consider. I am glad that Mike Watson mentioned that commitment which, I assure Parliament, has not been diluted.

**Alex Neil (Central Scotland) (SNP):** In view of the fact that I was out of the chamber when the First Minister took my name in vain, will the Deputy First Minister clarify whether the role of committee conveners is to represent their committees and whether they should run to their party leader with confidential information?

In the case of my discussions with Mr Galbraith on the Scottish Qualifications Authority, I received representations from the leading Labour member on the Enterprise and Lifelong Learning Committee not to discuss the outcome of that meeting with my party. There appears to be a contradiction between Mr McLeish's comments and those of his back benchers—or rather, the comments of a member who was a back bencher at that time. I make it absolutely clear that both Mr Swinney and I operated on the basis of propriety—we gave the committee and its members their proper place.

I deny totally any improper consultation, discussion or disclosure involving Mr Swinney. I hope that every other committee convener will represent their committee, rather than act in a purely party political manner.

**Mr Wallace:** I respect very much the way in

which Mr Neil discharges his responsibility as convener. I know that he does so conscientiously.

Mr McLeish made an important point: it is quite clear that Mr Swinney had not been informed about what had gone on between the proposals—*[Interruption.]* Calm, calm.

We should remember that, on two occasions during that question time, Mr Swinney accused the late First Minister of being in contravention of the law, which was not the case. If Mr Swinney purported to speak for the committees of this Parliament when he demanded that information, he might at least have tried to make some inquiry as to whether there were arrangements in hand to allow that information to be handed over.

**Mr Swinney:** The Deputy First Minister might want to refer to the *Official Report* and think carefully about the accusation that he has just made.

**The Minister for Environment, Sport and Culture (Mr Sam Galbraith):** No.

**Mr Swinney:** Yes—he had better read it.

**Mr Wallace:** On 5 October 2000—at column 1006 of the *Official Report*—Mr Swinney challenged the First Minister. He asked:

"Is not the First Minister acting in contravention of the Scotland Act 1998?"

At column 1007, he asked:

"Is it not time for the First Minister to order the release of those documents, or will he continue to be in contravention of the Scotland Act 1998?"

I have indeed read the *Official Report*.

**Mr Swinney:** Mr Wallace has demonstrated why I asked him to read the *Official Report* carefully. It is clear that, in the first of those quotations, I did not accuse the First Minister of anything—I posed a question, which I am entitled to do as leader of the Opposition. Mr Wallace should know that.

**Mr Wallace:** The challenge that was made to the First Minister in the first quotation is clear, and even if it were not a challenge, that would not excuse what was said at column 1007, when Mr Swinney asked whether the First Minister would

"continue to be in contravention of the Scotland Act 1998".—*[Official Report, 5 October 2000; Vol 8, c 1006-7.]*

I make the point that Mr Swinney was wrong according to law because there was no contravention of the law. He was trying to appear to be self-righteous, but he had not tried to find out what was happening. At the end of the day, the committees' conveners will have access to the kind of information that Mr Swinney talks about and they will not have to sign the Official Secrets Act, as Mr McLetchie suggested might be necessary. Those are the kind of exceptional



circumstances that are referred to in the motion and which we have shown can work to the benefit of committees without the need to use the nuclear option in section 23 of the Scotland Act 1998.

It is important that we strike a balance between the public's right to have information and the need to ensure that sensitive information is afforded appropriate protection. The question of how that balance can be struck lies at the heart of the debate.

Government, like any other organisation—indeed, as Henry McLeish said, like the committees of Parliament—has a legitimate right to receive advice and carry out internal debates in confidence. If that did not happen, as Annabel Goldie pointed out fairly in her winding-up speech, frank advice from civil servants and honest discussion between ministers would, at the least, be constrained. In a worst-case scenario, such advice would not be given at all. The ability of the civil service to remain neutral would also be severely compromised. It is in the public interest that the candour, frankness and openness of that relationship should be allowed to continue.

Let me make it clear: ministers are accountable to Parliament and must explain and justify their decisions when they are called on to do so. Parliament, in turn, has the right and the duty to hold the Executive to account.

Mike Russell alleged that the Executive or the civil service tried to block the work of the Education, Culture and Sport Committee and other committees. I assure Parliament that that is not the case. A timetable was proposed on the understanding that the Enterprise and Lifelong Learning Committee was trying to complete its final report by mid-November. As many members have said in the debate, our committees are important and are at the heart of the Scottish Parliament. They are entirely responsible for their proceedings and timetables. The Executive will do its best to help them to stick to their timetables.

**Michael Russell:** The Deputy First Minister is avoiding the real issue. In the documentation that was provided to the Education, Culture and Sport Committee, we are told that the Deputy First Minister received a paper on the position of students who had applied for higher education, but who had not received their full and final results. He received that information from the civil service—why can the Education, Culture and Sport Committee not receive it as well?

**The Presiding Officer (Sir David Steel):** The minister is now in injury time.

**Mr Wallace:** I have taken many interventions, Sir David.

The point is that committees' conveners will be

able to verify whether the memorandum that was given to the committee in confidence contains a proper account of what passed between officials and ministers.

As I am in injury time, I say briefly to Mr McLetchie on his amendment that the First Minister has clarified that the relationship between civil servants, MSPs and the Executive remains as it has always been. It is based on the cardinal principle that the civil service is politically impartial. That is an important principle, to which we will certainly adhere.

The motion and the principles it contains provide a clear, sensible and principled framework for the relationship between Parliament and the Executive. I emphasise again that Parliament and the Executive have a common interest in promoting the principles of openness and accountability and in maintaining a responsible and mature relationship that is based on mutual respect. The motion offers a way forward, which will promote open, accessible and accountable government in Scotland and will offer a firm foundation for a relationship between Parliament and the Executive. I commend the motion to Parliament.

## Decision Time

17:06

**The Presiding Officer (Sir David Steel):** There are no Parliamentary Bureau motions, so we move straight to decision time. There are three questions to put to the chamber.

The first question is, that amendment S1M-1299.2, in the name of Mr John Swinney, seeking to amend motion S1M-1299, in the name of the First Minister, on the Executive's policy on official information and accountability to Parliament, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

### FOR

Adam, Brian (North-East Scotland) (SNP)  
Campbell, Colin (West of Scotland) (SNP)  
Crawford, Bruce (Mid Scotland and Fife) (SNP)  
Cunningham, Roseanna (Perth) (SNP)  
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
Fabiani, Linda (Central Scotland) (SNP)  
Gibson, Mr Kenneth (Glasgow) (SNP)  
Grahame, Christine (South of Scotland) (SNP)  
Hamilton, Mr Duncan (Highlands and Islands) (SNP)  
Harper, Robin (Lothians) (Green)  
Hyslop, Fiona (Lothians) (SNP)  
Ingram, Mr Adam (South of Scotland) (SNP)  
Lochhead, Richard (North-East Scotland) (SNP)  
MacAskill, Mr Kenny (Lothians) (SNP)  
MacDonald, Ms Margo (Lothians) (SNP)  
Marwick, Tricia (Mid Scotland and Fife) (SNP)  
McGugan, Irene (North-East Scotland) (SNP)  
McLeod, Fiona (West of Scotland) (SNP)  
Neil, Alex (Central) (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)  
Sturgeon, Nicola (Glasgow) (SNP)  
Swinney, Mr John (North Tayside) (SNP)  
Ullrich, Kay (West of Scotland) (SNP)  
White, Ms Sandra (Glasgow) (SNP)  
Wilson, Andrew (Central Scotland) (SNP)

### AGAINST

Aitken, Bill (Glasgow) (Con)  
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)  
Davidson, Mr David (North-East Scotland) (Con)  
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
Douglas-Hamilton, Lord James (Lothians) (Con)  
Eadie, Helen (Dunfermline East) (Lab)  
Ferguson, Patricia (Glasgow Maryhill) (Lab)

Finnie, Ross (West of Scotland) (LD)  
Galbraith, Mr Sam (Strathkelvin and Bearsden) (Lab)  
Gallie, Phil (South of Scotland) (Con)  
Godman, Trish (West Renfrewshire) (Lab)  
Goldie, Miss Annabel (West of Scotland) (Con)  
Gorrie, Donald (Central Scotland) (LD)  
Grant, Rhoda (Highlands and Islands) (Lab)  
Harding, Mr Keith (Mid Scotland and Fife) (Con)  
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, Margaret (Kilmarnock and Loudoun) (Lab)  
Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)  
Johnston, Nick (Mid Scotland and Fife) (Con)  
Johnstone, Alex (North-East Scotland) (Con)  
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)  
McGrigor, Mr Jamie (Highlands and Islands) (Con)  
McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
McLeish, Henry (Central Fife) (Lab)  
McLetchie, David (Lothians) (Con)  
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)  
Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
Morrison, Mr Alasdair (Western Isles) (Lab)  
Muldoon, Bristow (Livingston) (Lab)  
Mulligan, Mrs Mary (Linlithgow) (Lab)  
Mundell, David (South of Scotland) (Con)  
Munro, Mr John (Ross, Skye and Inverness West) (LD)  
Murray, Dr Elaine (Dumfries) (Lab)  
Peacock, Peter (Highlands and Islands) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)  
Radcliffe, Nora (Gordon) (LD)  
Robson, Euan (Roxburgh and Berwickshire) (LD)  
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
Scanlon, Mary (Highlands and Islands) (Con)  
Scott, John (Ayr) (Con):  
Scott, Tavish (Shetland) (LD)  
Simpson, Dr Richard (Ochil) (Lab)  
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)  
Tosh, Mr Murray (South of Scotland) (Con) ,  
Wallace, Mr Jim (Orkney) (LD)  
Watson, Mike (Glasgow Cathcart) (Lab)  
Whitefield, Karen (Airdrie and Shotts) (Lab)  
Wilson, Allan (Cunninghame North) (Lab)  
Young, John (West of Scotland) (Con)

**The Presiding Officer:** The result of the division

is: For 30, Against 83, Abstentions 0.

*Amendment disagreed to.*

**The Presiding Officer:** The second question is, that amendment S1M-1299.1, in the name of David McLetchie, seeking to amend the motion in the name of the First Minister, on the Executive's policy on official information and accountability to Parliament, be agreed to. Are we agreed?

**Members:** Yes.

**The Presiding Officer:** Are we sure?

**Members:** No.

**The Presiding Officer:** That was very nearly agreed to. There will be a division.

#### FOR

Aitken, Bill (Glasgow) (Con)  
Davidson, Mr David (North-East Scotland) (Con)  
Douglas-Hamilton, Lord James (Lothians) (Con)  
Gallie, Phil (South of Scotland) (Con)  
Goldie, Miss Annabel (West of Scotland) (Con)  
Harding, Mr Keith (Mid Scotland and Fife) (Con)  
Johnston, Nick (Mid Scotland and Fife) (Con)  
Johnstone, Alex (North-East Scotland) (Con)  
McGrigor, Mr Jamie (Highlands and Islands) (Con)  
McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
McLetchie, David (Lothians) (Con)  
Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
Mundell, David (South of Scotland) (Con)  
Scanlon, Mary (Highlands and Islands) (Con)  
Scott, John (Ayr) (Con)  
Tosh, Mr Murray (South of Scotland) (Con)  
Wallace, Ben (North-East Scotland) (Con)  
Young, John (West of Scotland) (Con)

#### AGAINST

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)  
Ferguson, Patricia (Glasgow Maryhill) (Lab)  
Finnie, Ross (West of Scotland) (LD)  
Galbraith, Mr Sam (Strathkelvin and Bearsden) (Lab)  
Godman, Trish (West Renfrewshire) (Lab)  
Gorrie, Donald (Central Scotland) (LD)  
Grant, Rhoda (Highlands and Islands) (Lab)  
Henry, Hugh (Paisley South) (Lab)  
Home Robertson, Mr John (East Lothian) (Lab)  
Hughes, Janis (Glasgow Rutherglen) (Lab)  
Jackson, Gordon (Glasgow Govan) (Lab)  
Jackson, Dr Sylvia (Stirling) (Lab)  
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)  
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)

McIntosh, Mr Kenneth (Eastwood) (Lab)  
MacLean, Kate (Dundee West) (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)  
MacKay, Angus (Edinburgh South) (Lab)  
McLeish, Henry (Central Fife) (Lab)  
McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)  
Macmillan, Maureen (Highlands and Islands) (Lab)  
McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
McNeill, Pauline (Glasgow Kelvin) (Lab)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Morrison, Mr Alasdair (Western Isles) (Lab)  
Muldoon, Bristow (Livingston) (Lab)  
Mulligan, Mrs Mary (Linlithgow) (Lab)  
Munro, Mr John (Ross, Skye and Inverness West) (LD)  
Murray, Dr Elaine (Dumfries) (Lab)  
Peacock, Peter (Highlands and Islands) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)  
Radcliffe, Nora (Gordon) (LD)  
Robson, Euan (Roxburgh and Berwickshire) (LD)  
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
Scott, Tavish (Shetland) (LD)  
Simpson, Dr Richard (Ochil) (Lab)  
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)  
Whitefield, Karen (Airdrie and Shotts) (Lab)  
Wilson, Allan (Cunninghame North) (Lab)

#### ABSTENTIONS

Adam, Brian (North-East Scotland) (SNP)  
Campbell, Colin (West of Scotland) (SNP)  
Crawford, Bruce (Mid Scotland and Fife) (SNP)  
Cunningham, Roseanna (Perth) (SNP)  
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
Fabiani, Linda (Central Scotland) (SNP)  
Gibson, Mr Kenneth (Glasgow) (SNP)  
Grahame, Christine (South of Scotland) (SNP)  
Hamilton, Mr Duncan (Highlands and Islands) (SNP)  
Harper, Robin (Lothians) (Green)  
Hyslop, Fiona (Lothians) (SNP)  
Ingram, Mr Adam (South of Scotland) (SNP)  
Lochhead, Richard (North-East Scotland) (SNP)  
Marwick, Tricia (Mid Scotland and Fife) (SNP)  
MacAskill, Mr Kenny (Lothians) (SNP)  
MacDonald, Ms Margo (Lothians) (SNP)  
McGugan, Irene (North-East Scotland) (SNP)  
McLeod, Fiona (West of Scotland) (SNP)  
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)  
Sturgeon, Nicola (Glasgow) (SNP)  
Swinney, Mr John (North Tayside) (SNP)  
Ullrich, Kay (West of Scotland) (SNP)  
White, Ms Sandra (Glasgow) (SNP)  
Wilson, Andrew (Central Scotland) (SNP)

**The Presiding Officer:** The result of the division

is: For 18, Against 66, Abstentions 30.

*Amendment disagreed to.*

**The Presiding Officer:** The third question is, that motion S1M-1299, in the name of the First Minister, on the Executive's policy on official information and accountability to Parliament, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

#### 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)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Galbraith, Mr Sam (Strathkelvin and Bearsden) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 MacLean, Kate (Dundee West) (Lab)  
 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)  
 MacKay, Angus (Edinburgh South) (Lab)  
 McLeish, Henry (Central Fife) (Lab)  
 McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, Mr John (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)

Simpson, Dr Richard (Ochil) (Lab)  
 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)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### AGAINST

Adam, Brian (North-East Scotland) (SNP)  
 Campbell, Colin (West of Scotland) (SNP)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 MacDonald, Ms Margo (Lothians) (SNP)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McLeod, Fiona (West of Scotland) (SNP)  
 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)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Ullrich, Kay (West of Scotland) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Wilson, Andrew (Central Scotland) (SNP)

#### ABSTENTIONS

Aitken, Bill (Glasgow) (Con)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Harding, Mr Keith (Mid Scotland and Fife) (Con)  
 Hyslop, Fiona (Lothians) (SNP)  
 Johnston, Nick (Mid Scotland and Fife) (Con)  
 Johnstone, Alex (North-East Scotland) (Con)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 McLetchie, David (Lothians) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Mundell, David (South of Scotland) (Con)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Wallace, Ben (North-East Scotland) (Con)  
 Young, John (West of Scotland) (Con)

**The Presiding Officer:** The result of the division is: For 66, Against 29, Abstentions 19.

*Motion agreed to.*

That the Parliament notes that the Executive is committed to a policy of openness, accessibility and accountability in all its dealings with the Parliament and its

Committees; further notes both the Parliament's right and duty to hold the Executive to account including the power to invoke section 23 of the Scotland Act and the public interest in maintaining the confidentiality of exchanges between officials and Ministers concerning policy advice; observes that other Parliaments with strong freedom of information regimes do not disclose the terms of such exchanges; calls, to that end, for the Executive and the Parliament to observe the following principles:

(i) consistent with its policy of openness, the Executive should always seek to make as much information as possible publicly available as a matter of course and should respond positively to requests for information from the Parliament and its Committees;

(ii) officials are accountable to Ministers and Ministers in turn are accountable to the Parliament and it follows that, while officials can provide Committees with factual information, Committees should look to Ministers to account for the policy decisions they have taken;

(iii) where, exceptionally, Committees find it necessary to scrutinise exchanges between officials and Ministers on policy issues, arrangements should be made to ensure that the confidentiality of these exchanges is respected,

and commends these principles to Committees as guidelines to be followed in their dealings with the Executive.

**Alex Neil (Central Scotland) (SNP):** On a point of order, Presiding Officer. This afternoon we heard a very dignified speech from Mr John Home Robertson, in which he pointed out that, as a result of an application of the ministerial code, he had in effect been debarred from a substantial part of his portfolio. As the Parliament approves the appointment of ministers, is it not the case that when such restrictions are applied—albeit as a result of the ministerial code—Parliament should be informed as to what those restrictions are? If nothing else, that should be done as a matter of courtesy, but I would have thought that it should be done as a matter of form.

**The Presiding Officer:** What Mr Home Robertson said this afternoon was of great interest to us all. I hope that we have all learned something from it, but I do not want to give a ruling on something that is outside the jurisdiction of the chamber. What he said related to the ministerial code, rather than the parliamentary code—members will recall Tricia Marwick's point of order on that matter. This may be a partial answer to your question, but we still have not got a code of conduct between the Executive and the Parliament. That is something that we need to consider.

## Sydney Paralympics and Olympic Games

**The Presiding Officer (Sir David Steel):** Today's members' business debate is on motion S1M-1188, in the name of Mrs Mary Mulligan, on the Sydney Paralympics and the Olympic games.

*Motion debated,*

That the Parliament congratulates the Scottish Paralympians and Olympians on their success at the being selected for the Sydney games and congratulates the teams on their success in Australia.

17:11

**Mrs Mary Mulligan (Linlithgow) (Lab):** I begin by congratulating all the athletes who took part in the Sydney Paralympics, especially the many who won medals. Of the sizeable team that went from Great Britain, 12 per cent were Scots—that is, 25 athletes taking part in a variety of sports, including swimming, shooting and track and field events. Scots lifted 23 per cent of the 131 medals that were won by the Great Britain squad, including seven gold medals, 13 silver medals and 10 bronze medals. That is a fantastic achievement by any standard. *[Applause.]*

How did all this begin? Members will know—if they have read the Capability Scotland briefing—that, when Capability Scotland was known as the Scottish Council for Spastics, it was one of the founding members of the Paralympic movement, through its involvement in the Cerebral Palsy International Sport and Recreation Association. The organisation has continued to play a key role in the promotion of sporting opportunities, and is at present providing services to nine Scottish members of the GB Paralympic team. Capability Scotland continues to operate programmes that provide and create sporting and recreational opportunities in a wide range of activities for adults and children.

The Sydney Paralympics brought the Paralympic movement to the attention of more people than ever before. The Australian authorities are to be congratulated on the way in which they promoted the 2000 Paralympics. In Sydney, tickets were sold at half price, to schools in particular, as part of Australia's disability awareness and education strategy. Another way in which people's awareness can be raised is by ensuring substantial media coverage. A BBC journalist reported that, when he arrived in Atlanta in 1996, the press centre that had been used for the Olympics was being dismantled and the phone lines and computers had gone. In Sydney, the facilities that had been provided for the Olympics were left intact.

There were also notable improvements in the sporting commentaries, which concentrated on athletic achievement rather than an individual's disability. In the coverage of the marathon, for example, the commentary concerned race tactics, times and competitors' previous records rather than their disabilities. Athletic prowess was the main issue. The media coverage of the Paralympics was better than ever before, but an hour a night on BBC2, and perhaps a few paragraphs in the sports pages, is not enough. The media have a responsibility to cover the Paralympics as they would any other sporting event of its magnitude. As customers, we should demand that they do so.

As do many other sports, disabled sport needs more money to nurture more athletes at all levels. It also needs stable funding over a long period, to enable greater participation. Funds are needed to provide coaches who have the specialist skills that are required.

To make the leap from promising athlete to champion requires support. I recognise the support given by Scottish Disability Sport as part of sportscotland. Paralympians have had lottery funding for one year, which has been of assistance. However, many commented on the performance of the Australian team, which won the most medals this year. The point was made that as the Australians had received four-year funding, they had been able to enjoy full-time training. I am sure that we all have great hopes for the future when our own Paralympians have had the same support.

The requirements of disabled athletes will be different. They may need additional health care or therapy; it can cost them more to travel; accessible accommodation can be hard to find or more expensive; and some may require a carer to accompany them. All that costs money. When funding packages are being agreed for individual athletes, all their needs must be taken into account and adequately funded. All athletes—disabled or not—need support for their everyday lives: adequate paid time off work for training and competing, appropriate local training facilities and support for their families. It will be a sign of real integration and acceptance of the athletic achievements of the Paralympians when their employers use their selection and success as a positive marketing tool for their companies in the same way that they do for non-disabled athletes. The development of sponsorship deals for Paralympians should also be encouraged.

Our Paralympians have taken great encouragement from the response that they have received from the people of Scotland. Let us not put that support away for the next four years, but let us resolve to continue to support our athletes

and, in so doing, recognise that all our fellow citizens have the potential to achieve.

As a member of the Education, Culture and Sport Committee, I am very aware of the way in which sport can be used to allow individuals to raise their self-esteem, develop their talents and build team spirit. The motto of the Paralympians is "Mind, Body, Spirit". That is all-encompassing and should inspire all members to be inclusive and to give our Paralympians the support necessary for them to achieve their potential.

**The Deputy Presiding Officer (Patricia Ferguson):** As is often the case, more members have indicated that they wish to speak than we are likely to have time for. If members keep their speeches brief, I will accommodate as many of them as possible.

17:17

**Irene McGugan (North-East Scotland) (SNP):** I welcome the opportunity afforded by the debate to congratulate all the Olympians, Paralympians and their coaches on their success—medal winners or not. Although I welcome the debate and endorse everything that Mary Mulligan said, we could go a little further in showing our appreciation of the Paralympians' effort. Today, the Scottish Paralympians are resting—they flew back from Australia only recently and are too tired and jet-lagged to be with us. I suggest that Parliament or one of its committees give serious consideration to hosting a reception for the athletes. Perhaps an informal lunch would be appropriate to allow us the opportunity to hear about and congratulate them on their individual achievements and experiences—25 Scots in a 214-strong team, winning 31 medals, is outstanding.

On the whole, the Sydney Olympics has been a great success, particularly—as Mary Mulligan mentioned—in promoting the Paralympics and the integration of disabled people into mainstream society in general. The Paralympics has been used to explain disability in every school in Australia and as an educational tool, which goes some way towards explaining the 200,000 school visitors and the significant media coverage. Those are models of good practice in overcoming existing barriers and promoting positive messages that Scotland should want to emulate.

Funding continues to be a crucial issue. We must acknowledge the huge impact of lottery funding and the big difference that it has made to both disabled and abled athletes. However, there are obstacles—mostly bureaucratic—to securing funding, particularly for Paralympians. Funding for an athlete is based on the world-class performance plan, which is generally based on

world rankings and performance targets. However, there are no world rankings for disabled athletes, who have few opportunities to compete, so many Paralympians miss out on funding.

The funding structure for Scots Paralympians is especially complicated because of the rather difficult relationship that I understand exists between UK Athletics and Scottish Disability Sport. For example, UK Athletics does not recognise Karen Lewis, the world wheelchair sprint champion over 100 m, as one of the top two athletes in the world at her sport, so she does not receive category A funding.

Mary Mulligan mentioned the resourcing of the transition from identifying young talent to nurturing it to elite standard. When we come across a talented athlete, we must ensure that a promising opportunity is not denied because of a lack of resources such as access to appropriate coaching. Bureaucracy has been a hindrance to that process. UK Athletics used to refuse to recognise the coaches of Scottish Paralympians at Great Britain level, which made it difficult for talented disabled athletes in Scotland to develop their potential, because their coaches were not exposed to international competition.

Increased funding and better communication and co-operation are vital. The funding needs to be increased, but the structures must also be in place to ensure that we meet the needs of the athletes adequately. That will deliver even greater success in Athens.

17:21

**Mr Brian Monteith (Mid Scotland and Fife) (Con):** I welcome Mary Mulligan's motion. I declare a past interest, as I was a consultant for Capability Scotland.

I am pleased to speak in the debate. Members may be aware that I have lodged a slightly different motion to draw attention to local athletes, such as Caroline Innes from Cupar in Fife. She won two gold medals, in the 200 m and 400 m, and a silver medal. She smashed the world record in the 400 m by five seconds.

Other names with which members may be familiar are Janice Lawton, who took the silver in the discus, and Allan Stuart, who took the silver in the 400 m. In cycling, visually impaired Robert Allen and his sighted pilot Andrew Slater took silver in the men's tandem 1 km time trials.

I mention those names, but I make it clear that all members of the UK team who managed to reach Sydney have everything to be proud of. All of them are winners. Indeed, what strikes me is that not only are they marvellous role models for other people with disabilities, but they are

marvellous role models irrespective of disability. What a message it sends to young people about what can be achieved through personal dedication.

I will not repeat what has been said by other members—I agree with all of it—but I want to consider similar issues slightly differently. I agree with Irene McGugan's suggestion about a reception—indeed, I have scored out that part of my speech. Local authorities have receptions for achievement in their area. Sending such a successful team is a type of achievement and the Parliament should be able to help. I do not know whether that could take place through a committee or through the Presiding Officer, but the Parliament should consider the idea.

One of the important things about the Paralympics is the way in which it reduces what for many people has been a stigma. People who compete are mentioned by name. When they are introduced, it is about the person and their achievement, not their disability—that comes later. That is a difference which we should applaud.

It has been mentioned that the Paralympics comes every four years. While I am aware that there are world championships in many of the sports in the Paralympics, some consideration should be given to extending opportunities for sportsmen and women to take part in their sport, by introducing an equivalent in the Commonwealth or European games.

I also wish to discuss the role of the media. Although *The Daily Telegraph* did its job on the Paralympics—it is my daily bible, and I read about all the achievements in it—I was disappointed that the Scottish papers did not have a journalist in Sydney to cover the games. I suggest that, although the Paralympics may not be an event to which all the papers might send journalists, they at least should consider a pooled approach to improve Scottish coverage.

Finally, I wish to touch on the issue of lottery funding. I am particularly concerned about the funding for coaching. I have previously spoken about the ending of the millennium fund as a source of money. Given that the millennium fund has not been split up equally among charities, sport, culture and heritage, I hope that the national opportunities fund will at least reflect the opportunities to fund the coaching of people with disabilities and their attendance at games such as the Paralympics.

It is with pleasure that I give my and my parliamentary group's support to Mary Mulligan's motion, and I welcome the fact that she lodged it.

17:26

**Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD):** As members have said, we have witnessed in recent weeks the achievements of Olympians and Paralympians and have been inspired not only by the competitors from Scotland but by those from all over the world.

I saw only a small amount of the coverage of the Olympics and Paralympics, but the events that I saw on the screen provided examples of the indomitability of the human spirit, and of the resilience of the human mind and body.

A few days ago, I saw an item on the news about a competitor—I believe that her name was Ann Woffinden—who was competing in a new sport that I had never seen before, boccia, a specially adapted form of bowls. She spoke movingly and impressively about the problems associated with maintaining her programme of competitive training and practice, and about the difficulty of obtaining financial support between competitions. As she was speaking, she won viewers' admiration not just for her skill in her sport, but for her strong sense of self-worth and her determination to succeed. That is an example to every one of us.

The Paralympic team must now be seen as equivalent to our Olympic team. We should back those people in that regard. I will not go over the stuff about finance, as I totally agree with what has already been said.

Other members have spoken about the importance of breaking down barriers. Many of the Scottish competitors have not only reached levels of outstanding sporting achievement, but have done so while leading ordinary lives, which may have involved bringing up families, working, studying and so on. The competitors' performances were no doubt satisfying and life enhancing for them; they were also satisfying and life enhancing for us, and for the kind of Scotland that we want to create.

Yesterday, I was looking at the Scottish Parliament Christmas card featuring a painting by Victoria Crowe. Inside the card, it says that

"this picture was selected from an exhibition . . . at the Scottish National Portrait Gallery . . . to celebrate heroism of everyday life in Scotland, one in which everyone matters."

Perhaps nobody would want to go down the old communist route of handing out hundreds of medals to heroes of the Soviet Union, but I raise an idea that the Parliament might like to consider. Would it be possible for us to institute a series of awards for individuals such as our Paralympians—this would not be confined to disability issues, nor to sport—whereby we as a Parliament recognised the life-enhancing examples of Scots whose

achievements we wanted to celebrate?

Perhaps each month, MSPs or the Parliament could somehow nominate two or three individuals to receive particular attention and recognition, whose citations would be placed on the parliamentary record and who would be given a token of our admiration.

I was lying in my bed this morning, trying to think of a title—I thought of "Spirit Scotland" or "Spirit of Scotland", but—

**Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD):** That is whisky.

**Ian Jenkins:** I know. That is why I decided against that. I eventually thought that we could have a series of awards known as the Scottish Parliament "Inspiring Scotland" awards. I hope that I will have time to work up that idea in the form of a motion.

In that way, we could celebrate the achievements of ordinary Scots who had proved to be extraordinary and who had inspired us by their example and improved our lives and Scottish life. The Paralympians would be high on my list for such an award.

17:30

**Christine Grahame (South of Scotland) (SNP):** I stayed at the debate because although I do not like sport and do not normally watch it, I saw the Paralympics as my television was on unintentionally. I was doing parliamentary work at the time and I stopped doing it because I was drawn to what seemed to me the old-fashioned spirit of the Olympics—I watched those competitors working hard to win but also glad to be competing, and saw the real team spirit among them. I became intrigued. I watched the lady to whom Ian Jenkins referred. I also watched a programme about the Olympic village where for once disabled people were in the majority and were delighted to find themselves "normal"—whatever that odd word means.

Therefore, I am very pleased that the motion was lodged, and I am ashamed that I had not previously paid attention to the Paralympics. Sydney has done it proud. It was right to bring it so far up the agenda and to draw it to the attention of people like me who are usually hostile to sport. That is for several reasons—I was no good at it, but also it seems so often that commercialism has taken over. I felt that the true spirit of sport was reinstated by the Paralympians. I also thought that for once taking part was very important, just as winning was.

That is why I wanted to speak in the debate. The suggestions that have been made should be considered by Parliament, particularly that of an



award or ceremony for the Paralympians, because they certainly enlightened me. I may even watch sport again now.

**The Deputy Presiding Officer:** We have time for one more—I hope brief—contribution.

17:32

**Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD):** I have been caught on the hop. To speak from personal experience, when people become disabled, as Dr Simpson knows, they often enter a black hole of depression. Mary Mulligan rightly referred to self-esteem. Sport is one way of making people feel proud of themselves. It is not necessary to win a medal, but to achieve something in sport or exercise can help people to get over their disablement. I have seen that myself and I know how incredibly effective it is. Swimming and the things that the Chest, Heart and Stroke Association organises are all very important.

Ian Jenkins's idea of awards is very forward looking. I have long felt that we should not wait for Her Majesty to dish out OBEs and so on if there is something constructive that we ourselves can do.

Why do we not have a disabled aspect to Highland games and other such events? Let us make disabled people feel that they count and that they have something to be proud of. That raising of morale and of self-esteem can lead to greater healing of the disability—I have seen that.

**The Deputy Presiding Officer:** Because Mr Stone was so brief, there is about a minute left for Mr Gorrie to make a contribution.

17:33

**Donald Gorrie (Central Scotland) (LD):** Thank you.

Members who have spoken so far have covered the issues well. We must develop mass participation in sport for the whole country. The amount of participation has gone down. Some things have been done to try to put that right, but we need to put more effort into sport for all—disabled, non-disabled, and for young people in particular—with a huge payback if we achieve results.

**Dr Richard Simpson (Ochil) (Lab):** Does Mr Gorrie agree that we should consider the Paralympians being sponsored to be involved in schools, so that they can demonstrate that people with disabilities are just as able to participate in sport? That would, as he suggests, encourage everybody to participate in sport.

**Donald Gorrie:** Yes.

**The Deputy Presiding Officer:** That is an unusual end to the open part of the debate.

17:34

**The Minister for Environment, Sport and Culture (Mr Sam Galbraith):** This is the first members' debate that I have had the good fortune to take part in. It has been a particularly pleasurable experience because of the way in which the debate has been conducted and because of the cross-party support for the issues that are before us. I congratulate Mary Mulligan on choosing this subject, which not only is fresh in our minds given what we have seen, but is of an importance that has not been realised by the nation in general.

I have had the opportunity in this Parliament to congratulate our Olympians who took part in the prelude games to the Paralympics. This debate allows me to convey on behalf of the Executive my warmest congratulations to everyone who took part in Team GB from all parts of this country. As always, the Scots athletes in the GB team did particularly well, and I send to them my special and hearty congratulations.

Sandra White said that she does not normally watch sport. I am sorry; I meant Christine Grahame. Please forgive me.

**Christine Grahame:** You are forgiven.

**Mr Galbraith:** Age and the booze have wrecked my memory.

**Christine Grahame:** Same as me.

**Mr Galbraith:** We will get on well together.

**Christine Grahame:** See me later.

**Mr Galbraith:** There is an offer. Can we refuse?

I am glad that Christine Grahame is thinking about watching sport, because it is a wonderful pastime for everyone, even though we cannot necessarily take part. I have difficulty taking part myself, but I still get wonderful pleasure from watching. It is not just about the pleasure of winning or losing, but about the pleasure of watching people take part, which is the point that Christine made. I hope that we will always remember that the important part of sport is taking part. Winning can be important for others. We in the Parliament and the Scottish Executive must ensure that those who have skills and abilities realise them to their full potential, and that we have methods in place for them to do so. However, it is the taking part that is really important.

The great things about the Paralympics are the fact that everyone can take part at the highest level and the effect that they have on the self-

esteem and development of the individuals who take part. However, not only the participants benefit; we all benefit from watching excellence, whatever our background. That can lead us all to take part. I am often asked whether there is a conflict between elitism and just getting folk to take part. There is not, because it is a virtuous circle. When individuals do well, the profile of the sport is raised, others take part and we spread the base of the sport, the base develops, others do well, and it goes on and on to produce all the benefits.

The Paralympics are of great significance, and all those who took part in the Sydney Olympics are to be congratulated. It is also correct for me to thank Australia, all its people and all who were involved, particularly when the games are compared with those in Atlanta.

I watched the Sydney games on television, and was impressed by the numbers that were there. I was impressed by the basketball in particular. My goodness, was that not a vicious sport? I also thought that the other funny game where they went between goals and knocked one another was quite exceptional. Thank goodness I do not play that any more. Everyone is to be congratulated.

We heard from Irene McGugan—I got the name right, did I not?—pertinent questions about funding. She is right. There was a problem with the world-class performance programme and the relationship between UK Athletics and the body in Scotland that is involved in this issue. Government has no locus to interfere in disputes between governing bodies, but as always, as I said at the Education, Culture and Sport Committee, ministers

“can let them feel the heat of the minister’s breath on their collar”.—[*Official Report, Education, Culture and Sport Committee*, 30 October 2000; c 1817.]

As a result of pressure from sportscotland emphasising the importance of communications involvement for Scottish athletes and their coaches, UK Athletics appointed Bill Walker, a Scot, to the coaching staff for the Sydney games. I hope that there is a closer relationship and that the problem will be lessened as Scottish Disability Sport is now directly involved in the development and monitoring of the world-class performance programmes for athletes with disability.

All Scottish Paralympians were funded by the world-class performance programme, run by UK Sport, for which it has a fixed amount of money, to which we make some contributions. That programme is based on ability. In Scotland, to deal with those with disability there is a talented athletes programme, through which a large number of athletes are funded. We also have various other performance coaching programmes, including Royal Mail’s ready, willing and able programme, Sportability Scotland and the BP

Amoco tourfest. We use our money in Scotland directly on all those programmes to promote sport for those with disability.

The Scottish Institute of Sport funds and develops talented athletes. It has about 120 athletes in its excellence programme, which is for elite athletes, of which 10 or 11 are people with disabilities. They are recognised in that programme. We have taken this forward. We have not yet achieved all that we should achieve. I would be grateful for suggestions about other ways in which we could take this forward together.

Finally, on the making of awards, I am against any more gongs being handed out—there are enough of them going around. It is for the Parliament to decide what awards it might be willing to make and whether it wants to have any receptions. I can announce that the Executive will host a reception for all Olympians and Paralympians to recognise their outstanding achievements.

I am more interested in people taking part than necessarily doing well, but when they do well, that is something that we recognise. It enhances our status, enhances the profile of the nation and gets the rest of us into sport. It has even encouraged some of us couch potatoes to watch sport.

I hope that this Parliament can agree on the outstanding success of the Scottish Paralympians and Olympians and on the way forward. We will continue to support and develop people with disabilities in sport.

*Meeting closed at 17:42.*

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