

# **MEETING OF THE PARLIAMENT**

Thursday 11 January 2001

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## Scottish Parliament

Thursday 11 January 2001

[THE PRESIDING OFFICER *opened the meeting at 09:30*]

### Salmon Conservation (Scotland) Bill: Timetable

**The Presiding Officer (Sir David Steel):** Good morning. Our first item of business is Parliamentary Bureau motion S1M-1518, in the name of Tom McCabe, which is the timetabling motion in relation to the stage 3 debate on the Salmon Conservation (Scotland) Bill.

*Motion moved,*

That the Parliament agrees that the time for consideration of Stage 3 of the Salmon Conservation (Scotland) Bill be allocated as follows, so that debate on each part of the proceedings, if not previously brought to a conclusion, shall be brought to a conclusion on the expiry of the specified period (calculated from the time when Stage 3 begins) –

Groups 1 and 2 – no later than 1 hour

Groups 3 and 4 – no later than 1 hour 30 minutes

Group 5 to Group 8 – no later than 2 hours 30 minutes

Motion to pass the Bill – no later than 3 hours.—[*Tavish Scott.*]

*Motion agreed to.*

## Careers Service Review

**The Presiding Officer (Sir David Steel):** The next item of business is a statement by Wendy Alexander on the Scottish Executive response to the careers services review. There will be time for questions after the statement, so I ask that there be no interventions during it.

**Tricia Marwick (Mid Scotland and Fife) (SNP):** On a point of order, Presiding Officer. Given that we are at the beginning of a new year, I would have hoped that the Executive would have made some new year resolutions. I am concerned about the fact that *The Herald* today carries most of the details of the statement on the careers service that we are about to hear from the minister—the details are already in the public domain. Will you look at that article and, on behalf of the Scottish Parliament, have a word with the Executive about the practice of giving information to the press before making a statement in the chamber, which is unfair on the Parliament?

**The Presiding Officer:** I confess that I have not yet seen that article, but I will consider it as you have requested.

09:32

**The Minister for Enterprise and Lifelong Learning (Ms Wendy Alexander):** I want to make a statement setting out the key elements of the Executive's response to the Duffner committee's review of the careers service. Copies of the report and the Executive's response are being published today and will be made available directly to each member and to the Scottish Parliament information centre.

On 6 October 1999, Henry McLeish announced a review to examine the role of the careers service in Scotland and its future development. I am grateful to Barbara Duffner and the committee for the excellent report that has been produced. The Executive welcomes the report and accepts its analysis, its vision and the overwhelming majority of its 46 recommendations. The remit of the committee did not invite it to look at organisational structures but the committee's report invited the Executive to take up that challenge and we have done so in the response that we are publishing today.

The Duffner committee's report acknowledges the high degree of professionalism and commitment that is provided by the careers service's 1,000 staff across Scotland, but pointed to shortcomings in the current arrangements. Those shortcomings include: the variability in the quality of careers guidance; the lack of a consistent performance framework; the fact that

too many organisations clutter the landscape; and the poor information about the skill needs of the economy. Sadly, that analysis vindicates the fears that many of us expressed when the Tories introduced the private company contracting model almost a decade ago. It appears that the arm's-length contractor model is no more appropriate for a careers service than it is for a health service or economic development services.

Our challenge is not just to deal with the poor structures; there is also the clutter. Simply understanding the current organisational arrangements is a task in itself. There are 17 careers service companies, 20 education-business partnerships, 22 adult guidance networks and 22 local learning partnerships across Scotland. This theme of confusion and clutter, inconsistency and incoherence was also highlighted by the Enterprise and Lifelong Learning Committee in its recent report.

The fact is that, as the needs of learners and the economy changed in the past decade, we kept adding to the clutter. The result is that we have too many bodies tripping over each other, leaving school leavers, parents, other jobseekers and employers confused about where to go and whom to go to for help in today's fiercely competitive jobs market. That is the nub of the issue.

The challenge is not simply to sort out the privatised company model that the Tories left us or even to streamline the clutter. The challenge is to stay ahead of the game by recognising how the world of work has changed and how it will change further in the future. None of us can rely on making a choice at the age of 14 in an interview with our careers officer that can carry us into a job for life. Most school leavers today will also make key choices at 16, 18, 23 and a number of points later in life. Some of us in the chamber may find ourselves in need of the careers service after May 2003—personally, I would prefer to delay having to call on its services, but I will leave that to a later date. My strategy to avoid having to go to the careers service at that point is to ensure that the Executive keeps its promise to do more to ensure that every Scot is ready for the jobs of tomorrow. That is what the Duffner committee has asked us to do.

We propose a bold new solution to put Scotland at the forefront of the best careers advice for every Scot, whatever their age, background or ambition. We want all Scots to be ready for an age in which our personal prosperity—what we earn as individuals and as a nation—depends on what we learn. We propose to set up a new one-stop shop for careers advice for all Scots in every area. We will sweep away the clutter to allow one-door access to all the services currently provided by the careers service, the adult guidance networks, the

education-business partnerships and the local learning partnerships. There will be a single door in every area: careers Scotland Ayrshire, careers Scotland Renfrewshire, careers Scotland Borders and so on. Each of those 22 local organisations will be part of careers Scotland, which will be a national service with national marketing, a national brand and national standards.

We are determined to commit the resources required to make that new all-age guidance service effective. We will provide £24 million additional resources over the next three years, which is a real-terms increase of 25 per cent on current budgets. That includes £9 million to develop the all-age aspect and a further £15 million to support the recommendations of the Beattie committee. Our vision is one of expansion and growth and we will build on the best of the current arrangements.

The main focus of the careers service has been young people in schools. The core purpose of education is the development of the talents and abilities of all young people to their fullest potential. Therefore, careers Scotland must improve the service to schools. Impartiality of advice will be fundamental. Close links to school-age pupils and their teachers will be at the heart of the service. There will be a national structure setting national standards based on the agreed priorities for education, which will mean that for the first time many head teachers across Scotland will know what quality of service they can expect in their school. Schools will also be able directly to influence their local careers Scotland board, which will be obliged to seek feedback from schools and pupils.

The Duffner committee also made recommendations on the need to review the education for work agenda. Jack McConnell and I are keen to take that forward, drawing on the experience of Nicol Stephen as a minister formerly in the enterprise department and now in the education department.

Our careers service was built around the world of school and the world of work. Today, however, for more and more school leavers, the transition is from school to further learning—whether at college or university or through skillseekers—and later to work. Too often, however, those other educational interests, such as colleges, universities, training organisations and community education establishments—the whole learning industry—have been left on the outside when the service was being planned. It does not make sense to cut our educators out of that planning process in an age in which more and more of us rely on learning throughout life, which is why all our educators will have their place at the heart of the new service. That is how we will make a reality of lifelong

learning for more and more Scots.

We should not kid ourselves; the lifelong learning agenda is pretty complex and lots of players have a role in it. However, there has been no forum to bring together the key stakeholders so that they can make an input into the development of the careers service. We will provide national leadership through a new ministerial board, which will report directly to me or my successors. All the key stakeholder interests, including local authorities, further and higher education, employers, the Employment Service and the trade unions, will be represented. The local careers Scotland organisations will have their own advisory boards, bringing together those key partners.

I have already stated our commitment to national standards, public accountability and a public service ethic. It is also vital that those who work in the service better understand the real needs of the economy, so that they can better help those who are seeking jobs in the new world of work. That requires expert advice, rooted in a good understanding of the jobs of tomorrow. We therefore propose that the new careers Scotland service be established as a joint-venture subsidiary of Scottish Enterprise and Highlands and Islands Enterprise.

In each area, the local careers Scotland organisation will work side by side with the local enterprise company. Through that alignment between careers Scotland and the enterprise networks, we will help to ensure that, in future, learning, skills and employability are at the heart of the work of enterprise networks. The enterprise networks have already embarked on a programme of management change to eradicate overlap and bureaucracy and to make the networks more customer focused in their business support operations. Today's proposals deliver a one-door approach for skills.

Realigning 80 organisations into 22 will release resources from the support of a high organisational overhead into direct service delivery. We also envisage new web-enabled services, provided on an all-Scotland basis. For the staff of the existing 80 organisations, the proposed new structure will, for many of them, mean a return to the public sector. All relevant and appropriate staff will become employees of the enterprise networks.

Our plans will provide stability and predictability of funding, which is simply not possible under the current organisational and contractual arrangements. As employees of a national organisation, staff can expect to get opportunities for personal growth and development. The structure has to support the staff to enable the staff to deliver for their clients.

What the Executive is proposing builds on the foundations of the present careers service and on the recommendations of the Duffner committee. It is a significant undertaking. We want to provide 12-month planning, starting with a targeted consultation on these proposals, which will begin today.

There is much detail to be decided. We plan to work through all the details of the transition during the year from April 2001 to April 2002. We recognise the professionalism and commitment of the guidance staff; we want to build on that. Much work and negotiation will be required; that work will take place with the relevant trade unions. We have also invited the Enterprise and Lifelong Learning Committee to help us to determine the detail on the way forward. We have written to the committee, inviting its members to give early consideration to the response published today; we look forward to receiving their views on how to proceed.

Let me conclude by saying what the proposals mean for Scots—at 14, when they are considering their options, at 23, when they are looking for their first job, or at 45, when they are deciding to change career direction. Our promise to all those Scots is that, within two years, we will have a world-class, one-stop-shop guidance service that helps them to discover what they want to do, how to do it and how to use those skills in tomorrow's economy.

If the Parliament endorses the Executive's plans, it will be demonstrating that Scotland is a nation that once again aspires to lead in learning and skills acquisition; a nation that is willing to act boldly in the client's interest, putting that before the provider's convenience; a nation that will commit resources to what matters; a nation that is rising to the challenge of demanding accountability and higher standards; and a nation that is committed to public service. All that will help to ensure that no one is left behind in the new Scotland and that every Scot will be ready for tomorrow's jobs. I invite colleagues to support the Executive's plans.

**The Presiding Officer:** Before calling Kenny MacAskill, I should point out that a lot of members wish to ask questions. I therefore ask for short exchanges. We will try to get everybody in.

**Mr Kenny MacAskill (Lothians) (SNP):** The Scottish National Party broadly welcomes the minister's statement, but I seek clarification on matters from the perspective not so much of the individual as of the national interest. We face serious skills and labour shortages in tourism and electronics, for example. In engineering, 100 years after we were a world leader, we also have a serious deficiency in skills and labour. Will the minister ensure, for our national interest, that the

role and remit of careers Scotland will not simply be to find a job for the individual, but actively to identify and encourage youngsters and others to enter into those key, core sectors of our national economy? Although we cannot force them into employment, the new service must be proactive. Will the minister ensure that it is proactive in the years to come in identifying the areas in which we have those key, core shortages?

**Ms Alexander:** I whole-heartedly share Kenny MacAskill's desire for us to address more effectively the skills needs of the Scottish economy. The Scottish population is declining and we need to get better at skills matching. The question is who does that. The job of the careers service is to help people to figure out what they want to do. Once they know that, it is then the job of other providers to provide the training. The Scottish University for Industry, once we formally launch it next week, will be a major provider of skills. We have to get better at understanding the skills needs of the Scottish economy, which is something that the enterprise networks also need to do better. We must ensure that careers Scotland and the advice that it gives are impartial.

Our vision is that careers Scotland will help people to figure out what they want to do, that the University for Industry will help to provide people with the relevant skills and that Scottish Enterprise and Highlands and Islands Enterprise, working with employers, will better identify the skills needs of the Scottish economy. That will improve job matching in the way that we all expect.

**Nick Johnston (Mid Scotland and Fife) (Con):** I suppose that I should start by congratulating the minister on avoiding the use of the word "rebranding". I welcome her statement and her courtesy in circulating it beforehand, so as to allow us to respond. The Conservatives welcome many of the measures that she has announced this morning. It is a shame, however, that she dismissed the private sector so cavalierly. That always makes me wonder—if it is good enough for National Air Traffic Services, why is it not good enough for the careers service?

We have some reservations about the proposals for the new structure. Given the weaknesses in governance that were recently exposed in the Scottish Qualifications Authority fiasco, exactly what governance role will the specialist boards be expected to play? How will the minister maintain accountability? On measures of effectiveness, what performance measures would the minister find appropriate, and over what time scale?

One of the major recommendations that we welcome is the widening of the client base and the enshrining of the principle of free access to all. We note that, although the Executive accepts that principle, the response does not commit it to

providing free access to all; it merely notes that the cost implications need to be established. At what cost level can we look forward to free access for all? To put it another way, is the provision of guidance limited to the £9 million of funding that was announced today?

**Ms Alexander:** The first of Nick Johnston's three points was on governance. Careers Scotland will be responsible to the lifelong learning minister, but it is important to bring all the stakeholders together for the first time. That will be done through a national supervisory board. There will also be local supervisory boards. We rejected the option of creating a new quango, judging that to be inappropriate. We also rejected the option of turning people back into civil servants and the option of leaving them all out in the private sector. We think that we have come up with the optimal governance arrangements for the sake of public accountability, but think that those arrangements will allow the new service to work closely with partners and help to make the labour market work more effectively in the interests of the client.

On the future distribution of resources, we have resisted coming up with a formula for funding the new careers Scotland organisations. It seems to us that, critically, the new supervisory board, with all stakeholder interests represented on it, will want to take a view on how the 25 per cent increase in resources over the next three years should be spent. Indeed, today I will write to those organisations that we envisage will be represented on the supervisory boards to ask them to be involved over the next 12 months in a steering committee to consider resource distribution early on.

On free access, at the moment, if someone who is not 14 or 16 walks through the door of a careers service and asks for advice, almost every careers service in Scotland will, to their immense credit, try to help that individual. We recognise that there are an awful lot of committed professionals who are trying to help all Scots; we will now make it their mission to do so. We will provide an additional £9 million for that function and an additional £15 million to help those who have special needs in the labour market. On costing free access, the answer is that we will seek to help people who walk through the door. However, the real challenge is to encourage more Scots to walk through the door; this is not about whether there is enough money to go around.

**George Lyon (Argyll and Bute) (LD):** I welcome the minister's statement, and in particular the announcement of an extra £24 million for the careers service, which plays an important role in developing our young people and guiding them on their future careers.

I would like clarification on two points. First, the



minister said which partners would be involved in the local advisory boards, but who will decide who is represented on the boards? Will the minister decide that or will there be some other mechanism?

Secondly, will all members of staff who are currently employed in the private sector automatically transfer to the public sector or will they have to reapply for their jobs? Obviously, many of those members of staff will be alarmed by today's announcement unless reassurance is given on how their careers will pan out.

**Ms Alexander:** I will comment first on the composition of local advisory boards. At the moment, we issue guidance suggesting that the membership of the local boards for the careers service should be split 50:50 between employers and local government. We are saying that in future we want the character of those boards to be tripartite: a third of board members will represent the school education and local authority interest; a third will represent the lifelong learning interest—universities and colleges—which has not hitherto been at the table; and a third will represent employers. In the past, the boards have operated to general guidelines and it will of course be a matter for the national stakeholders to decide whether they need to go any further than simply giving guidance to that effect. I hope that guidance will be sufficient, because I think that the principle of a tripartite structure will be widely welcomed.

The reassurance for staff lies in the fact that more than 1,000 individuals who are currently in the private sector will have the opportunity to be part of a national organisation in the context of a 25 per cent real-terms increase in resources. As the transition takes place over the next year, we will want if possible to avoid a situation in which people have to reapply for their jobs. The details are a matter for the implementation over the next year, but there is no desire to force a widespread reapplication if that is not appropriate, although it may be necessary in some cases.

**Elaine Thomson (Aberdeen North) (Lab):** I welcome the minister's statement. I am sure that it will be welcomed by everybody who is involved in careers development in Scotland. An effective careers service offering coherent guidance for people of all ages is becoming ever more important as the knowledge economy develops. Will the minister expand on what the proposals will mean for the staff of the careers companies? Is it likely that the changes will result in an enhanced career path for them?

**Ms Alexander:** I think that the changes represent a very exciting prospect for staff. At the moment, staff are scattered among 80 organisations. One of the tragedies of the past decade, in which there has been an 80-contract

model, is that it has been difficult for staff to move between different organisations or for there to be a national structure of continuing professional development. There is no doubt that establishing a national organisation will create circumstances in which the professionalism of staff is enhanced and recognised, and in which continuing professional development is available to allow staff to put more services on the web and enhance their personal mentoring role. The fact that staff will not be spread around 80 organisations but will be focused in a central organisation is an exciting development.

**Alex Neil (Central Scotland) (SNP):** Clearly, every party is giving a general welcome to the proposals. As convener of the Enterprise and Lifelong Learning Committee, I say on its behalf that we agreed yesterday to respond positively to the minister's request for our input to the discussion paper.

I will highlight two points. First, a welcome aspect of the proposals is that, for the first time in a long time, we will have a national adult guidance service covering the whole country. Will the minister consider focusing at least some of the additional funding on adult guidance, which is grossly under-resourced or even non-existent in many parts of the country? In talking about lifelong learning, we should recognise in particular that people aged over 45, who are the hard core of the long-term unemployed, need assistance to find new jobs and training and education.

Secondly, one of the benefits and strengths of the careers service is that it provides advice, counselling, guidance and placement. Will the minister clarify her view on the need to maintain all four services? Will she consider the co-location of careers offices with one-stop shops for benefits and with jobcentres? One of the problems of the careers service, particularly in relation to adults, has been the divorce of the local careers service from the jobcentre and the Benefits Agency.

**Ms Alexander:** I thank Alex Neil's committee for flagging up in its report last summer the need to deal with the clutter. I welcome the fact that the committee will participate in the consultation within the tight time scale that we have set.

Alex Neil referred to the all-age aspect of our proposals. In England and Wales, there is a generalised youth advisory service rather than the all-age service that we think is so critical to raise the competitiveness of the Scottish nation and to support all Scots.

Alex Neil also raised the issue of placement. In its 46 recommendations, the Duffner committee has suggested that the placement role should revert to the Employment Service. The Executive has supported that recommendation, but we will

keep an open mind during the consultation period and look forward to hearing people's views on that.

On co-location, as Alex Neil will know, one of the exciting developments that is taking place this year is the integration in the new working agency of the Employment Service and the Department of Social Security. It is undoubtedly encouraging that that process is running parallel to the creation of careers Scotland. I think that people on the ground will take advantage of the opportunities for closer co-operation and working.

**Mr Duncan Hamilton (Highlands and Islands)**

**(SNP):** The minister said that no one would be left behind in the new Scotland. I will test that statement in two ways. First, in response to the various points that have been made about staffing levels, the minister's response has been at best lukewarm. She said that she hoped that no one would have to reapply for their job but could not guarantee that that would not happen. She also said that the career prospects of some staff would be enhanced. That certainly does not mean that the jobs of those staff who, according to her statement, are not particularly relevant will be secure. From her previous life as a management consultant, can she tell us whether jobs are usually added or lost when agencies are joined together? Will the overall number of people working in the service increase or decrease?

Secondly, in October 1999, I asked the minister's predecessor whether national guidance was given on dealing with clients with learning disabilities and whether there were national standards for that. The answer was that the position varied between the various networks. Do the guidelines that are being introduced refer to clients with learning disabilities and special needs? If not, why not?

**Ms Alexander:** Dearie me, Duncan—do not be so negative and mealy-mouthed. The implication of arguing that we are scaremongering by saying that there might be some consequence for some member of staff is that we should not change anything. Let me be clear: there are 1,200 members of staff, 1,000 of whom are scattered around a variety of organisations that the Tories created. We are recognising the public service ethic of their work and we are giving them the chance to become national employees once again, with a national career development structure. Moreover, we are adding 25 per cent to the budget over the next three years.

I am absolutely clear that I would like all those people who dedicate their professional lives to the careers service to continue to have a role in that. However, it would be a stupid minister who said to any of the organisations at the moment or in the future that everybody will do the same job as they

do now. A lot of careers service work involves lifting information off shelves to try to help people. We can put all that information on the web; when we do so, those 1,200 professionals will be able to offer a different, better and enhanced service through personal mentoring.

On whether I will personally guarantee that everybody's job will be exactly the same, no, I will not guarantee that no job will change, because Scotland needs us all to do different and better jobs. However, I do not expect that the majority of positions will have to be reapplied for. Whether all 1,200 people will do exactly the same job is a matter for the transition teams over the next 12 months; it is not the sort of promise that anyone should try to extract from a minister.

**Marilyn Livingstone (Kirkcaldy) (Lab):**

What impact does the minister think that careers Scotland will have at a local delivery level on the adult guidance service and what impact will it have on helping to promote a culture of lifelong learning, especially among those who currently feel excluded from education and training?

**Ms Alexander:** We very much hope that by creating an all-age service we will transform adult guidance in Scotland. One of the problems is that no employer knows whether the adult guidance network is going to be around this year, next year or the year after. They do not know whether the education-business partnerships or the local learning partnerships will be around next year or the year after. It is important to bring all those organisations together, to make all-age guidance a statutory responsibility and to ensure security of funding for the long term, which is not the case in adult guidance at the moment.

**Mr David Davidson (North-East Scotland)**

**(Con):** The minister said that we would have a one-stop shop with career advice for all. However, as we will have 22 local organisations, which is less than one for every council, I presume that the structure will be completely different. Will there be access to the service in every council area other than through the web?

The minister said that a third of the advisory board would come from the schools sector, a third from higher and further education and a third from employers. One of our biggest needs in Scotland is for retraining. Where are the Scottish Council of National Training Organisations, the Engineering and Marine Training Authority and the other national training organisations in this—are they players or not?

**Ms Alexander:** I welcome the opportunity to clarify the structure. We envisage the involvement of the whole learning industry, including learning organisations, schools, colleges, SCOUTO and the employers. It is essential to recognise that,

while people are educated at school, lifelong learning must also be represented at the table, which it is not at present, as must employers.

Currently, the careers service is organised according to local enterprise company areas; we intend that that should continue to happen. There are 22 LEC areas in Scotland. The reason why there are 17 careers service companies at the moment is that, in Highland, five LEC areas have chosen to co-operate to attain economies of scale. We are anxious that, during the consultation, those involved in the service in Highland should choose whether they want to be in discrete organisations or to continue to collaborate—in a year's time, there will either be 22 organisations, one for each LEC area, or 17 organisations if those five areas choose to continue to co-operate. We will listen carefully to their representations on what would best suit their needs.

**Maureen Macmillan (Highlands and Islands (Lab)):** Wendy Alexander has just answered the question that I was going to ask. I welcome the commitment to better links between the careers service and careers guidance teachers; perhaps I can arrange to meet Nicol Stephen to discuss that.

**Ms Alexander:** That gives me the opportunity to say that, as I hinted in my statement, the one area in the Duffner report that we are not building into the new careers Scotland is the education for work agenda—what is done in schools to assist young people to understand the world of work. That is an important area, which Jack McConnell and I have discussed. We are so keen to take it forward that we think that it needs a fresh look by a minister. As Maureen Macmillan indicates, Nicol Stephen is uniquely equipped to do that, as he is familiar with the enterprise and the education departments.

**Irene McGugan (North-East Scotland) (SNP):** My question is about school leavers, who will continue to be major users of the service. At the moment, most pupils just go down the corridor for an appointment with the careers adviser. How easy will it be for them to access that advice via the more remote careers Scotland offices? Can the minister assure schools and pupils that they will continue to be a priority and that no new barriers will be created for young people who are seeking careers advice?

**Ms Alexander:** I give exactly that assurance. When we talk about a one-stop shop, we mean bringing together the four organisations, but that does not imply that the location of advisers necessarily changes. Indeed, by bringing together the careers service with the education-business partnerships, we hope to diminish some of the barriers. The most important assurance for school leavers is that at present, in the absence of any national standards, no head teacher, parent or pupil knows what standard of service they have

the right to expect, whereas, with the establishment of the national ministerial board, the national education priorities published by Jack McConnell earlier this year will be at the heart of the service. For the first time, teachers, parents and pupils everywhere in Scotland will know what they have the right to expect from the service—it will not be left to the whim of individual private sector companies.

**Mr Michael McMahon (Hamilton North and Bellshill) (Lab):** The minister will be aware of the unique structure of the careers service in North Lanarkshire and South Lanarkshire, where the councils provide benefits in kind through facilities and employee support. Will the minister tell us the outcome of any discussion of those areas in relation to the planned new structure?

**Ms Alexander:** In Glasgow and Lanarkshire, employees of the careers service have continued to be employed by local government and those local authorities have made a large contribution in kind to the service through premises and other benefits. It is right that the future funding arrangements should recognise the in-kind contributions that some local authorities have made to try to preserve a public service ethos in the service.

**Mr Brian Monteith (Mid Scotland and Fife) (Con):** The logic of the minister's answer to Duncan Hamilton's question was that, without the web, professionals in the careers service could not provide a service. Surely, if they are professionals, it is because they can bring together information and give advice. I do not believe that the minister wished to demean those professionals. Will she take the opportunity to correct the impression that she gave?

**Ms Alexander:** Earlier this year, I had the opportunity to launch the web-enabling service of Grampian Careers, which I commend as an outstanding example of a careers service that has put its information on the web. That means that, at the touch of a key, the information is directly available to parents, teachers and anybody else who comes in, thus freeing the careers service staff to enhance their professionalism by moving into personal mentoring and support for individuals—they no longer have to do some of the tasks that the web can make easier. It would be a sad day if, in talking about equipping every Scot for tomorrow's jobs, we said that we were not going to take advantage of the opportunities that the web offers in providing services.

## Salmon Conservation (Scotland) Bill: Stage 3

10:09

**The Deputy Presiding Officer (Mr George Reid):** We now move to stage 3 of the Salmon Conservation (Scotland) Bill. I will make the usual announcement about the procedures that will be followed. First, we will deal with amendments to the bill. We will then move on to debate the question that the bill be passed. For the first part members should have SP Bill 20A, as amended at stage 2, and the marshalled list, which contains the amendments that I have selected for debate and the groupings.

Each amendment will be disposed of in turn; amendments will be debated in groups where appropriate. An amendment that has been moved may be withdrawn with the agreement of members present. It is possible for members not to move amendments if they so wish. The electronic voting system will be used for all divisions, and I will allow an extended voting period of two minutes for the first division that occurs after each debate on a group of amendments.

### Before section 1

**The Deputy Presiding Officer:** We start with amendment 1, which is grouped with amendments 1A and 1B. I call Richard Lochhead to speak to and move amendments 1 and 1A.

**Richard Lochhead (North-East Scotland) (SNP):** Amendment 1 is the amendment that nearly got away. I am not simply amending my own amendments for the sake of it. Amendment 1 was originally lodged in the name of John Home Robertson, who will be familiar with its wording, because he wrote it. However, John Home Robertson withdrew his support for the amendment, which is why it now carries my name.

The crux of amendment 1 is that it will ask ministers to report on

"whether, in the opinion of the Scottish Ministers, the constitution or composition of district salmon fishery boards should be altered in order to contribute towards the conservation and management of salmon."

Amendment 1A would require that to happen within one year of the bill being passed, which we expect to happen later today.

We cannot divorce conservation from management issues. The better the management structures, the more likely it is that conservation measures can be implemented in an efficient manner. For historical reasons, the management structure of salmon fisheries is largely dominated

by landowners, albeit angling and other interests play a greater role than ever before. The Salmon Conservation (Scotland) Bill will increase the powers of fishery boards, making it more important than ever that we get things right.

As most members will know, fishery boards come in all shapes and forms. Some boards have local authority representatives co-opted on to them, whereas others do not. Some boards have co-opted representatives of environmental interests, whereas others have not. In some districts, the netsmen feel under threat from upper and lower proprietors on the boards. In others, lower proprietors feel under threat from upper proprietors. As they currently stand, the district salmon fishery boards belong to the Victorian era. We must drag them into the 21<sup>st</sup> century. A proper review of their role and effectiveness is long overdue.

During the stage 1 debate, the Minister for Rural Affairs, Ross Finnie, said:

"The issue is under review and we concede that it requires further consideration."—[*Official Report*, 23 November 2000; Vol 9, c 370.]

In the stage 2 debate, when speaking to his amendment, the former Deputy Minister for Rural Affairs, John Home Robertson, said:

"Many boards work conscientiously in the public interest. However, their constitution is still fundamentally flawed and unrepresentative."

He went on to say:

"I hope that the requirement to make such a report"—

as is outlined in the SNP amendment—

"will help to keep the momentum for progressive and constructive reform of the management of Scotland's freshwater fisheries."—[*Official Report, Rural Affairs Committee*, 12 December 2000; c 1531.]

The SNP proposes that we embed the amendment and seeks a commitment from the Executive to bring back a report within one year so that we can ensure that ministers have addressed those important issues and continue to do so. Amendment 1A would allow us to democratise our salmon fisheries sooner rather than later.

10:15

Amendment 1B is about openness and transparency. In the land debates in the Scottish Parliament, we have talked about who owns Scotland. Everyone agrees, except perhaps the Tories, who roll over to be tickled every time they see a landowner, that Scotland should know who owns our land. The SNP believes that that principle should be extended to privately owned fisheries in Scotland. We should be able to ascertain to what extent our regulations have been successful.

I hope that the Scottish Executive will give the Parliament a commitment to bring forward a report along those lines on a regular basis—not just one year from the passing of the bill, but annually or biannually thereafter. That would give us a picture of the state of Scotland's salmon fisheries, let us know what regulations are in force, what the latest catch figures are, the number of boards in existence throughout Scotland and the membership of those boards.

In recent months, I have lodged several parliamentary questions, the answers to which demonstrated that the Executive does not know who owns Scotland's private fisheries, and does not have details of the people who sit on Scotland's salmon fishery boards and who take so many important decisions about Scotland's natural heritage. The SNP is asking that we remove the mystery from Scotland's salmon fisheries. If property companies in London are buying up Scotland's national heritage, let us ensure that such information is in the public domain. We want to know about it. Let us ensure that the public can access that information and that it is transparent. Such a report would bring all that information into the public domain and would place the onus on the Government to make it public, rather than rely on the good will of salmon fishery boards. Such a report would act as a point of reference and could only make future conservation measures easier to formulate and more effective in practice. I seek Parliament's support for all my amendments.

I move amendments 1 and 1A.

**The Deputy Minister for Rural Development (Rhona Brankin):** Amendment 1 echoes some of the sentiments that were expressed during debates at earlier stages of the bill's passage about whether district salmon fishery boards, as constituted, are the appropriate bodies to be entrusted with the management of salmon fisheries.

Changes in board composition are beyond the purpose of the Salmon Conservation (Scotland) Bill, which is intended, as a matter of urgency, to give boards access to measures that will enable them to ensure that there will still be fisheries to manage in the future. As I said during the stage 2 debate, the major review, "Protecting and Promoting Scotland's Freshwater Fish and Fisheries", is the place for an examination of the optimum management structures for all freshwater fish species, not just salmon.

The review was launched while John Home Robertson was the deputy minister responsible for salmon and freshwater fisheries. He deserves credit for that important initiative. The review has been the subject of an extensive consultation process and we received more than 200 responses. I expect to receive the results of the

detailed analysis of the responses within the next few weeks. Thereafter, I intend to meet with the main representational bodies in the sector, with a view to publishing a green paper in the summer.

I urge Richard Lochhead to withdraw his amendments.

**Mr John Home Robertson (East Lothian) (Lab):** I welcome Richard Lochhead to the debate. Some of us have been taking an interest in aspects of salmon fishery management in Scotland's rivers, lochs and other fresh waters for quite some time. As I recall, Richard Lochhead did not have anything to say on the matter during the stage 1 debate. However, he has picked up the issue and is all the more welcome for it.

As I have already indicated in debates at stage 1 and in the Rural Affairs Committee, I am rather uneasy about any extension to the statutory powers of district salmon fishery boards as they are currently constituted—dominated by landowners and fishery proprietors under legislation that dates back to Victorian times. Crudely put, I did not come to the new Scottish Parliament as a Labour member to legislate to extend the authority of people who own salmon fishing rights. I have seen quite enough of that sort of thing in my 22 years in the House of Commons. However, I should say that most of that legislation was initiated in the House of Lords—that is the way that such things happen. There are grounds for confidence that the Scottish Parliament and the Scottish Executive, or Government, will be proceeding with relevant legislation in due course.

As Rhona Brankin has said, the bill is about conservation. All sides of the Parliament and people throughout Scotland support the principle of conservation. Recent evidence about the dire state of salmon stocks makes it painfully clear that we need to have powers to restrict angling in certain circumstances. We should also stand ready to do more about predators, pollution, parasites and river and sea habitats wherever possible. However, we need representative and accountable local fishery boards, with appropriate representation for anglers, environmentalists and the wider community to take responsibility for enforcing local conservation measures and for managing all aspects of freshwater fisheries. That applies not only to salmon, but to brown trout and coarse fish. I welcome the ideas put forward by Angling for Change on that general point.

As things stand, district salmon fishery boards are heavily dominated by landowners. Under current legislation, they have quite extraordinary powers. They appoint and employ water bailiffs, who have a unique ability to secure convictions with uncorroborated evidence. That is a strange thing. One policeman's evidence is not enough to get a conviction for assault or theft, but one water

bailiff's evidence is quite enough to secure a conviction for poaching.

I could go on to talk about powers of entry to search property and so on, but it gets worse. Where there is no district salmon fishery board, it is possible for a single proprietor to appoint a bailiff and all the rest of it. Bluntly, we should not be adding to that Victorian legislation. We should be replacing it with a system that makes sense for the 21<sup>st</sup> century. I trust that this Scottish Parliament will fulfil that responsibility as soon as it can.

The issue of management structures is raised in the consultation paper "Protecting and Promoting Scotland's Freshwater Fish and Fisheries", which, as Rhona Brankin said, we launched in April. The consultation period finished just before I left office as Deputy Minister for Rural Affairs, and I am interested to hear that more than 200 responses have been received.

I remain unhappy about extending the powers of the existing boards, even temporarily. I agreed to do so when I had responsibility for fisheries at the rural affairs department, because we had already set the agenda for comprehensive reform of freshwater fisheries management in the "Protecting and Promoting Scotland's Freshwater Fish and Fisheries" document, and because I had reason to be confident that that agenda would be taken forward.

My former ministerial colleagues have been cautious in their responses on this subject at stage 1 and in committee, for reasons that I understand perfectly well. I lodged my amendment with a view to promoting further discussion on the subject, and following discussions with Rhona Brankin, I withdrew it. It is worth discussing this matter further. I hope that she will take the opportunity to confirm that the Executive or Government—whatever it is called—expects to take forward the agenda that is set out "Protecting and Promoting Scotland's Freshwater Fish and Fisheries" in due course. I hope that that will be done as soon as possible.

I am certain that there is consensus in most parts of the chamber, although perhaps that does not include the Conservative party, about the need for radical reform of the constitution of salmon fishery boards to embrace other freshwater fish as well. This is an area in which progress should take priority over pragmatism, and the sooner the better.

**Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** I take issue with John Home Robertson on one point. He is slightly confused about why this measure was rejected in committee. It is plain that this bill gives Scottish ministers the power to make regulations; it is not

about enhancing the power or authority of district salmon fishery boards per se. However, I agree with the sentiments that have been expressed. Down the line, when another bill is presented to Parliament we will have the opportunity to examine these issues. I believe, as do most of the members of the Rural Development Committee, that this is not the time or place to proceed with this matter.

I will deal specifically with the amendments in Richard Lochhead's name, although I know that at stage 2 John Home Robertson lodged an amendment similar to Richard Lochhead's amendments. I wish members to know that the measures in Richard Lochhead's amendments were thoroughly discussed at the Rural Affairs Committee, and were rejected by the committee on the grounds that the bill that we have before us today is about the conservation of salmon, not about district salmon fishery boards. That is the short point that I wish to make.

**Dr Richard Simpson (Ochil) (Lab):** I too supported John Home Robertson's original amendment. I have had considerable discussions with the lower proprietors in my constituency, who are on a board that is totally dominated by the upper proprietors, who have made strenuous attempts to limit the fishing rights of the lower proprietors.

I am particularly concerned because this bill refers to water bailiffs, who, as I understand it, are appointed by district salmon fishery boards. It is ludicrous that bailiffs are expected to enforce law on the people who employ them. They are expected to inspect the boards and ensure that they comply with regulations. That is complete and utter nonsense. Any extension of the powers of water bailiffs, as proposed in the bill, will mean that the boards, which are completely inappropriate for the modern age, will have extended powers. I am looking for a reassurance from the minister that this issue will be looked at as a matter of urgency, and that the boards will be reconstituted in a modern form such that the public interest predominates in the boards rather than the rights of either the lower or upper proprietors.

**Alex Fergusson (South of Scotland) (Con):** Both Richard Lochhead and John Home Robertson mentioned the fact that little has happened to change the make-up of the district salmon fishery boards since Victorian times. Some measures have been taken to allow the make-up to alter, and it would have done Richard Lochhead more good if he had accepted that, but I accept the principle that the basis of the boards has remained the same. There is an element of truth in saying that the fact that there has been no rapid change until now is a measure of the success of the boards. There is a perfectly justifiable

argument for that.

However, I wish to take issue with Richard Lochhead's assertion—and I am sure that the Association of Salmon Fishery Boards will be every bit as horrified as I am—that together we are part of some sort of Tory conspiracy. Nothing could be further from the truth. John Home Robertson might be surprised to learn that we in the Conservative party are not against a review of the make-up of district salmon fishery boards—far from it. As Mike Rumbles said, that issue was addressed in committee, and we are totally satisfied by the minister's assurances that the matter will be looked at. We are unable, therefore, to support the amendments.

**Richard Lochhead:** I welcome the minister's response to my amendment. The publication of a green paper is a major new development, and it is a significant concession from the Executive that we welcome. The purpose of the new Scottish Parliament is to democratise and modernise Scotland. The district salmon fishery boards are ideal candidates for reform, which is why the SNP welcomes the proposed green paper. I ask the minister to incorporate the points that are made in my amendment into the green paper. I am delighted that the debate on my amendment has spurred the development announced by the minister. For that reason I am happy to withdraw the amendments.

*Amendment 1A, by agreement, withdrawn.*

*Amendment 1, by agreement, withdrawn.*

### **Section 1—Conservation of salmon and sea trout**

**The Deputy Presiding Officer:** We come now to amendment 2, which is grouped with amendments 3, 11, 4 and 5. I point out that if amendment 2 is agreed to, it will pre-empt amendment 3. I invite Jamie McGrigor to move amendment 2 and speak to the others in the group.

**Mr Jamie McGrigor (Highlands and Islands) (Con):** Before I start, I will make a declaration of interest. I am part-owner of a fishing syndicate on the River Awe, a member of the Atlantic Salmon Trust, a trustee of the Awe Fisheries Trust and a member of the Awe Fishery Board.

Amendment 2 qualifies the vague and ambiguous word "otherwise" in section 10A(3)(b). It will restrict Scottish ministers' powers to make regulations, and ensure that they will not be hasty and ill thought out. In the bill as it stands, Scottish ministers can make regulations when a person or body applies to them or if they think that it is necessary. That gives Scottish ministers far too much autonomy.

Amendment 2 restricts ministers to making regulations only when a person applies to them, or in a case of extreme emergency. The amendment is vital to ensure that fisheries are not unnecessarily overburdened. The best people to manage fisheries are district salmon fishery boards—local people for local areas—and we do not want to see ministers interfering when they know little about an area, and when they may be under the influence of a pressure group, the interests of which run contrary to those of fisheries.

I would rather that other members spoke to their own amendments.

I move amendment 2.

10:30

**Euan Robson (Roxburgh and Berwickshire) (LD):** I will speak to amendments 3 and 4, which are in my name. The purpose of amendment 3 is to clarify the bill, which has some difficulties in new section 10A(3). Ministers might make a regulation to conserve salmon, perhaps by restricting angling. If the stocks of fish recovered after some time, I do not think that it would be possible for such a regulation to be revoked, because the bill would require that to be done on the grounds of conservation. If the revocation would allow more fish to be killed, it would defeat the purpose in the bill.

I stress that—backed by the district salmon fishery boards—it is my personal view that a change is necessary as I have outlined it in amendment 3. I know that the minister has had every intention of trying to satisfy the wishes of the DSFBs. My colleague Mike Rumbles moved an amendment on the matter at stage 2, which was incorporated as new section 10A(3A). However, the difficulty is that the provision is so obscure as to require future interpretation. What we have is a difference of opinion between two sets of lawyers. Both have the same intention, but interpret the consequences of the words differently. I believe that amendment 3 would not create the situation that I described, which would be prejudicial to angling interests.

Angling is particularly important in some rural parts of Scotland. For instance, the River Tweed brings an annual income to the local community of about £14 million. We must make legislation that will stand the test of time. I have every reason to suspect that the present ministers fully understand the concerns and would never allow a situation to develop that would prejudice angling interests, but I cannot be sure that the words would not later be taken incorrectly or against their initial spirit.

**Alex Fergusson:** It is always nice to see—as new section 10A(3) shows—that the Liberals are

as joined-up in their thinking as ever. I notice that Mr Rumbles has not objected to the removal of the subsection that his amendment, which was accepted at stage 2, inserted. Doubtless, there is good reasoning for that. The Conservatives are minded to support Euan Robson's amendments.

New section 10A(6)(a) is too widely drafted. Even in its amended state, it says merely that the information that is required must be specified and given within a set time. That means that there is no limit to the nature or frequency of the information that is requested and that proprietors will be bound by law to provide any information that is so requested. That is perfectly fair, but in these days of ever-increasing bureaucracy and form-filling—and given that the Scottish Executive forever proclaims its determination to decrease bureaucracy and form-filling—it is only right and fair that the provision should be tightened.

Amendment 5 would place a reasonable limit on the frequency with which information is requested from proprietors. We must remember that proprietors include not only large landowners, but small farmers, crofters, fishing associations and the netsmen at the mouths of the river. I am happy to speak to the amendment, which would ensure that information was requested no more than once a month. The amendment would ensure that demands were held at an acceptable level for the proprietors and allow the provision of the information that is necessary under the bill.

**The Deputy Presiding Officer:** Before I call the minister, I have a point for Mr McGrigor. You spoke only to amendment 2 and did not speak to amendment 11. If you wish to do so, procedure requires that you do so now.

**Mr McGrigor:** As no one in fisheries management would want fishing to be prohibited, except in dire emergencies, we would like the regulations from the Scottish ministers to be unable to stop fishing at any time, except during the close season. District fishery boards already have powers to alter close seasons, which are perfectly sufficient for a local board to control the season in its catchment area. Amendment 11 would minimise the impact on the fisheries and ensure that they were not closed indefinitely, which would greatly harm the areas that depend on them and the local angling tourism.

**Rhona Brankin:** Amendment 2 is a variation on amendment 28, which was debated at stage 2. That amendment would have allowed ministers powers to make regulations themselves only in an emergency. Amendment 2 restricts ministers' powers to make regulations in the absence of an application to situations in which

"a salmon population or fishery is severely threatened and it is necessary to do so for the conservation of salmon without delay."

In responding to a similar amendment at stage 2, I drew attention to the fact that adopting the proposal would remove the thorough consultation procedures that must precede the making of regulations in all other circumstances. Amendment 2 would not do that, but it is not clear whether the requirement to make regulations without delay would allow full and detailed consultation. As I said at stage 2, the bodies that represent owners of fishing rights and anglers sought my assurances that such consultation processes would remain in place. The meaning of "without delay" is not at all clear. Amendment 2 gives no more information than the amendment that was discussed at stage 2 on who exercises the judgment to declare an emergency and on the criteria on which the judgment would be based.

I will now deal with the availability of powers for Scottish ministers to make regulations when no board has made an application. As I advised the Rural Affairs Committee at stage 1 and again at stage 2, it is important to remember that it is essential that ministers have the power to initiate measures when, for any reason, a board is not prepared to make an application. Many boards do excellent work, but some could do more. What are we to do if such boards decide, in the face of evidence that measures are required, to do nothing? In other cases, boards may find it difficult to secure agreement to apply for restrictions. That is when ministers can step in.

As I told the Rural Affairs Committee, ministers need to have such powers for other important reasons. In some parts of the country, no district salmon fishery boards have been formed, but alternative fishery management structures exist. The River Clyde Fisheries Management Trust is a partnership of 17 angling clubs. If the Clyde wants to implement conservation measures, it will present its case to ministers. Why should it be denied access to what it needs to manage that important recreational fishery, which is enjoyed by thousands of central belt anglers, simply because there is no district salmon fishery board?

It is also appropriate for ministers to make regulations in other instances, even if there were no dire emergency. For example, the Association of Salmon Fishery Boards asked for the bill to include provision to ban the sale of rod-caught salmon. If we were forced to rely on applications to make regulations, we would have to make 52 sets of regulations—and parts of the country would still remain uncovered. The provisions that allow boards to seek information will mean that Scotland-wide regulations must be made.

It is clear that we need back-up powers to step in when salmon are under threat, and we need powers to apply regulations throughout Scotland. Full consultation will be part of the process. I give



the reassurance that ministers' powers will be used very rarely. Nevertheless, I know that they are needed. I hope that Mr McGrigor will feel able to withdraw amendment 2.

Amendment 3 concerns an issue that has been raised in a couple of forms during the bill's passage through Parliament. I have some sympathy with it. As a consequence, to reach some compromise, I accepted an associated amendment that Mike Rumbles lodged at stage 2. I understand that those with an interest—particularly the Association of Salmon Fishery Boards—continue to have concerns, which they outlined in a letter to me on 28 December. I subsequently met a delegation to hear its members' concerns at first hand, but I am afraid that what they propose, and what Euan Robson seeks to do with the amendment, would change the bill's focus.

I looked carefully at Euan Robson's amendment, but it does not achieve the primary focus of the bill, which should be on conservation and not purely on the management of fisheries. I have made it clear on a number of occasions—and it is worth repeating—that in order to protect the fisheries, we must first protect the fish. Without fish, there can be no fisheries. I have given full and detailed consideration to this issue, to the point where I have compromised and accepted an amendment to the original drafting of the bill. I therefore ask Euan Robson not to move amendment 3.

On amendment 11, Jamie McGrigor has commented throughout on the implications for the business of salmon fishing where exploitation may be restricted. The amendment clearly seeks to minimise the amount of disruption, by calling for any prohibition on fishing to be restricted to that which takes place during the close season. However, it is not clear what he means by close season. The salmon fisheries legislation refers to weekly and annual close times. Within the weekly and annual close times there are periods when it is permitted to fish for salmon by rod and line. It may be, however, that the amendment refers only to the annual close time and the period within that when angling is permitted.

Assuming that that is the case, and setting aside the problem with the wording, the amendment would pose severe problems for fishery managers. We all know that each river is different and that the salmon they support are different. However, the situation is even more complicated than that. Each river may support many populations of salmon, each of which return at different times throughout the year. The amendment could prevent managers from providing protection to especially vulnerable stock components, simply because they did not return during the annual close time.

No one is considering the closure of fisheries. The aim is to ensure that fisheries are maintained. What would happen if a particular stock component required the ultimate protection: no fishing? If those fish happened to return during the period when netting is permitted, the amendment would prevent the prohibition of fishing for them, either by nets or rods. I urge Jamie McGrigor not to move amendment 11. Not only is the drafting deficient, but it places unnecessary and possibly dangerous restrictions on the ability of managers to manage their resource.

Amendment 4 seeks to remove the amendment lodged by Mike Rumbles at stage 2, which provides the linkage between conservation and management. That linkage has been subjected to detailed scrutiny throughout the passage of the bill; Mike Rumbles's amendment was accepted by the Rural Affairs Committee as clarifying that conservation and management are in no way incompatible. The focus of the bill is on the conservation of fish, so that there will be sustainable fisheries. I must repeat that Mike Rumbles's stage 2 amendment has ensured that regulations made for conservation but which involve the management of salmon fisheries will serve the best interests of both fish and fisheries. I therefore urge Euan Robson not to move amendment 4.

As I said in the stage 2 debate with regard to the intervals at which information of the type specified here should be provided, I can understand Alex Fergusson's desire, as expressed in amendment 5, to limit the burden placed on proprietors. Nobody likes to fill in endless return forms, but rational management requires information—not too much, but enough and of the right type—to let managers develop sound proposals. The level of detail indicating how often information should be supplied is a matter more properly dealt with in the appropriate regulation, rather than on the face of the bill, which merely provides the enabling power to make regulations. As with all regulations, full consultation will be necessary, and the burden on proprietors will be one of the factors that will have to be taken into account. I hope that Mr Fergusson will be prepared not to move amendment 5.

10:45

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** The principal problem here is that section 10A(3) confers on Scottish ministers the widest possible powers, which are almost entirely unfettered. It provides that the Scottish ministers

"shall have power to make regulations . . . if they consider that it is necessary or expedient to do so for the conservation of salmon."

The objection in principle is that the wide drafting

of those powers is unacceptable.

I am mildly reassured by the fact that we are no longer watching a Government, but an Executive; while we may worry about Governments abusing the massive powers that they possess, we know that Executives do not possess sufficient powers for us to be concerned about such abuse.

We are aware that Mr Andrew Wallace, the director of the Association of Salmon Fishery Boards, and a plethora of the landowners to whom Alex Fergusson referred, have been involved in a late lobbying exercise. The fact that, at this late stage, there are issues of such substance and such real concerns—which have been raised by many members in the debate—about the technical drafting of the bill illustrates that the procedure that is being pursued in it cannot be said to be beyond criticism. We should not find ourselves in this position—we should have better drafting.

The minister's response to amendment 2 is that it is necessary for ministers to have unfettered power; it is a case of "Trust me, we're the Executive. We will not abuse those powers because we will use them only in extremis—in an emergency." Mr McGrigor, not unreasonably, says, "Well, if that is your argument, why not write it into the bill?" We are not unsympathetic to that argument.

**Mr Home Robertson:** Mr Ewing keeps talking about the "unfettered power" of ministers. Surely he understands that ministers are subject to scrutiny by the Parliament and that any order introduced under the bill would be subject to approval by the Parliament. Will he stop using the word unfettered, as it does not make any sense and is inaccurate?

**Fergus Ewing:** It is touching to hear that a former minister, who is unfettered by the responsibilities of current ministers, has such faith in current ministers. If he really believes that that is a satisfactory answer to whether ministers should have such wide-ranging powers, I can only say that I disagree with him in principle. Statutory instruments should not be so unfettered. The role of primary legislation is to set out the principles; the role of statutory instruments is to set out the detail.

Amendment 2 is defective because Mr McGrigor uses the phrase "severely threatened". Surely powers are justified when salmon stocks are threatened, not just when they are severely threatened. The minister apparently agrees, although she did not mention that particular argument. The phrase "without delay" should be defined. We will not support amendment 2, although we believe that it is well intentioned. It is unfortunate that we find ourselves here; quite frankly, it might be better if we went back to a

stage 2 debate on the issue.

Mr Robson said that should an order be made that closes a river in Scotland so that salmon cannot be fished for for five years, there should be absolute certainty that if stocks recover and the bill becomes law, it will permit the revocation of that order. If that is not the case, not only lairds, but every fisherman who fishes for salmon in Scotland, will be prejudiced. I see Mr Robson nodding in support. I urge him to move—and press—amendment 3. If he does, the Scottish National Party will be behind him.

**Mr Rumbles:** I shall speak to amendment 4. It is important that all members in the chamber are aware of the background. Right through stage 1 and stage 2, it was felt that the Executive's drafting of the bill over-emphasised the conservation of salmon. It was argued that the bill ignored the management of the fisheries on our salmon rivers.

The minister accepted a compromise at stage 2. Amendment 4 would remove that compromise, which would be a retrograde step. Euan Robson's criticism is that section 10A(3A) is not in the clearest language—he said that it is possible that it is obscure. I am on my feet now to make absolutely certain that there is no doubt at all about the wording inserted by my amendment, which was accepted unanimously—I remind members of that fact—by the Rural Affairs Committee when we considered it at stage 2. I hope that Fergus Ewing heard that.

Section 10A(3A), which was inserted during stage 2 by my amendment 1, states that the regulations

"also have effect in relation to the management of salmon fisheries for exploitation."

I believe that the minister is correct to say that amendments 3 and 4 would shift the emphasis of the bill to simply conserving salmon as a basis for sustainable exploitation.

Everybody has the same intention: to conserve salmon. When the salmon are back in our rivers to a reasonable level, there should be no restrictions at all on the effective management and exploitation of our rivers for salmon. Everybody is agreed on the purpose. The only problem is that some people feel that there is a difference of legal opinion on the amendment in my name that was accepted at stage 2. It is important that we are absolutely clear about the intention. Any interpretation of my stage 2 amendment must be absolutely clear and I hope that I have made it so.

I have to say that it is a little bit rich for Fergus Ewing to make the statements that he has just made, as section 10A(3A) was before him for scrutiny at stage 2 and he supported it.

**Dr Elaine Murray (Dumfries) (Lab):** I have no interests to declare in salmon conservation other than having three important salmon fishing rivers in my constituency.

I want to return the debate to reality—having been prompted to speak by Fergus Ewing's rather extreme remarks.

**Ben Wallace (North-East Scotland) (Con):** Unfettered remarks!

**Dr Murray:** I think that unfettered remarks is a very good description of them. Let us get back to what we were talking about. We were talking about ministers making regulations. We should remind ourselves that, in doing so, ministers must

"have regard to any representations made to them by any person having an interest in fishing for or taking salmon, or in the environment."

Ministers will not just sit there, writing regulations and passing them with reference to nobody; they have to refer to local people. There seems to be a perception that ministers will have nothing better to do than fiddle around in the fishery interests of various Scottish rivers for no reason, or that district salmon fishery boards will require fisheries to give them daily information updates. That is unrealistic.

Members of Parliament are elected to do a job of work for our constituents. If a regulatory order is proposed for a fishery in my constituency, ministers will make that regulatory order, it will be placed before the Rural Development Committee and before Parliament, and it will be my job to ensure that it has been subject to proper consultation. That is why we are here, and I feel that the political point scoring that we have heard this morning is irrelevant to what we are discussing.

I back up what Mike Rumbles said about amendments 3 and 4. His amendment was unanimously accepted by the Rural Affairs Committee at stage 2. At the time, Euan Robson withdrew his amendment and said that he might revisit it later. However, the unanimous opinion of the Rural Affairs Committee was that that amendment—amendment 12—would give rise to what Rhona Brankin described as "unnecessary duplication" and would place exploitation interests above those of conservation. That was not the balance that we felt was appropriate.

**The Deputy Presiding Officer:** I call Jamie McGrigor to respond and to indicate whether he wants to press amendment 2 to a division.

**Mr McGrigor:** All the amendments in this group are designed to improve the bill and I would be disappointed if any of them was withdrawn or not moved.

The Conservatives like amendment 3, because it clarifies what the purpose of the regulations made by Scottish ministers would be. We need practical proposals that marry conservation and sustainability and we do not want fisheries to be closed down unnecessarily. Euan Robson's stage 2 amendment was good because it explained what Mike Rumbles's stage 2 amendment, which most people did not understand, meant.

**Mr Home Robertson:** Is Mr McGrigor saying that everybody who was present at the Rural Affairs Committee meeting at which Mike Rumbles's amendment was agreed to—including Richard Lochhead, Alex Fergusson and other colleagues—did not understand what was going on?

**Mr McGrigor:** I am not suggesting that. I am saying that most people said afterwards that they did not understand what his amendment meant. Mr Robson's amendments clarify matters, which is a good thing.

**Mr Rumbles:** Jamie McGrigor said that people did not understand my stage 2 amendment, to which everyone on the Rural Affairs Committee agreed. I want to be sure that Jamie himself understands it. The purpose of that amendment—now in the bill as section 10A(3A)—is that the regulations shall

"have effect in relation to the management of salmon fisheries for exploitation"

in addition to conservation. Does Mr McGrigor accept that all committee members were happy with that amendment at stage 2, when it was considered carefully? In fact, the Association of Salmon Fishery Boards is keen that the purpose of that amendment should be included in the bill.

**Mr McGrigor:** I accept that the Association of Salmon Fishery Boards is keen on that, and I agree with it, but members preferred Mr Robson's amendment to Mr Rumbles's because they thought it was clearer. That is the point that I am making.

**The Minister for Rural Development (Ross Finnie):** Who thought it was clearer?

**Mr McGrigor:** Members of the committee.

**Ross Finnie:** What committee?

**Mr McGrigor:** The committee that was called the Rural Affairs Committee and which is now called the Rural Development Committee.

**Ross Finnie:** Could Mr McGrigor clarify which committee, sitting where, composed of whom and at what time agreed to Euan Robson's amendment?

**Mr McGrigor:** The committee did not agree to Euan Robson's amendment at stage 2 because it

had already agreed to Mike Rumbles's amendment.

**Mr Home Robertson:** Euan Robson withdrew his amendment.

**Mr McGrigor:** Members could not agree to Euan Robson's amendment because he withdrew it.

I think that we are getting on to a red herring here—[*Interruption.*]

**The Deputy Presiding Officer:** Order. Please proceed, Mr McGrigor.

**Mr McGrigor:** The purpose of amendments 2 and 11 is to ensure that there are local controls rather than what Fergus Ewing referred to as unfettered power, which is what the bill is about. It is not about conservation, but about management. It gives the Scottish Executive unfettered power, which is not required anywhere else in the UK, to do exactly what it likes. That is what amendments 2 and 11 are intended to curb.

**The Deputy Presiding Officer:** If amendment 2 is agreed to, amendment 3 is pre-empted. The question is, that amendment 2 be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Aitken, Bill (Glasgow) (Con)  
Davidson, Mr David (North-East Scotland) (Con)  
Douglas-Hamilton, Lord James (Lothians) (Con)  
Fergusson, Alex (South of Scotland) (Con)  
Gallie, Phil (South of Scotland) (Con)  
Johnston, Nick (Mid Scotland and Fife) (Con)  
Johnstone, Alex (North-East Scotland) (Con)  
McGrigor, Mr Jamie (Highlands and Islands) (Con)  
McLetchie, David (Lothians) (Con)  
Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
Scanlon, Mary (Highlands and Islands) (Con)  
Tosh, Mr Murray (South of Scotland) (Con)  
Wallace, Ben (North-East Scotland) (Con)

#### AGAINST

Adam, Brian (North-East Scotland) (SNP)  
Baillie, Jackie (Dumbarton) (Lab)  
Barrie, Scott (Dunfermline West) (Lab)  
Boyack, Sarah (Edinburgh Central) (Lab)  
Brankin, Rhona (Midlothian) (Lab)  
Brown, Robert (Glasgow) (LD)  
Butler, Bill (Glasgow Anniesland) (Lab)  
Campbell, Colin (West of Scotland) (SNP)  
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
Crawford, Bruce (Mid Scotland and Fife) (SNP)  
Cunningham, Roseanna (Perth) (SNP)  
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
Eadie, Helen (Dunfermline East) (Lab)  
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
Ewing, Mrs Margaret (Moray) (SNP)  
Fabiani, Linda (Central Scotland) (SNP)  
Ferguson, Patricia (Glasgow Maryhill) (Lab)  
Finnie, Ross (West of Scotland) (LD)

Gibson, Mr Kenneth (Glasgow) (SNP)  
Grahame, Christine (South of Scotland) (SNP)  
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)  
Ingram, Mr Adam (South of Scotland) (SNP)  
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)  
Livingstone, Marilyn (Kirkcaldy) (Lab)  
Lochhead, Richard (North-East Scotland) (SNP)  
Lyon, George (Argyll and Bute) (LD)  
MacAskill, Mr Kenny (Lothians) (SNP)  
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)  
Marwick, Tricia (Mid Scotland and Fife) (SNP)  
Matheson, Michael (Central Scotland) (SNP)  
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)  
McGugan, Irene (North-East Scotland) (SNP)  
McLeod, Fiona (West of Scotland) (SNP)  
McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)  
McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
McNeill, Pauline (Glasgow Kelvin) (Lab)  
Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
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)  
Neil, Alex (Central Scotland) (SNP)  
Oldfather, Irene (Cunninghame South) (Lab)  
Paterson, Mr Gil (Central Scotland) (SNP)  
Peacock, Peter (Highlands and Islands) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)  
Quinan, Mr Lloyd (West of Scotland) (SNP)  
Radcliffe, Nora (Gordon) (LD)  
Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
Robison, Shona (North-East Scotland) (SNP)  
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)  
Sturgeon, Nicola (Glasgow) (SNP)  
Thomson, Elaine (Aberdeen North) (Lab)  
Ullrich, Kay (West of Scotland) (SNP)  
Wallace, Mr Jim (Orkney) (LD)  
Watson, Mike (Glasgow Cathcart) (Lab)  
Welsh, Mr Andrew (Angus) (SNP)  
White, Ms Sandra (Glasgow) (SNP)  
Whitefield, Karen (Airdrie and Shotts) (Lab)

11:00

**The Deputy Presiding Officer:** The result of

the division is: For 13, Against 84, Abstentions 0.

*Amendment 2 disagreed to.*

*Amendment 3 moved—[Euan Robson].*

**The Deputy Presiding Officer:** The question is, that amendment 3 be agreed to. Are members agreed?

**Members:** No.

**The Deputy 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)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Fergusson, Alex (South of Scotland) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harding, Mr Keith (Mid Scotland and Fife) (Con)  
 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)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McLeod, Fiona (West of Scotland) (SNP)  
 McLetchie, David (Lothians) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Quinan, Mr Lloyd (West of Scotland) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Ullrich, Kay (West of Scotland) (SNP)  
 Wallace, Ben (North-East Scotland) (Con)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)

#### AGAINST

Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of 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, 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)  
 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)  
 McAllion, Mr John (Dundee East) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (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)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 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)

**The Deputy Presiding Officer:** The result of the division is: For 38, Against 56, Abstentions 0.

*Amendment 3 disagreed to.*

*Amendment 11 moved—[Mr Jamie McGrigor].*

**The Deputy Presiding Officer:** The question is, that amendment 11 be agreed to. Are members agreed?

**Members:** No.

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

#### FOR

Aitken, Bill (Glasgow) (Con)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fergusson, Alex (South of Scotland) (Con)  
 Gallie, Phil (South 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)  
 McLetchie, David (Lothians) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Tosh, Mr Murray (South of Scotland) (Con)

Wallace, Ben (North-East Scotland) (Con)

#### AGAINST

Adam, Brian (North-East Scotland) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Campbell, Colin (West of Scotland) (SNP)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 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)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 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)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 MacKay, Angus (Edinburgh South) (Lab)  
 MacLean, Kate (Dundee West) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 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)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McLeod, Fiona (West of Scotland) (SNP)  
 McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 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)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Quinan, Mr Lloyd (West of Scotland) (SNP)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (North-East Scotland) (SNP)  
 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)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Ullrich, Kay (West of Scotland) (SNP)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 14, Against 83, Abstentions 0.

*Amendment 11 disagreed to.*

*Amendment 4 not moved.*

*Amendment 5 moved—[Alex Fergusson].*

**The Deputy Presiding Officer:** The question is, that amendment 5 be agreed to. Are members agreed?

**Members:** No.

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

#### FOR

Aitken, Bill (Glasgow) (Con)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fergusson, Alex (South of Scotland) (Con)  
 Gallie, Phil (South 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)  
 McLetchie, David (Lothians) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Wallace, Ben (North-East Scotland) (Con)

#### AGAINST

Adam, Brian (North-East Scotland) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Campbell, Colin (West of Scotland) (SNP)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 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)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 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)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 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)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 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)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McLeod, Fiona (West of Scotland) (SNP)  
 McMahan, Mr Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 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)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Quinan, Mr Lloyd (West of Scotland) (SNP)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robison, Shona (North-East Scotland) (SNP)  
 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)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Ullrich, Kay (West of Scotland) (SNP)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)

#### ABSTENTIONS

Robson, Euan (Roxburgh and Berwickshire) (LD)

**The Deputy Presiding Officer:** The result of the division is: For 14, Against 83, Abstentions 1.

*Amendment 5 disagreed to.*

**The Deputy Presiding Officer:** We now move

to amendment 6.

**Euan Robson:** I should have declared an interest at the start of my previous contribution: I am a River Tweed commissioner. I have declared the interest on previous occasions and apologise for the omission.

The purpose of amendment 6 is to draw attention to the fact that a lot of work is being done in various places to conserve riparian habitat. Such conservation can take several forms, such as the fencing of riverbanks, reafforestation of certain areas, withdrawal of forestry from riverbanks and the unblocking of obstructions to migratory fish. However, there are parts of Scotland where little habitat improvement is taking place.

Studies show that habitat improvement can do more for salmon conservation than many other types of measure. If the in-river habitat for fish, in particular small fish, is improved, more fish will be sent to sea as smolts and more will return to the river. In a number of places, in particular on the River Tweed, improvements to habitat have been shown to have brought about a tremendous recovery in fish stocks. Spring fish in particular in the River Tweed have been helped by a major programme of habitat improvement.

The bill currently says nothing about direct habitat improvement. The purpose of amendment 6 is to allow Scottish ministers to intervene in certain circumstances if no habitat improvement is taking place. Clearly, it would be unwise and unwelcome if ministers intervened when work was well in hand—there are many places where work is progressing dramatically and effectively—but there are some areas where little is being done. The scope of this amendment is reduced compared with the scope of the amendment that was introduced at the Rural Affairs Committee, some of the definitions in which members had some difficulty with.

As a useful start to a wider habitat improvement programme, I thought it desirable that Scottish ministers should have a specific power to tackle recalcitrant district salmon fishery boards that are doing little towards habitat improvement. That is the limit of the power proposed by amendment 6—it simply requires boards to produce a plan or plans for habitat improvement.

Some members have raised with me the question of funding. I have deliberately omitted any reference to the funding of habitat improvement plans for the simple reason that improvements can be achieved in a number of manners—through voluntary effort, through the efforts of proprietors and angling clubs, by application to the lottery or through some form of public funding. The funding is not the point; the

point of amendment 6 is to allow ministers to intervene for the production of a plan and to stimulate activity in areas where there is none. The amendment proposes a simple, straightforward and fairly limited measure, but will inject into the bill a direct conservation element, which would be welcome.

I move amendment 6.

**Rhona Brankin:** Amendment 6 is a slightly amended version of the amendment that Euan Robson lodged at stage 2. It seeks to provide regulations that would require the production of plans to improve river and riparian habitats.

As I made clear at stage 2, checks and balances on the ability of boards to introduce regulations are already in place under existing legislation. As I repeated to the Rural Affairs Committee and to Parliament, the bill inserts sections into the Salmon Act 1986. Where any regulations that stem from those insertions are to be introduced, a case will have to be made. That is true whether there is an application by a board, or two proprietors, or a proposal by ministers.

I understand that the Scottish fisheries co-ordination centre requires its members, some of whom are district salmon fishery boards, to collect habitat data to common standards around Scotland.

While I welcome the positive nature of amendment 6, I am not at all sure that all district salmon fishery boards have the resources or the expertise to carry the requirement through. I understand and appreciate that many boards, including the one for the Tweed, where Mr Robson is closely involved as a Tweed commissioner, undertake to produce such plans, but I am reluctant to make that a statutory requirement and I trust that Mr Robson will feel able to withdraw amendment 6.

**Fergus Ewing:** As Rhona Brankin said, this amendment has been altered—I would say radically—since we debated the thrust of the idea at stage 2. It is fair to say—perhaps Mr Robson will concede this—that the previous version was defective for technical reasons. The debate therefore focused on the technical objections rather than the merit of the idea behind the amendment.

The SNP agrees that while the amendment is of limited benefit it is nonetheless a useful possible method of conserving salmon. We therefore feel that it should be supported. The minister said that a reason for voting against amendment 6 is that some district boards would not have the resources to produce a plan. That is a fair point, but the amendment does not require every board to produce a plan; it says that ministers may require the production of a plan, so that point would be

taken into account.

Reference has been made to the fact that information about habitats is already provided in certain circumstances. It does not seem to be too onerous a requirement that the information should be provided anew in another form.

For those reasons, we recommend support for this worthy, albeit limited, amendment.

**Mr McGrigor:** A great deal has already been done by the seven west coast fishery trusts to connect their work on this matter with that done by the boards. The Tweed Foundation has also done a lot of work on it.

The Conservatives agree with this amendment; it is proactive and an obvious conservation measure. It must be remembered that the financial aspect could be onerous for the smaller boards, but if they exist they should carry out such measures.

The Executive should consider boards in conjunction with grants that are given to farmers for water margin improvements under the countryside premium scheme, as those tie in with a great deal of what boards would like to do for habitat improvement. That could be examined in a more holistic way—if I dare use that phrase.

**The Deputy Presiding Officer:** I ask Euan Robson to wind up and indicate whether he is pressing the amendment.

**Euan Robson:** I welcome the support of other members, but I have to say that, on reflection, this amendment is too limited. The debate has focused attention on the matter and we ought to return to it at a later date. The amendment is limited because I had to reduce its scope for this occasion. I much preferred the scope of the earlier version, because there are places in Scotland where there is no district salmon fishery board. Perhaps the need for a conservation programme is greatest in those places.

The issue could be returned to at a later date, perhaps in the green paper that the minister mentioned earlier or through other measures.

I seek leave to withdraw amendment 6.

**The Deputy Presiding Officer:** Mr Robson seeks leave to withdraw the amendment. Does any member object?

**Mr McGrigor:** Yes.

**The Deputy Presiding Officer:** Did I hear an objection?

**Mr McGrigor:** Yes. It is a very good amendment.

**The Deputy Presiding Officer:** In that case, there will be a division. The question is, that



amendment 6, in the name of Euan Robson, be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

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)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Fergusson, Alex (South of Scotland) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harding, Mr Keith (Mid Scotland and Fife) (Con)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)  
 Johnston, Nick (Mid Scotland and Fife) (Con)  
 Johnstone, Alex (North-East Scotland) (Con)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 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)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Quinan, Mr Lloyd (West of Scotland) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Ullrich, Kay (West of Scotland) (SNP)  
 Wallace, Ben (North-East Scotland) (Con)  
 Welsh, Mr Andrew (Angus) (SNP)

**AGAINST**

Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of 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, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)

Kerr, Mr Andy (East Kilbride) (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)  
 McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (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)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 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)

11:15

**The Deputy Presiding Officer:** The result of the division is: For 40, Against 58, Abstentions 0.

*Amendment 6 disagreed to.*

**The Deputy Presiding Officer:** We move to amendment 7, in the name of Alex Fergusson, which is grouped with amendment 10.

**Alex Fergusson:** All the evidence that we received as a committee—I think that I am right in saying that every organisation that gave evidence referred to its concerns about this matter—and a considerable amount of representation that I, and I am sure other members, have received demonstrates the concern about time limitation for regulations laid under the bill. Despite that, the bill lacks any commitment on that.

During the stage 1 debate, Rhona Brankin said:

“Whether regulations controlling exploitation are made in response to an application or on the ministers’ initiative, the intention is to make them time-limited.”—[*Official Report*, 23 November 2000; Vol 9, c 7.]

I am sure that I do not need to remind the minister which road was paved with good intentions. In this

instance, good intentions and promises are not enough. A firm, robust intention should be included in the bill.

My amendment demands such a commitment to time limitation, but I believe that it does considerably more than that. If we are striving, as the bill purports to, for the conservation of salmon, we must recognise that all regulations should be subject to frequent review. It therefore makes sense that time limitation should go hand in hand with regular review; that is what my amendment seeks to achieve. It ensures that each regulation laid under the act would specify a period for which the regulation would remain in force. It places no limit on that period, but ensures that the issue would be revisited annually to make certain that the regulation was still relevant. That is a logical part of a monitoring process. I fail to understand why there would be any difficulty in implementing such a logical step.

The Executive has rightly stated that this is an enabling bill, which is part of a much larger picture. However, rather than being burdensome, annual reviews should be seen as part of an on-going process that would help to create effective measures in the conservation of salmon. My amendment addresses time limitation and demands that the regulations remain alive during that time to ensure that the conservation of salmon is an on-going and successful process.

My colleague, Jamie McGrigor, lodged the other amendment in the group, amendment 10. I hope that members have noticed that, as always, the Scottish Conservatives seek to provide a balance and give a choice on time limitation. *[Interruption.]* I see that there is general approval from members, for which I am grateful.

I believe that my amendment 7 is an improvement on Jamie McGrigor's amendment 10, in that it offers a continual review, which I believe would be important for the proper implementation of the regulations. My colleague's amendment 10, which will fall when mine is accepted, offers a softer choice. I accept that the five-year limitation is part of the life-cycle of the salmon, so I see its logic. None the less, I commend my amendment to the chamber.

I move amendment 7.

**Mr McGrigor:** My reason for suggesting that regulations should not remain in force for more than five years is that a period of five years covers the life-cycle of the salmon from egg to adult. Experiments can therefore be completed within that time scale. However, I have much sympathy with my colleague Alex Fergusson's amendment 7, which requires that the regulations be reviewed every year. Indefinite regulations would be enormously damaging to the management of

salmon and sea trout fishing and to those whose livelihoods depend on income from angling tourism.

In the salmon world, things can change rapidly, as shown by the dramatic increase of runs of salmon in some Scottish rivers last year. Local variations in salmon runs mean that blanket measures, such as those in England, would not be appropriate. Every fishing body that I know of has asked for time limitation. It is incredibly important that it be included in the bill.

**Rhona Brankin:** Alex Fergusson's amendment 7 seeks to ensure that the bill states that regulations must be time-limited and subject to annual review. Although I appreciate that the amendment is well intentioned, it would require all regulations to be time-limited. In some cases, that might be inappropriate—for example, in cases that require information to be provided. As I advised the Rural Affairs Committee at stage 2, new section 10D(2)(a) already provides for time limitation if appropriate. In addition, any regulations made under the bill, as with those made under all acts of the Scottish Parliament, may be revoked, amended or re-enacted. All regulations made under the bill may be time-limited. That was made absolutely clear at stage 2. It will be for the details of any proposed regulations to determine what the optimum time will be for keeping in place any conservation measures imposed by those regulations. The details will, of course, be subject to rigorous local consultation before the regulations are made.

As for reviews, I expect that applicants will be the first to check the effects of their conservation measures on salmon stocks and fisheries. They, and not Scottish ministers, are surely best placed to know when the time is right for reviewing regulations in the light of evidence suggesting that certain measures may no longer be required. We would assist in that process through the provision of scientific support to river managers from our scientists at the freshwater fisheries laboratory. I trust that Alex Fergusson will feel able to withdraw amendment 7.

As I said, new section 10D(2)(a) provides for time limitation and, in addition, any regulation made under the bill, as with those made under any act of the Scottish Parliament, may be revoked, amended or re-enacted. As for details of the time during which a regulation should remain in force, it must be borne in mind that, when a regulation is to be made, whether by application or by ministers, full consultation is necessary. The proposal must be described and statements provided on why the proposal is necessary or expedient and on its general effect.

Different regulations may require to be in force for different periods; such details should be dealt

with in the regulations. Boards would want some regulations, such as the collection of catch statistics, to remain in force for longer than five years. The value of such information increases as the data set grows.

Inserting a reference to time limitation in the bill in the way that amendment 10 proposes makes for a highly prescriptive regulation-making power, when the object of the bill is to provide as much flexibility for fishery managers as possible. The bill allows for time limitation. Managers can make a case for the time limits that they want when they make their applications, and ministers will have to justify the time limits that they want during the necessary consultation. Amendment 10 is not necessary and fishery managers would find it restrictive rather than helpful.

**Mr McGrigor** *rose—*

**Rhona Brankin:** I am sorry—I have finished. I urge Jamie McGrigor not to press his amendment.

**Richard Lochhead:** The minister has covered many of the arguments that I intended to make in opposing amendments 7 and 10. Time limitation has been a difficult issue for the Parliament, but the minister has pointed out that the bill allows a time limit to be put on regulations. In most cases, that ability should perhaps be used.

**Alex Fergusson:** I fully accept that the bill allows for the introduction of time limitations, but is the Scottish National Party happy that the intention of the minister is good enough? Personally, I would accept any intention of the present minister; however, she will not remain in this particular post for ever. Is Mr Lochhead happy to say that a good intention is good enough? A good intention is all that is in the bill.

**Richard Lochhead:** Mr Fergusson accepts that the current minister will keep to the intention; I can assure him that that will also be the case when there is an SNP minister.

Some regulations should not be time limited. We do not want to be in a position where, for example, regulations on information that has to be collected annually have to come to the Parliament annually and we have to have an annual consultation process. That would not be practicable. The first half of Alex Fergusson's amendment 7 is fine, but the second half gives the SNP a problem.

Jamie McGrigor talked about a three-year period during the stage 1 debate on the bill, but his amendment 10 refers to a five-year period. There is no consistency.

Both amendments are flawed, and we will oppose them.

**Alex Fergusson:** I listened to the minister with great interest. I do not disagree with what she

said. However, I repeat that I do not believe that good intentions are enough in this case.

In response to Richard Lochhead, I would say that I have not asked for things to be brought to the Parliament annually. I have simply asked that each regulation be reviewed annually to ensure that it is still relevant to the conservation of salmon. I introduced an amendment at stage 2 to that effect, but I altered it in recognition of the difficulties that might have been involved.

I really believe that amendment 7 will greatly strengthen the bill. Any bill that is passed on the conservation of salmon must be as strong and robust as possible. My amendment would ensure that that is so.

**The Deputy Presiding Officer:** The question is, that amendment 7 be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Aitken, Bill (Glasgow) (Con)  
Davidson, Mr David (North-East Scotland) (Con)  
Douglas-Hamilton, Lord James (Lothians) (Con)  
Fergusson, Alex (South of Scotland) (Con)  
Gallie, Phil (South 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)  
Robson, Euan (Roxburgh and Berwickshire) (LD)  
Scanlon, Mary (Highlands and Islands) (Con)  
Tosh, Mr Murray (South of Scotland) (Con)  
Wallace, Ben (North-East Scotland) (Con)

#### AGAINST

Adam, Brian (North-East Scotland) (SNP)  
Baillie, Jackie (Dumbarton) (Lab)  
Barrie, Scott (Dunfermline West) (Lab)  
Boyack, Sarah (Edinburgh Central) (Lab)  
Brankin, Rhona (Midlothian) (Lab)  
Brown, Robert (Glasgow) (LD)  
Butler, Bill (Glasgow Anniesland) (Lab)  
Campbell, Colin (West of Scotland) (SNP)  
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
Crawford, Bruce (Mid Scotland and Fife) (SNP)  
Cunningham, Roseanna (Perth) (SNP)  
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
Eadie, Helen (Dunfermline East) (Lab)  
Elder, Dorothy-Grace (Glasgow) (SNP)  
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
Ewing, Mrs Margaret (Moray) (SNP)  
Fabiani, Linda (Central Scotland) (SNP)  
Ferguson, Patricia (Glasgow Maryhill) (Lab)  
Finnie, Ross (West of Scotland) (LD)  
Gibson, Mr Kenneth (Glasgow) (SNP)  
Grahame, Christine (South of Scotland) (SNP)  
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)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 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)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 MacLean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 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)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McLeod, Fiona (West of Scotland) (SNP)  
 McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 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)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Quinan, Mr Lloyd (West of Scotland) (SNP)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robison, Shona (North-East Scotland) (SNP)  
 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)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Ullrich, Kay (West of Scotland) (SNP)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 16, Against 84, Abstentions 0.

*Amendment 7 disagreed to.*

*Amendment 10 moved—[Mr Jamie McGrigor.]*

11:30

**The Deputy Presiding Officer:** The question is,

that amendment 10 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** 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)  
 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)  
 Munro, Mr John (Ross, Skye and Inverness West) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Wallace, Ben (North-East Scotland) (Con)

**AGAINST**

Adam, Brian (North-East Scotland) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Campbell, Colin (West of Scotland) (SNP)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Elder, Dorothy-Grace (Glasgow) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (North-East Scotland) (SNP)  
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 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 MacLean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 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)

McGugan, Irene (North-East Scotland) (SNP)  
 McLeod, Fiona (West of Scotland) (SNP)  
 McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Quinan, Mr Lloyd (West of Scotland) (SNP)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robison, Shona (North-East Scotland) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 Smith, Mrs Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Ullrich, Kay (West of Scotland) (SNP)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 15, Against 80, Abstentions 0.

*Amendment 10 disagreed to.*

**The Deputy Presiding Officer:** We move to amendment 12, in the name of Rhona Brankin, which is grouped with amendment 13.

I must point out to members that if amendment 12 is agreed to, amendment 13 is pre-empted and will not be called.

**Rhona Brankin:** In the various debates on the bill, I have heard concerns that where proposed regulations are introduced on the initiative of ministers, affected district salmon fishery boards might not be consulted. I have given the assurance that it is inconceivable that boards would not be consulted and repeat that assurance today.

During the stage 2 debate, Mike Rumbles lodged an amendment that made specific reference to boards in the consultation provisions that apply where ministers propose regulations without an application from a board. However, there were technical difficulties with the drafting of that amendment which meant that its effect on the existing consultation regime was unclear. However, I was aware of the level of concern and undertook to consider the possibility of introducing an Executive amendment to address the matter.

As a result, Mike was gracious enough to withdraw his amendment.

I have carefully considered the matter and have decided that it would be appropriate for an Executive amendment to be lodged to introduce express reference to boards into the existing consultation regime. That regime is set out in paragraph 3 of schedule 1 to the Salmon Act 1986 which provides that the Scottish ministers shall consult such "persons" as they consider appropriate. The amendment makes it clear that the word "persons" shall be construed as including, in particular, such district salmon fishery boards as the ministers consider appropriate for regulations. Ministers will have to consider the district or districts affected by any particular proposed regulations. Clearly, where there is no board for an affected district, none can be consulted; however, where there is a board in an affected district, it will be appropriate to consult that board.

I move amendment 12.

**The Deputy Presiding Officer:** I call Alex Fergusson to speak to amendment 13.

**Alex Fergusson:** We have all heard that the conservation of salmon is a national issue. However, as we have been told time after time in committee and during today's proceedings, the issue is often best addressed at local level. I believe that strongly, and my experience tells me that that belief is absolutely correct.

The Executive lodged amendment 12 in response to representations made—understandably—by the ASFB. It was forecast in evidence at Tuesday's Subordinate Legislation Committee meeting, at which a Scottish Executive rural affairs department official stated:

"The minister listened carefully to the representations that were made at the second stage 2 meeting of the Rural Affairs Committee. Yesterday, she indicated to the association that she is minded to lodge an amendment for Thursday's stage 3 debate"—

that is, the amendment that she has just moved—

"to cover that point and to reassure the association that whenever it is proposed to introduce a regulation, the minister will consult the district salmon fishery boards."—  
 [Official Report, Subordinate Legislation Committee, 9 January 2001; c 394-95.]

That is an absolutely solid commitment that, whenever a regulation is laid, the appropriate river board will be consulted.

However, my difficulty is that such a commitment is not made in the minister's amendment. Despite her reassurances, the amendment does not commit the Executive to consult the river boards. In fact, it contains an escape clause, and I do not think that good and robust law should allow such a way out. The issue

should be clear cut in the bill in a way that leaves no room for doubt. My amendment 13 removes any such doubt by committing the Executive to consult the relevant district salmon fishery boards—where they exist—and allows for wider consultation whether or not a board exists. Everyone agrees that local involvement is essential; my amendment guarantees such involvement.

**Mr Rumbles:** True to her word, the minister has introduced this amendment at stage 3. She said in the stage 2 debate that she would do so if I withdrew my amendment and I am absolutely delighted to see that that has happened.

Consultation with district salmon fishery boards is the second of the two main themes that caused committee members some disquiet—the first was tying in conservation and river management. In committee and again just now in the chamber, the minister has given an absolute guarantee that those consultations will take place. I see Alex Fergusson shaking his head—however, the minister has clearly given that guarantee. I am pleased that the minister has introduced her amendment 12, which the Liberal Democrats will support.

**Fergus Ewing:** The minister's amendment 12 provides a statutory undertaking and declaration that the persons to be consulted shall include

"such district salmon fishery boards as the Scottish Ministers consider appropriate".

Alex Fergusson's amendment 13 specifically states that the board to be consulted is the one "which would be affected". Surely it is a matter of simple logic that any consultation on a proposed regulation should be undertaken with the board that would be affected by the regulation. For that reason alone, it is a simple proposition of elementary logic that Alex Fergusson's amendment be preferred.

**Mr Rumbles:** I should point out that when I lodged a very similar amendment at stage 2, Fergus Ewing did not support it. We again see him supporting certain amendments at stage 3 that he opposed at stage 2. Being caught out a second time doing something at stage 2 and the opposite at stage 3 does not do his credibility one jot of good.

**Fergus Ewing:** On a point of order, Presiding Officer. The amendment that Mike Rumbles is talking about was not this particular amendment—it was another one.

**Mr McGrigor:** I want to reiterate Fergus Ewing's comments. The minister's amendment 12 will give the Scottish ministers total control over who would be consulted on proposed regulations. That gives too much power to the Scottish Executive and

does not restrict it in any way whatever. The amendment does not force the Executive to consult anyone it does not wish to, which could lead to an extremely biased consultation process.

On the contrary, Alex Fergusson's amendment 13 requires the Scottish ministers to consult any district salmon fishery board affected by the regulations as well as anyone else considered appropriate. That would ensure that the Scottish ministers actually consulted the board involved. That is very important as that particular board will be the most affected; as it will know its own area and will have a broad base of membership, it will be able to ensure a reasoned response.

**Rhona Brankin:** Under the existing provisions, ministers are required to consult a board affected by proposed regulations. My amendment 12 introduces an explicit reference to boards in the existing consultation regime applied by the bill, in the situation where ministers act on their own initiative.

Although I understand the intention behind the wording of amendment 13, my amendment sits more squarely with the consultation regime set out in schedule 1 to the Salmon Act 1986. For that reason, I hope that Alex Fergusson will not press his amendment.

**The Deputy Presiding Officer:** I remind members that, if amendment 12 is agreed to, amendment 13 is pre-empted. The question is, that amendment 12 be agreed to. Are we agreed?

**Members:** No.

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

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Fergusson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of 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)  
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 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
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 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)

Macintosh, Mr Kenneth (Eastwood) (Lab)  
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 McNeill, Pauline (Glasgow Kelvin) (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)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)  
 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)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)

#### AGAINST

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)  
 Elder, Dorothy-Grace (Glasgow) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Fergusson, Alex (South of Scotland) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harding, Mr Keith (Mid Scotland and Fife) (Con)  
 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)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (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)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Quinan, Mr Lloyd (West of Scotland) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)

Scanlon, Mary (Highlands and Islands) (Con)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Ullrich, Kay (West of Scotland) (SNP)  
 Wallace, Ben (North-East Scotland) (Con)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 59, Against 41, Abstentions 0.

*Amendment 12 agreed to.*

**The Deputy Presiding Officer:** I call Fergus Ewing to speak to and move amendment 14, which is grouped on its own.

**Fergus Ewing:** The purpose of the bill is to conserve salmon. At stage 1, the minister pointed out that salmon stocks in Scotland

“have declined to an all-time low”.

She added:

“The bottom line is that fewer fish are surviving the marine phase of their life.”—[*Official Report*, 23 November 2000; Vol 9, c 334.]

That point was made by virtually all the consultees in the bill process and by every witness who gave oral evidence to the Rural Affairs Committee. The minister highlighted the gravity of the situation when she quoted statistics that show that, in

“1960, 1,443 tonnes of wild salmon was caught in Scotland”—[*Official Report, Rural Affairs Committee*, 7 November 2000; c 1289.]

and that, by last year, that figure had been reduced to 198 tonnes: a reduction of 85 per cent. It would seem—to use Jamie McGrigor’s phrase—that salmon is already under threat, if not severe threat, in Scotland. The same can be said of trout, as there has been an 86 per cent decline in trout catches over the same four decades. Those are massive reductions, which highlight the scale of the problem that we face.

Amendment 14 seeks to address what all the witnesses agreed was the bill’s main task: the conservation of salmon against the threats that are posed to them during their marine phase. The amendment was debated at stage 2, and the minister gave two responses. Her first response was that

“the bill is about conservation of salmon in the freshwater phase”.—[*Official Report, Rural Affairs Committee*, 12 December 2000; c 1544.]

However, I have the benefit of having read a letter to which the minister has referred, from Mr Andrew Wallace. In paragraph 7 of that letter, Mr Wallace points out that, although the bill will cover the whole land mass of Scotland,

“it is clear from the 1986 Act that the new sections 10A-10E will extend to ‘Scotland’ which, as is usual in our legislation, includes its territorial sea.”

I invite the minister to comment on whether the bill will cover the marine phase of salmon, contrary to the impression that was given at stages 1 and 2 of the debate.

11:45

Amendment 14 proposes the establishment of a body that will consider all the numerous threats to salmon, including predators, threats to habitat, environmental concerns, drift-netting off the north-east of England and the potential threat of sea lice, about which there has been great controversy following the broadcast of a BBC documentary programme. Irrespective of the success of the amendment, I hope that the minister will call for what is sought by all those who are involved, no matter what their political views—that is, an independent inquiry into the potential threat that fish farming may pose to wild salmon stocks.

The purpose of the body that is proposed by amendment 14 is to ensure that the advice that all political parties feel is necessary for the production of an action plan is obtained. Why is it necessary for such a body to be convened if, as the minister pointed out at stage 2, there are already numerous bodies that provide advice? I refer to the minister's comments at stage 2, when she named the bodies that are involved: the International Council for the Exploration of the Sea, the Fisheries Research Services, the Scottish Agricultural Science Agency, the Institute of Terrestrial Ecology, the Natural Environment Research Council and various others. Those bodies are all having different cycles of meetings and saying different things to different groups of people, rather than uniting to address what everyone acknowledges is an extremely serious problem. That is not good enough. Given that Scottish salmon are nearly facing extinction, it is time to address that problem.

I hope that, if the minister does not agree to amendment 14, she will say whether the Executive is planning any steps to tackle the acknowledged threats to salmon in their marine phase. If not, there will be a striking similarity between the Government ministers—with regard to the marine phase of the salmon—and King Canute in his marine phase, some years ago.

I move amendment 14.

**Rhona Brankin:** This issue was raised by Mr Ewing and debated at stage 2, when he said that he might lodge the amendment again at stage 3. The amendment seeks to establish a commission to advise ministers on the causes of freshwater and marine mortality.

As I said in the stage 2 debate, it is not clear what benefit would be gained from establishing such a commission, as the tasks that it would be given are already being carried out. We receive

advice on such issues from Fisheries Research Services, from the freshwater fisheries laboratory in Pitlochry and the marine laboratory in Aberdeen. There is close co-operation between our FRS scientists and local fisheries biologists, and a Scottish fisheries co-ordination centre has been established at the freshwater fisheries laboratory. That initiative has allowed the development of means to gather information from around Scotland, which is collected to common standards.

Ministers receive advice on seal populations from the Natural Environment Research Council, which is the statutory advisory body on the status of seal populations and their management. Specialist advice on the effects of predation by birds, such as saw-bill ducks and cormorants, is received from Fisheries Research Services and the Scottish Agricultural Science Agency.

As I have pointed out before, the remit of a Scottish commission would be too narrow. The problems that salmon face are not confined to Scotland, but are to be seen in all the salmon-producing countries around the north Atlantic. Our scientists work in the international arena, sharing and developing knowledge with fellow experts from other countries that are affected by the decline in salmon stocks. The advice that was received earlier this year from the ICES advisory committee on fisheries management, on management of the southern European salmon stock complex—our salmon are included in that group—was that, for one-sea winter salmon and multi-sea winter salmon, reductions in exploitation rates are required for as many stocks as possible.

Oceanographers and marine biologists at the marine laboratory in Aberdeen are considering the implications for fish, including salmon, of changes in the north Atlantic and the North sea. They are not working alone, but in collaboration with scientists from many other countries.

Amendment 14 goes beyond the scope of the bill, but addresses proposals that are being addressed actively in any case. I hope that Mr Ewing is reassured and convinced that the tasks are being undertaken elsewhere, and that he will feel able to withdraw his amendment.

**Fergus Ewing** *rose*—

**The Deputy Presiding Officer:** The minister has sat down, Mr Ewing.

We now move to open debate on amendment 14.

**Mr Rumbles:** Having caught Fergus Ewing changing his mind between stage 2 and stage 3 on two occasions this morning, I admit that he is quite consistent on this amendment. At stage 2, he made the same argument, which was rejected by



the Rural Affairs Committee. I hope that the Parliament will also reject his argument this morning.

I am surprised by Fergus Ewing's enthusiasm for the establishment of a new quango. The proper place for considering whether to hold an investigation into the fish farming industry is the Rural Development Committee, as that committee, together with the Transport and the Environment Committee, is already paying attention to the issue. That is the route that we should go down, rather than setting up a brand new quango—a new commission—just like that.

**Fergus Ewing** *rose—*

**Mr Rumbles:** Fergus Ewing usually gets it wrong and he got it majestically wrong today.

**The Deputy Presiding Officer:** Are you giving way, Mr Robson—sorry, Mr Rumbles?

**Mr Rumbles:** I am Mike Rumbles, not Euan Robson.

**The Deputy Presiding Officer:** Yes, but are you giving way?

**Mr Rumbles:** I have finished.

**The Deputy Presiding Officer:** Mr Rumbles has finished, Mr Ewing.

**Mr McGregor:** The Conservatives are quite sympathetic towards Fergus Ewing's amendment, but we think that the Salmon Conservation (Scotland) Bill is the wrong place for it.

The points contained in Mr Ewing's amendment must be debated with all the issues of fisheries management at a later date, in the context of protecting and promoting fisheries.

Has anyone read the Scottish salmon strategy task force report? That report contained a lot of recommendations, and, to be honest, I am quite surprised that the Executive does not appear to be following those recommendations. There seems to be little point in having a further commission, which would be extremely expensive, when such a report is before the Executive.

The task force report, which was completed in 1995, made a lot of excellent recommendations and cost a lot of money. There is absolutely no point in paying for another report. Why does not the Executive act on the recommendations in that report? I do not say that that report is excellent simply because I know that Lord Nickson is sitting in the VIP gallery—I say so because the then Scottish Office accepted at the time that it was an excellent report. I do not understand why its recommendations were not acted on much more positively.

**Euan Robson:** After amendment 14 is

disagreed to, Mr Ewing may take some comfort from reading the annual reports of the freshwater fisheries laboratory in Pitlochry. The laboratory is doing much of the work that is encompassed in amendment 14.

I suggest to the minister that it might be sensible to give wider publicity to the excellent work of the laboratory, because it is not given due credit for all that it is achieving.

**Fergus Ewing:** I listened with interest to members' comments. I regret that amendment 14 has not attracted more support and that the minister has not provided responses to the substantive points that I raised. In the circumstances, I believe that there should be a vote on my amendment.

**The Deputy Presiding Officer:** The question is, that amendment 14, in the name of Fergus Ewing, be agreed to. Are we agreed?

**Members:** No.

**The Deputy 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)  
Elder, Dorothy-Grace (Glasgow) (SNP)  
Ewing, Dr Winnie (Highlands and Islands) (SNP)  
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
Ewing, Mrs Margaret (Moray) (SNP)  
Fabiani, Linda (Central Scotland) (SNP)  
Gibson, Mr Kenneth (Glasgow) (SNP)  
Grahame, Christine (South of Scotland) (SNP)  
Lochhead, Richard (North-East Scotland) (SNP)  
MacAskill, Mr Kenny (Lothians) (SNP)  
Marwick, Tricia (Mid Scotland and Fife) (SNP)  
Matheson, Michael (Central Scotland) (SNP)  
McGugan, Irene (North-East Scotland) (SNP)  
McLeod, Fiona (West of Scotland) (SNP)  
Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
Neil, Alex (Central Scotland) (SNP)  
Paterson, Mr Gil (Central Scotland) (SNP)  
Quinan, Mr Lloyd (West of Scotland) (SNP)  
Robison, Shona (North-East Scotland) (SNP)  
Sturgeon, Nicola (Glasgow) (SNP)  
Ullrich, Kay (West of Scotland) (SNP)  
Welsh, Mr Andrew (Angus) (SNP)  
White, Ms Sandra (Glasgow) (SNP)

#### AGAINST

Aitken, Bill (Glasgow) (Con)  
Baillie, Jackie (Dumbarton) (Lab)  
Barrie, Scott (Dunfermline West) (Lab)  
Boyack, Sarah (Edinburgh Central) (Lab)  
Brankin, Rhona (Midlothian) (Lab)  
Brown, Robert (Glasgow) (LD)  
Butler, Bill (Glasgow Anniesland) (Lab)  
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
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)

Fergusson, Alex (South of Scotland) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Gallie, Phil (South of Scotland) (Con)  
 Gray, Iain (Edinburgh Pentlands) (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, 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)  
 Johnston, Nick (Mid Scotland and Fife) (Con)  
 Johnstone, Alex (North-East Scotland) (Con)  
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 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)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAllion, Mr John (Dundee East) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
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 McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 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)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Ochil) (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, Ben (North-East Scotland) (Con)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 26, Against 68, Abstentions 0.

*Amendment 14 disagreed to.*

#### After section 1

**The Deputy Presiding Officer:** I call Fergus Ewing to speak to and move amendment 15, which is grouped on its own.

**Fergus Ewing:** Given the minister's commitment at the outset of the debate to issue a

consultation, or green, paper and the fact that amendment 15, while slightly different from the amendment that I lodged at stage 2, none the less deals with the same area, which has been debated, it appears to me that we should not debate it again. I will not move amendment 15.

*Amendment 15 not moved.*

#### After section 2

**The Deputy Presiding Officer:** I call Richard Lochhead to speak to and move amendment 16.

**Richard Lochhead:** Members will be delighted to learn that I take a similar view of my amendment, given that its subject matter will also be covered by the green paper that the minister announced today.

*Amendment 16 not moved.*

**The Deputy Presiding Officer:** That concludes consideration of amendments to the Salmon Conservation (Scotland) Bill.

## Salmon Conservation (Scotland) Bill

**The Deputy Presiding Officer (Mr George Reid):** The next item of business is a debate on motion S1M-1502, in the name of Ross Finnie, which seeks agreement that the Salmon Conservation (Scotland) Bill be passed, and on an amendment to that motion. I ask members who wish to speak in the debate to press their request-to-speak buttons.

**The Minister for Rural Development (Ross Finnie):** On a point of order, Presiding Officer. When you introduced stage 3 of the Salmon Conservation (Scotland) Bill this morning, you said that the debate would be in two parts, where amendments to the bill would be taken first, following which we would move to a debate on the bill.

It is a common interpretation that once we have dealt with amendments, we move on to a discussion of the bill, as amended or not. Therefore, as a point of order, I wish to seek clarification on how, at this stage, it is competent to entertain an amendment that includes elements that could have been included quite properly at stage 2 or stage 3. How can it be competent to introduce those elements at the conclusion of that part of stage 3 in which amendments are dealt with?

I will be more specific. The elements relate to the scope of the bill. How can it be competent to entertain an amendment that deals with consolidation of legislation that is wholly and totally outwith the scope of the bill? I seek clarification from you, Presiding Officer, as to how, in such circumstances, the amendment can be competent.

**The Deputy Presiding Officer:** I cannot give you an immediate explanation as I was not party to that decision, which was a decision of the Presiding Officer. I will ask the clerks to make inquiries and get back to you as soon as possible. Are you suggesting, Mr Finnie, that it is not appropriate to continue with this debate at this point?

**Ross Finnie:** I am.

**The Deputy Presiding Officer:** As this is a serious matter, if members will allow me a couple of minutes, I will consult the clerks at this stage.

**Lord James Douglas-Hamilton (Lothians) (Con):** Further to the point of order, Presiding Officer. My understanding is that an amendment that we had sought to have included for debate was ruled out on precisely the grounds that the minister has just specified. If one party's

amendment has been ruled out, a consistent approach should be adopted by the clerks.

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** Further to the point of order, Presiding Officer. The minister contends that the reasoned amendment deals with matters that could and should have been dealt with at stage 2. That is not so. We have already heard from the minister that the points that the amendment raises could not have been within the scope of the bill.

**The Deputy Presiding Officer:** Fine. Are there any other points?

**Mr Murray Tosh (South of Scotland) (Con):** Further to the point of order, Presiding Officer. I recall that, when this matter was discussed by the Procedures Committee, we came to the view that a reasoned amendment at stage 3 was perfectly competent. A reasoned amendment, we envisaged, would be either an amendment that stated that the bill was supported because of certain reasons or in spite of certain perceived deficiencies or that the bill would be opposed for reasons that the mover of the amendment wished to highlight. It seems beyond what we envisaged that a reasoned amendment should be presented that refers to additional and extraneous matters and calls for measures that are further than the scope of the bill. The clarification is essential.

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

**Iain Smith (North-East Fife) (LD):** Further to the point of order, Presiding Officer. My understanding of the discussion in the Procedures Committee, which I was party to in a previous life, was that we would discuss reasoned amendments at stage 1 rather than at stage 3.

**Tricia Marwick (Mid Scotland and Fife) (SNP):** Further to the point of order, Presiding Officer. The amendment in the name of Fergus Ewing is a reasoned amendment. It has already been accepted by the Presiding Officer as competent. It would be wholly inappropriate for it to be withdrawn at this stage. The debate should take place now. We have accepted the Presiding Officer's judgment in the past and we should do so now.

**The Deputy Presiding Officer:** My judgment is that since neither I nor the clerks beside me were party to the decision, I should seek leave of the chamber to suspend this meeting of Parliament for up to 10 minutes while I consult further. The minister has raised a matter of some substance.

**Richard Lochhead (North-East Scotland) (SNP):** Further to the point of order, Presiding Officer. Would not it have been in order for the minister to make his point when he saw the business bulletin this morning, before the debate began?

**The Deputy Presiding Officer:** This is a matter of some substance and I ask for leave to suspend the meeting for up to 10 minutes while I consult further. Is that agreed?

**Members** *indicated agreement.*

12:03

*Meeting suspended.*

12:13

*On resuming—*

**The Deputy Presiding Officer:** Welcome back. I should say, first, that this is an exceptional circumstance and I do not want to create a precedent for suspending while we take further advice.

My first point is that if ministers or members wish to raise matters of such substance, it would be helpful if advance notice could be given to the Presiding Officer so preparatory work can be done and we do not have to suspend, as we have this morning. I have taken the advice of the clerks, which is that the rules on the admissibility of amendments to bills are separate in the standing orders from the rules on the admissibility of amendments to motions. We are dealing with a motion.

On the advice of the clerks, the Presiding Officer was satisfied that the amendment is admissible within the rules set out in chapter 8 of the standing orders. If the amendment is agreed to and the motion as amended is agreed to, the bill is still passed without qualification.

I hope that we can move on. I should add that it is not the first occasion that questions on reasoned amendments to motions have been raised. Advice on the subject has been prepared for the Presiding Officer and he is taking it forward through the usual channels. We still have almost 50 minutes in hand. I hope we can now agree to move on.

12:16

**The Deputy Minister for Rural Development (Rhona Brankin):** I have the honour of proposing that Parliament passes this bill today. First, I will deal with Fergus Ewing's amendment. As I have said repeatedly, the factors that influence the mortality rate of salmon are many and varied. The bill focuses on providing means to address the factors over which we can exercise control in the areas over which this Parliament has jurisdiction. Fergus Ewing might like to be able to control the temperature in the North Atlantic; the Parliament is not able to do that. Furthermore, it does not seek to take powers that are already provided by other

legislation.

The Scottish Executive, through the fisheries research services and its close association with district salmon fishery boards, fisheries trusts and the Scottish fisheries co-ordination centre, is engaged in getting as much information as possible about the salmon and the habitat in which it lives, in all phases of its life cycle. We are committed to continuing that essential research. I am also keen to see the work on consolidation progressed and am pleased to say that it is at an advanced stage.

We are debating the Salmon Conservation (Scotland) Bill. It could not be more topical. Today marks the start of the angling season for salmon on the Thurso, the Helmsdale and the rivers that flow into the Kyle of Sutherland. Tomorrow sees the start of angling on the rivers Halladale, Hope, Naver and Strathly. Next week, on 15 January, salmon anglers will gather on the banks of the Tay and the Ness.

The wild Atlantic salmon is one of Scotland's most precious resources. We are the envy of many others who once were fortunate to have salmon in their rivers but who now bemoan its loss. Scotland remains one of the last strongholds for salmon and we must strive to maintain that position. We must continue to take our duty to protect salmon seriously. The bill is testament to our determination to do so.

The bill was introduced in late September and has benefited from intense scrutiny by many since then. I pay tribute to the efforts of the Rural Affairs Committee, which agreed to accord the bill the urgency it deserves. I pay tribute also to the assiduous manner in which those in the wild salmon world—in particular the district salmon fishery boards—have addressed what the bill means for them. After all, they sought the additional powers and I know that they are as keen as I am that those powers should be put to best effect.

We have heard at every stage of the bill that there are many factors that affect the survival of salmon. Some are understood and, regrettably, some are still not. It is all too easy to be despondent about whether answers will be delivered soon. We have here a prime example of where adoption of the precautionary approach is essential. We would not be thanked by future generations for waiting until we had found out precisely why the last salmon died.

International research into finding the causes of marine mortality continues, and we will continue to play our part in that essential work. Nevertheless, there are actions that can be taken now in our rivers and on our coasts so that more fish survive to spawn to produce future generations. We must

be prepared to take such action where and when necessary, not just to preserve the salmon but to secure a viable future for wild fisheries. Wild fisheries are extremely important to the rural economy—supporting jobs, attracting tourists and providing sporting opportunities for our own people.

No one should underestimate the scale or the importance of the task of those who manage salmon fisheries. Many of our major salmon rivers have provided models for others to follow: promoting catch and release, undertaking careful re-stocking and carrying out habitat improvement works. Fishery management is all about knowing the characteristics, or perhaps the idiosyncrasies, of each river and addressing its needs accordingly. That is why the flexibility afforded by the bill matches Scotland's river-by-river management structure so well.

The bill allows regulations to be made for different rivers, different parts of rivers, different seasons, and for salmon separately from sea trout. There is nothing prescriptive in its approach; it recognises that those on the ground are best placed to know what is needed. Fishery managers will now have more scope to control exploitation. However, the onus is firmly upon them to take early advantage of their access to new powers. This is an enabling bill: with it, we are enabling better management of salmon as the first step in giving Scotland's wild fisheries the profile and support they deserve.

The bill is a first step in a much wider agenda for freshwater fisheries. The other major exercise, "Protecting and Promoting Scotland's Freshwater Fish and Fisheries", should also be seen as part of the package of proposals that I outlined earlier. I look forward to setting those out in more detail to the Parliament later this year.

I would also like to pay tribute to the bill team. Indeed, they worked late into last night because of a large number of late amendments—that was a result of the bill's rather difficult time scale. I thank the members of the team for their hard work.

I move,

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

**The Deputy Presiding Officer:** I call Richard Lochhead to speak to and move amendment S1M-1502.1, in the name of Fergus Ewing.

12:22

**Richard Lochhead (North-East Scotland) (SNP):** I would like to begin by congratulating Rhona Brankin on steering through her first bill in her new ministerial role. I suspect that it was not her easiest journey. I would like to thank the clerks

of the Rural Affairs Committee and the legislation team who have guided us all through the maze that is the Salmon Conservation (Scotland) Bill. I thank all the anglers, scientists and fishery boards for the advice that they gave to the committee and to the SNP. I commend all those members who have contributed to a tricky, yet worthwhile, debate.

The fact that Parliament has considered and debated salmon fisheries so early in its life is welcome, given the sector's importance to the nation. The SNP will be voting for the bill. The fact that catch figures for salmon are at their lowest since records began in 1952 and have been in constant decline since 1973 means that we have to take action urgently. However, it is a great pity that Labour did not act sooner. After all, the party was elected in 1997 with an angler's charter that promised the world. We know that the Nickson report has been left on a shelf in St Andrew's House to gather dust for the past three years. It took international pressure to embarrass the Government into introducing even the modest bill that we are debating today.

The SNP will vote in favour of the bill, but with a great deal of reservation because the only other option is to do nothing about the crisis that is facing salmon. Anglers, environmentalists and fishery managers throughout Scotland share our reservations. The bill represents a missed opportunity to do more about marine mortality. Ministers cannot simply bury their heads in the sand for ever.

The minister need look only at the debate that is raging in relation to salmon farming and the environment to see what happens when serious issues are swept under the carpet. In the interests of salmon conservation, the minister should turn her attention to that controversial debate, which would benefit both the salmon farming industry and the freshwater fisheries sector. The Scottish Government must face up to the many other threats to Atlantic salmon that fall outwith the scope of the bill, which, as we know, addresses only part of the problem.

More proposals have to be agreed with the sector and discussed in this chamber as soon as possible, which is why amendment S1M-1502.1 makes that plea. We have to address predation of our young salmon at sea and the impact of environmental change, industrial fisheries at sea and the drift net fishery off the north of England, albeit that particular issue has at long last been tackled. Of course, we also have to examine disease among salmon at sea, for example sea lice, which have been mentioned. Those are just some of the issues that require ministers' urgent attention.

We have to democratise Scotland's salmon

fisheries. We have Victorian structures that have been subjected to nothing more than cosmetic changes over the years. However, I welcome the Deputy Minister for Rural Development's significant concession that a green paper addressing those issues will be published.

We must address the complexity of salmon legislation in Scotland. It is a dog's breakfast. I am delighted that, during the debate in the past few months, the Deputy Minister for Rural Development has acknowledged that fact. Let us tidy it up as soon as possible.

Despite our reservations, the bill has benefits. Despite its narrow scope, it is a tiny step forward. More significant, the bill has, for the first time, sown the seeds of a national policy on salmon and sea trout. It also acknowledges for the first time that the Atlantic salmon is a national asset and is part of Scotland's national heritage. It is a duty of Scotland's Government to protect the national interest and conserve our freshwater fisheries to secure the benefits for the environment and our rural economy. This must not be the end of the process, but simply the beginning.

The minister said in the stage 1 debate:

"The bill will secure the long-term future of wild salmon fisheries."—[*Official Report*, 23 November 2000; Vol 9, c 337.]

I suspect that even the minister's most enthusiastic supporters agree that those words may come back to haunt the coalition some day soon. Having expressed what SNP members think are the benefits of the bill, as well as our reservations, we ask the Parliament to support the bill, taking into account the SNP's amendment, which we also ask the Parliament to support.

I move amendment S1M-1502.1, to insert at end:

"and notes that the measures for the conservation of salmon which the Bill will allow are limited in nature; urges the Scottish Executive to bring forward an action plan designed to conserve salmon in all phases of their life cycle, and recommends that, as the existing corpus of statute law relating to salmon fishing and conservation is both complex and fragmented, a Consolidation Bill be brought forward as soon as practicable."

12:27

**Mr Jamie McGrigor (Highlands and Islands) (Con):** The bill seeks to give the Executive unlimited power to control fishing. As far as we are aware, such power to control fishing—or any other privately owned activity—has never before been given to an Executive in the UK. There is no proposal to introduce any form of public ownership of fishing, so the Executive is seeking to exercise total control over it without assuming any of the responsibilities or costs of ownership.

Parliament should not be misled by the minister's statements on how she would exercise the power and the extent of consultation that would precede its exercise. If the bill is passed, no further recourse to the Parliament will be required, except to the extent of considering whether any regulations fall within the unlimited power that the Executive had been granted. The bill must be judged on the basis of what it says, not by the use that the minister proposes to make of it.

The decline in the salmon population was the subject of intensive research by the salmon strategy task force that was set up in 1995 and reported four years ago. As is now generally accepted, it found that the decline was due mainly to mortality at sea, not to anything that was happening on rivers and affecting spawning. It found no evidence of a deficiency of smolts leaving individual rivers, but recommended that that should be monitored.

The report did not recommend or even suggest that the Executive, except in cases of emergency, should be given any additional powers to act other than on an application by a board, let alone the unlimited power that the Executive is seeking. It is utter nonsense to suggest, as Rhona Brankin said in introducing the bill, that it

"will secure the long-term future of . . . fisheries."—[*Official Report*, 23 November 2000; Vol 9, c 337.]

That future depends on effective measures being taken to arrest the causes of the decline, not on restrictions on the current activities of fishermen and the inevitable effect on tourism and local economies.

The Salmon Conservation (Scotland) Bill is concerned with the management of fisheries and not directly with conservation, in spite of its title. It seeks to amend an act that relates to administration, not conservation. Of course good river fishery management includes the adoption of methods of fishing that are consistent with the river's requirements and those of the locality it serves, but that is only part of good management. Equally—if not more—important is the protection of spawning grounds and juvenile stock from the effects of agricultural and forestry practices, pollution, predation, erosion and flooding.

The Executive raised the better general management of fisheries in its "Protecting and Promoting" document, but the bill does nothing to secure that. The bill prejudices consideration of issues that were expressly raised in that document and the minister's letter that accompanied it. Any restrictions of fishing should be introduced in the overall context of general management, not in piecemeal legislation such as the bill.

The minister stated her intention to exercise the power largely on the application of boards, which

the bill allows to apply for regulations, but the bill makes no provision that restricts the ability of future Executives to confine exercise of the power in that way. The minister has said that boards asked for more powers and that the bill delivers what they need. That is misleading. What boards asked for is in the document that was issued in June 2000 and was the only basis on which any prior consultation took place.

That document proposed legislation to give additional powers to boards to apply for regulations that would restrict fishing in some respects. The document proposed no power for the Executive to introduce restrictions other than on the application of boards, except in an emergency. The bill gives the Executive unlimited power to prohibit or restrict fishing, whether or not the boards make an application. Boards and others have made unsuccessful attempts to persuade the Executive to restrict that unlimited power to what was proposed in the consultation document.

The Salmon and Trout Association represents all angling interests—unlike the Association of Salmon Fishery Boards—and has now sent a circular to its members to say that the bill could be extremely damaging for Scotland's micro-fisheries and that there is a danger that it will not receive the popular support of anglers. The Conservatives agree with that view and therefore oppose the bill. If it is passed, it will do nothing for conservation.

12:32

**Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** After hearing Jamie McGrigor's speech, I think that he should be a member of the Rural Development Committee. If he came to more of our meetings, he would understand the bill.

**Mr McGrigor:** Will the member give way?

**Mr Rumbles:** If Mr McGrigor gives me a moment, I will let him in.

Mr McGrigor made it clear several times that the bill gives the Scottish Executive unlimited power. I will quote from the bill about which Jamie McGrigor is so ignorant. New section 10D(1) says:

"Regulations under section 10A of this Act shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Scottish Parliament."

What Jamie McGrigor has just said on behalf of the Scottish Conservative party is untrue. It relates not to fact, but to fantasy. The Scottish Conservatives would serve their cause better if they read the bill before they commented on it.

Fergus Ewing's amendment to the motion contrasts with Jamie McGrigor's speech. It suggests that the Parliament

"notes that the measures for the conservation of salmon which the Bill will allow are limited in nature".

**Richard Lochhead:** Given that the member has only a few seconds left, will he discuss the Liberals' approach to the bill and their policy?

**Mr Rumbles:** I am coming to that. We should not forget the SNP's strange amendment. A few moments ago, Fergus Ewing—in whose name the amendment appears—talked about unfettered power, when John Home Robertson intervened on him. Now, the unfettered power has suddenly turned into power of a limited nature. Come on. The SNP cannot have it both ways, although it tries to yet again.

I am happy to say that the Liberal Democrats are absolutely delighted with the minister's work on the bill. There were two themes of concern—that fisheries management and that consultation with district boards were not mentioned in the bill. As a result of today's amendments and of compromise, both those issues will be included. That is absolutely clear. I have no hesitation in saying that the Liberal Democrats fully support the bill, which will do great things for conservation and fishery management on our rivers.

Remember that the bill has a limited function. It is about the conservation of salmon in the freshwater phase of their lives. The bill is about taking action where we can, now. I am pleased that it has almost all-party support; I am not sure about the Conservatives.

At the end of the day, this is a practical issue. We are getting on with the practicalities—the Liberal Democrats are very much in favour of that. There is more work to be done, for example on fish farming and related issues—the committee will work on them—but I commend the bill, as amended, to the chamber.

**The Deputy Presiding Officer:** As six members have asked to speak, and the Minister for Rural Development is still to wind up, I ask that speeches be kept tight.

12:35

**Mr John Home Robertson (East Lothian) (Lab):** Having heard a few moments ago from Fergus Ewing the mortality commissioner—an appropriate title—we now have Richard Lochhead the consolidator. He has spoken in support of an amendment that asks that

"as the existing corpus of statute law relating to salmon fishing and conservation is both complex and fragmented, a Consolidation Bill be brought forward as soon as practicable."

Consolidation means codifying and re-enacting all the Victorian legislation that we discussed earlier. I do not want to consolidate all that legislation; I

want to consign it to history. I hope that we will be able to do so as soon as possible, in view of what the minister has said about the green paper.

The fundamental point about the bill is that over the years there has been an alarming decline in salmon and sea trout stocks in Scottish rivers. We have a duty to do everything in our power to protect those important species, primarily because salmon are an important part of Scotland's natural environment, but also because they are an important element in our rural economy—important for Scottish anglers, for visitors and for the tourism industry—and because we have a duty to play our part in international efforts to safeguard these magnificent fish for the future.

Earlier—and not for the first time—I registered my strong feelings about the composition of district salmon fishery boards and the need for fresh legislation to make them more representative, inclusive and accountable. I am happy to acknowledge the good work of many boards—and indeed of the Association of Salmon Fishery Boards—but the fact remains that it is not tolerable in the 21<sup>st</sup> century to leave such responsibilities and such extensive powers in the hands of bodies that are dominated by landowners. That is why I was truly delighted to hear Rhona Brankin's announcement that a green paper will be published in the summer on the important issues covered by the consultation paper on protecting and promoting Scotland's freshwater fish and fisheries. I pay tribute to the minister for acting on this matter as promptly as she suggests she will.

For the time being, the district salmon fishery boards are the only bodies available to implement the important measures covered by the bill. It would be truly appalling if we were to get to the stage where someone, somewhere, earned the distinction of being the angler who killed the last salmon returning to a Scottish river. That must not be allowed to happen and it is what the bill is all about. The bill includes provision for consultation with anglers and environmentalists and essential fallback powers for ministers to make regulations under section 10A(3).

The bill is absolutely necessary as a stopgap measure. It would have been very difficult to find time for the issue at Westminster. I do not remember any Scottish National Party member at Westminster introducing such a bill, so it is a bit silly for Richard Lochhead to say that the Government should have done it in the past. However, I congratulate Rhona Brankin on taking this important bill through Parliament. Having worked with some of the bill team in the early stages, I too know that they worked hard on it. Above all, I eagerly look forward to returning to the far bigger issues, when Rhona returns to the Parliament with her green paper in the summer.

12:39

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** I think that all members are in total agreement on the importance of salmon fishing for Scotland. It is essential for tourism and for the economy of many of the constituencies that we represent. We can therefore agree—and we have all agreed—that we all share the aim of conserving salmon, which is, in many ways, a symbol of Scotland abroad. The question is whether the bill achieves that aim. By acknowledging the bottom line that fewer fish are surviving the marine phase of their lives, the minister clearly acknowledges that that is where the real problem lies. We welcome the measures in the bill, although there are serious imperfections in the bill and although we are reliant on the good intentions of the minister of the day in exercising widely drawn powers in a responsible way.

I remind members of the comments of the director of the Association of Salmon Fishery Boards, who said that he wished

“strongly to emphasise that only some of the causes of reductions in salmon stock . . . can be attributed to the part of the life cycle over which Salmon Fishery Boards may exercise any control. The Association believes that many of the major drivers of salmon stock abundance are in the marine phase of the species' life-cycle”.

Rhona Brankin acknowledged that in her remarks, and repeated that there are many bodies that give advice. However, I urge her to reflect on why, if everything is hunky-dory and if all those bodies are providing adequate advice, we have seen such a spectacular decline—85 per cent in four decades—in the level of salmon stocks.

It seems that the existing procedures are not operating correctly. That is why the SNP believes that there should be an action plan. Many of the Nickson report's recommendations should receive more careful consideration. That report was published five years ago. I was pleased to hear the minister confirm that there is an exercise to consolidate the existing legislation. To answer John Home Robertson's point, to reform the law one must first know what the law is at the moment. We obviously want fundamental reform of the existing law. In order to achieve that aim, we need to have a clear understanding of the many statutes that exist. I believe that most members recognise that.

It is absolutely imperative that an action plan be drawn up, and I hope that, however members vote today, the Executive will give my proposal serious consideration for the sake of conserving salmon.

12:42

**Alex Fergusson (South of Scotland) (Con):** In accordance with your previous instructions,



Presiding Officer, I shall be brief. However, I ask your indulgence for one moment, as I should have declared an interest earlier in today's proceedings. I own a short stretch of a very unproductive river, and I hope that members will forgive me for not having said that earlier. In previous debates and committee meetings, I have always been scrupulous in declaring that interest.

I should also put in a word of defence for my colleague Jamie McGrigor against Mr Rumbles's completely unwarranted personal attack. My colleague is too decent to say so himself but, as the Conservative fisheries spokesman, he was present at every meeting of the Rural Affairs Committee at which the bill was discussed. Mr Rumbles would do himself more favours—

**Mr Rumbles:** Will Mr Fergusson give way?

**Alex Fergusson:** He would do himself more favours if he stuck to the facts and left off the rather unpleasant personal attacks.

**Mr Rumbles:** Will Mr Fergusson give way?

**Alex Fergusson:** Of course I shall give way—if only Mr Rumbles had the grace to wait until I had finished my sentence.

**Mr Rumbles:** My point was that Jamie McGrigor was taking the view that the bill gave unfettered power to Scottish ministers. He had not even read the bill. It is made quite clear in the bill that that is not the case. He was completely unaware—

**The Deputy Presiding Officer:** I do not think that we should labour this point much longer.

**Alex Fergusson:** I shall not labour it any further at all, Presiding Officer.

I found the passage of the bill, both through the Rural Affairs Committee and through the Parliament, somewhat disturbing. It was introduced as a non-controversial bill that all of Scotland would welcome. However, controversy has increased as the bill has progressed. I find that worrying. That alone should set alarm bells ringing, but the bells should be all the louder when we are told, as I have been told increasingly, that the bill will do little for conservation and is really an attempt to transfer slightly increased power from the local river boards to the Scottish Executive. The Scottish Executive has tried its hardest to consolidate that power by resisting all attempts to make local consultation mandatory. In short, the bill is more about powers of river management than about conservation.

At stage 1, the Conservatives gave a cautious welcome to the bill. Our caution has been absolutely justified. It is to my great sorrow that we are unable to lend our support to the bill any longer. It is generally agreed that the Scottish salmon strategy task force report of 1995

contained many of the answers required to address salmon conservation effectively. The bill does not contain enough of that report's recommendations to persuade us that it is anything other than an inadequate piece of legislation, somewhat hurried through the Parliament, which seeks to empower the Executive, without expense, in a way that will do virtually nothing for the conservation of salmon in Scotland. This party will not lend its name to poor and ineffective legislation. Because of that, sadly, we will not support the bill.

12:45

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

We are all aware of the problems of the wild salmon fishery and of the reasons for the need for this bill so I will not repeat them. It is obvious that we need more research, but I am sure that some is taking place and the bill allows us to gather, consolidate and make use of that research.

The bill has been criticised as being too little, too late, because it addresses only rivers and is only enabling legislation, but I am sure that that criticism will be allayed by the minister's statement this morning of her intention to introduce a green paper. Others have complained that the bill is an infringement of their human rights because it allows Scottish ministers and district salmon fishery boards to legislate on the way that they fish. It has also been argued that the bill gives too much power to district salmon fishery boards and/or Scottish ministers—people can take their pick. The fact that all those arguments have been made leads me to believe that the balance between the powers given to each of the bodies has been struck properly.

A lot of the objections can be put down to suspicion of the unknown, because the measures that will be taken will not become clear until the secondary legislation is in place. The bill does allow the secondary legislation to address local circumstances. That is important, as a lot of the evidence that we have taken has shown that there are many reasons for the downturn in salmon stocks, depending on the river. The bill allows for local solutions to problems. Contrary to many rumours the legislation will be consulted on—everyone involved will have a voice.

I hope that by the end of the day the legislation will be in place and that we will have another tool to tackle salmon conservation. We must look forward to consider how the bill will be used. We must never forget that without salmon there will be no fishery. Those who feel that their interests are being affected by the bill should consider that—if there were no fishery, their interests would be severely affected.

We must also consider the way forward. Many issues that came up for discussion cannot be part of this bill. We need to consider the make-up and role of district salmon fishery boards. Not all rivers have boards and the make-up of boards is not uniform. Some boards are progressive and do a lot of good work; others are not and do not. We need to examine the legislation that governs them and ensure that best practice is put in place throughout the country. We must consider too the role of water bailiffs and whether their powers are relevant in a modern society. If they are, we must consider standardisation, training and accountability. If they are not, we must consider other options for policing rivers.

All those are questions that must be addressed in the future and that could not have been addressed under the bill. I urge members to support the bill and to put local solutions in place that will conserve salmon.

12:48

**Euan Robson (Roxburgh and Berwickshire) (LD):** I am pleased to support the bill. It is a limited measure, but a useful first step. I want to thank ministers for their patience when we dealt with new section 10A(3A) and for the compromise that they accepted. Today's statement is helpful and clarifies that even within the context of the bill as it stands, a revocation can take place if stocks improve after a regulation is made.

The minister said that the focus of my amendment would switch from fish to fisheries. I remind her that section 10 will be inserted into a section of the Salmon Act 1986 headed "General regulation of salmon fisheries", but there we are. There will be enough what might be termed Pepper v Hart-type statements in the *Official Report* of today's meeting to satisfy those who had the concerns that I attempted to articulate.

The bill is a useful first step. I hope that a number of measures will be implemented at a later date. In particular, I hope that we will be able to return to the issue of habitat, because I believe that there are major opportunities in that area. I regret that I was not able to draw up an amendment that was effective enough for this bill. Salmon is a vital resource for Scotland and it is a major income earner. We must protect it and this bill sends out that signal to all. We can progress from here.

I was interested during the debate in the insistence of my constituent John Home Robertson—I see that he is returning—on the reform of district salmon fishery boards. I accept that there may be occasion to do that later and it may be valuable to do so. However, I remind him that not all district salmon fishery boards are

proprietor dominated. The River Tweed commissioners are not exactly a district salmon fishery board, but the proprietors are outnumbered and outvoted on a number of occasions by angling club members, one of whose complement I am.

Interesting times are ahead. We have made a useful start today. I congratulate the minister on taking this bill through and thank her again for her patience and courtesy when dealing with section 3.

12:51

**The Minister for Rural Development (Ross Finnie):** Presiding Officer, I first respond to your stricture on failure to give due notice of substantive points of order. I apologise for that. You are quite right that if one is going to raise a matter of significance, one should give due notice.

The Executive wishes to underscore the general support that has been given today for the objectives of the bill. Although some have contended that obstacles in the path of the bill might prevent it making a difference, I refute those assertions. What we have here is more than we have ever had before. This bill adds significantly to the ability of fishery managers to manage their resource effectively for the good of salmon and for the good of Scotland.

I do not believe that the SNP amendment adds anything to the matters under consideration. I am glad that Fergus Ewing noted that ministers have conceded that consolidation is under consideration. We will bring it forward, subject to parliamentary time. At no stage—neither at stage 1 nor at stage 2—have we pretended that this was other than a limited piece of legislation, which was intended to amend the Salmon Act 1986. We have never said that dealing with the problems of salmon did not require wider consideration. Therefore, statements of the obvious seem not to add much to our consideration.

This is an enabling bill. The details of any measures to be introduced will necessarily have to be tailored to meet the needs of the district where they will be applied, and those will be spelled out when regulations are made. I stress that any proposed regulations will be the subject of full consultation. The bill requires that, and it is only right and proper. That is the time for matters of detail to be considered.

I say to Jamie McGrigor that I am astonished, because I have not heard it before, that the Conservatives in this Parliament believe that the procedures for dealing with secondary legislation—the procedures for consultation, consideration before a committee and having a vote in Parliament—are so fatally flawed that the process does nothing more than give unfettered

and unlimited powers to a minister. I put it to Jamie McGrigor that that is not the case. All those procedures mean that any regulation that is proposed under this bill will be subject to scrutiny. Ministers do not, under this bill, gain full and unfettered powers.

**Mr McGrigor:** How much consultation was there on this bill?

**Ross Finnie:** It was subject to the usual pre-legislative scrutiny, which is part and parcel of the procedures of the Parliament. I regret that Mr McGrigor is unaware of that. I repeat that we will adopt that procedure for the introduction of regulations.

The Tories have now totally withdrawn their support for the bill. I find that equally surprising, because they did so on the contention that this bill should have contained more measures. Let us consider the marshalled list of amendments lodged by the Tories today and at stage 2. If one adds them up, even if they had been accepted they would have made no substantial difference to this bill in any shape, size or form. Here we have a party that lodges what are, no doubt, worthy and well-thought-out amendments at stage 2 and stage 3 of the bill's progress, which do not add up to provision of the substance that the Conservatives claim is missing from the bill. I am extremely surprised that the Conservatives are withdrawing their support for the bill.

**Mr McGrigor:** Does the minister deny that the two purposes of the bill are to give the Executive power and to stop salmon being killed?

**Ross Finnie:** Well, yes. [*Laughter.*]

**The Deputy Presiding Officer:** Minister, I do not want to hear long theological arguments at this point. I would prefer to be finished by 1 o'clock.

**Ross Finnie:** A self-denying ordinance on questions that ask questions and then repeat themselves is interesting. I will accept the Presiding Officer's stricture. I will not get into a theological argument, but I will move on.

We all recognise that Atlantic salmon face many problems. I repeat that the bill does not seek to address them all, not least because we have not identified all the problems. We must do that before we can think of ways to address them. We know about many factors that we in Scotland cannot address on our own. Some of the problems that beset our salmon occur when the fish are well outside our area of jurisdiction. We are active participants—part of the European Union delegation—in the North Atlantic Salmon Conservation Organisation, and we will continue to make the case for Scotland's salmon to that body.

There are, however, some matters over which we can exercise some direct control. We know

that there might be times when measures will have to be implemented to regulate the numbers of salmon that are being killed and we know that local managers will need access to information on which they can base their management programmes. The bill addresses those needs.

**Fergus Ewing:** If I understood the minister's earlier remarks correctly, he supports the two parts of my amendment to the motion on the bill that say that the bill is limited in its scope and that there should be consolidation. The third part of the amendment says that there should be an action plan. Does the minister support that part of the amendment? If not, what does he suggest as an alternative? Will he apply the precautionary principle to the threats to salmon during their marine phase about which we have clear research?

**Ross Finnie:** We are already doing that. I have indicated that, in so far as all those matters were dealt with at stage 1 and stage 2 and are being dealt with today during stage 3, Mr Ewing's amendment to the motion adds nothing to our deliberations.

I conclude by saying that the salmon has been important to Scotland for as long as there have been people around to fish for it. We need only think of the salmon that are represented on the coats of arms of many of our Scottish cities and towns to recognise the place that is held by the species.

We want to ensure that the salmon remains important and that it remains in sufficient numbers to allow our long-established and hugely important salmon fisheries to continue. Today, we have the opportunity to endorse a bill that honours our obligations to protect Scottish salmon and which takes a first step in that direction. There can be no better start to our record of achievements in 2001. I call on Parliament to give its unqualified support to the Salmon Conservation (Scotland) Bill and to reject the SNP amendment.

## Business Motion

**The Deputy Presiding Officer (Mr George Reid):** The final item of business before lunch is consideration of business motion S1M-1520, in the name of Mr Tom McCabe, on behalf of the Parliamentary Bureau, setting out the business programme. I ask any members who wish to speak against the motion to press their request-to-speak buttons now.

I call Tavish Scott to move the motion.

12:59

**The Deputy Minister for Parliament (Tavish Scott):** Before I move the motion, I intimate to Parliament three minor adjustments to next week's business. On Wednesday 17 January, two Sewel motions will be moved in the afternoon. Similarly, on Thursday 18 January, there will be a Sewel motion moved at 2 pm. The Conservative party has chosen fisheries and a route action plan as the matters for debate during the morning of Thursday 18 January. I am grateful to Lord James Douglas-Hamilton for intimating that to me.

I move,

That the Parliament agrees

(a) the following programme of business—

Wednesday 17 January 2001

2.30 pm	Time for Reflection
<i>followed by</i>	Parliamentary Bureau Motions
<i>followed by</i>	Stage 1 Debate on the Mortgage Rights (Scotland) Bill
<i>followed by</i>	Executive Debate on the Health and Social Care Bill - UK Legislation
<i>followed by</i>	Executive Debate on the Tobacco Advertising and Promotion Bill - UK Legislation
<i>followed by</i>	Parliamentary Bureau Motions
5.00 pm	Decision Time
<i>followed by</i>	Members' Business - debate on the subject of S1M-1474 Janis Hughes: Acute Health Service Review in South Glasgow

Thursday 18 January 2001

9.30 am	Scottish Conservative and Unionist Party Business
12.15 pm	Ministerial Statement
<i>followed by</i>	Business Motion
2.00 pm	Executive Debate on the International Criminal Court Bill – UK Legislation
2.30 pm	Question Time
3.10 pm	First Minister's Question Time

3.30 pm	Executive Debate on the Scottish Strategy for Victims
<i>followed by</i>	Parliamentary Bureau Motions
5.00 pm	Decision Time
<i>followed by</i>	Members' Business - debate on the subject of S1M-1454 Alex Neil: Hepatitis C

Wednesday 24 January 2001

2.30 pm	Time for Reflection
<i>followed by</i>	Ministerial Statement
<i>followed by</i>	Committee Business
<i>followed by</i>	Parliamentary Bureau Motions
5.00 pm	Decision Time
<i>followed by</i>	Members' Business

Thursday 25 January 2001

9.30 am	Scottish National Party Business
12.15 pm	Ministerial Statement
<i>followed by</i>	Business Motion
2.30 pm	Question Time
3.10 pm	First Minister's Question Time
3.30 pm	Stage 1 Debate on the Budget (Scotland) Bill
<i>followed by</i>	Parliamentary Bureau Motions
5.00 pm	Decision Time
<i>followed by</i>	Members' Business - debate on the subject of S1M-1506 David Mundell: Robert Burns

and (b) that the Rural Development Committee reports to the Health and Community Care Committee by 2 February 2001 on The Fresh Meat (Beef Controls) (No 2) Amendment (Scotland) Regulations 2000 (SSI 2000/449) and on the Feeding Stuffs (Scotland) Regulations 2000 (SSI 2000/453)

**The Deputy Presiding Officer:** As no member has asked to speak against the motion, I will put the question.

The question is, that motion S1M-1520, in the name of Mr Tom McCabe, on behalf of the Parliamentary Bureau, be agreed to.

*Motion agreed to.*

12:59

*Meeting suspended until 14:30.*

14:30

*On resuming—*

**The Presiding Officer (Sir David Steel):** We begin this afternoon with question time.

**Mr Jamie McGrigor (Highlands and Islands) (Con):** On a point of order, Presiding Officer.

**The Presiding Officer:** Is it about question time?

**Mr McGrigor:** No.

**The Presiding Officer:** In that case, would you mind holding your point of order until the end of question time, so that we do not hold things up?

**Tricia Marwick (Mid Scotland and Fife) (SNP):** On a point of order, Presiding Officer.

**The Presiding Officer:** Is it about question time?

**Tricia Marwick:** No. I have given notice that I was going to raise this point of order.

**The Presiding Officer:** Well, could you leave it to the end so that we do not take up time for question time? I will take both points of order at half-past 3.

## Question Time

### SCOTTISH EXECUTIVE

#### Parliamentary Commissioner for Administration

**1. Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** To ask the Scottish Executive whether it is envisaged that it will be the practice of the Scottish parliamentary commissioner for administration to supply to complainants all written details of evidence gathered during his investigations. (S1O-2752)

**The Deputy Minister for Finance and Local Government (Peter Peacock):** We will consider fully the outcome of the current consultation exercise before deciding whether any change in current practice is justified.

**Mr Rumbles:** The first Scottish Government's consultation document "Modernising the complaints system: consultation on public sector ombudsmen in Scotland", which covers all public sector ombudsmen including the Scottish parliamentary commissioner for administration, contains a commitment to a modern complaints system for the Scottish public sector which will be open, efficient, accountable, responsible to public need and which has the trust of the Scottish people. I have been contacted by several

constituents who, after making complaints to a public sector ombudsmen and being informed that no evidence of maladministration was found, would have appreciated the opportunity to see for themselves on what evidence decisions were based. That lack of openness frequently results in people losing faith in the process. As a result, would not it be good practice for our watchdogs to be fully open and transparent in their rulings, including providing the evidence on which they base their decisions, so that people have faith in the whole system and the good government of Scotland?

**Peter Peacock:** It will be very important to strike a balance between guarantees to individuals—who will then feel able to provide information to ombudsmen on the basis of which ombudsmen can investigate a complaint fully—and freedom of information. We will weigh up that matter when we examine the results of the consultation. The consultation process has specifically sought the experience of previous complainants to ombudsmen; that exercise will be particularly relevant to Mr Rumbles's point if responses show that the feeling that he mentions proves to be consistent. If Mr Rumbles will write to me with details of the particular cases that he mentioned, I will be happy to take them into account.

#### Housing (Scotland) Bill

**2. Mr Michael McMahon (Hamilton North and Bellshill) (Lab):** To ask the Scottish Executive how its housing bill will meet the needs of homeless people and others in the most housing need. (S1O-2769)

**The Minister for Social Justice (Jackie Baillie):** Meeting the needs of homeless people is central to the Housing (Scotland) Bill and the Executive's housing policy. The bill incorporates all the recommendations made by the homelessness task force, which will strengthen the rights of homeless people and place new duties on local authorities and registered social landlords.

**Mr McMahon:** Will the minister confirm that the measures contained in the Housing (Scotland) Bill contribute to the achievement of the Executive's target that no one need sleep rough by 2003?

**Jackie Baillie:** The bill's provisions will ensure that every person who is assessed as homeless will have new rights to a minimum package of support that includes advice and assistance and, in particular, access to temporary accommodation. That particular provision will provide accommodation for people who are not currently considered to be in priority need and who end up sleeping rough on Scotland's streets. The bill's provisions will help prevent that from occurring in future.

**Mr Keith Harding (Mid Scotland and Fife) (Con):** After four years of Labour government, during which homelessness in Scotland has reached record figures, can the minister give one good reason why we should have any confidence that the proposals will be better than the action that has been taken to date?

**Jackie Baillie:** As I am sure the member knows, homelessness peaked during the period of the previous Conservative Administration. It will take time to tackle homelessness now, but the real prize is to prevent it from occurring in the future.

**Elaine Smith (Coatbridge and Chryston) (Lab):** Given that the bill as introduced proposes that local authorities retain statutory duties to homeless persons and that, through the stock transfer agenda, they are likely to have a diminishing landlord role and will therefore rely more on other social landlords to house the homeless, will the minister indicate what constitutes a good reason for such landlords to refuse a council's request to provide a tenancy as outlined in section 4 of part 1 of the bill?

**Jackie Baillie:** The homelessness task force is especially keen to ensure that the homelessness functions of local authorities will increasingly be delivered in partnership with registered social landlords. We have therefore introduced new arrangements to ensure such effective co-operation. It would be inappropriate, for example, to place a family of five in sheltered accommodation that was reserved for pensioners, where there is insufficient space. In such a case, it would be entirely reasonable for a registered social landlord to decline the offer of a placement.

### Residential Nursing Care

**3. Kay Ullrich (West of Scotland) (SNP):** To ask the Scottish Executive—if Executive is the right word, and not Government—what steps are being taken to ensure that local authorities have sufficient funding to provide nursing home places immediately for all those assessed as being in need of long-term care following Lord Hardie's judgment in the case of *MacGregor v South Lanarkshire Council*. (S10-2758)

**The Deputy Minister for Health and Community Care (Malcolm Chisholm):** I cannot refer specifically to matters that are the subject of legal proceedings. The Executive has already taken action to increase the quality and availability of appropriate care and will continue to do so.

**The Presiding Officer (Sir David Steel):** Before I call any supplementaries on this question, I advise members that, because the matter is sub judice, no reference should be made to the substance of the case.

**Kay Ullrich:** I thank the minister for his answer

although, as usual, it was terribly vague. We hear once more the sound of dragging feet. I remind the minister that, while he ducks and dives, more than 2,000 people are languishing on waiting lists with their assessed needs unmet. Will the minister ensure that local authorities have sufficient funding to carry out their statutory duties under section 12 of the Social Work (Scotland) Act 1968, or will he continue to duck and dive and pass the buck while allowing this miserable situation to continue?

**Malcolm Chisholm:** The first answer is always general. I could cite many details, if the Presiding Officer allowed me to, which have been cited in recent parliamentary debates.

The reality is that the Executive has launched major initiatives this winter to deal with the problem, and the latest census of those who await discharge will take place next week. Anecdotal evidence on winter planning from the many contacts that we have made suggests that the pressure of delayed discharges has been reduced as a result of the extra resources that the Executive allocated this winter. Up to 700 beds have been opened and many extra places have been made available in nursing homes and community services.

There is also a role for local authorities and, in that context, it is most important that local authorities spend nearer to their grant-aided expenditure for both residential care and home care services for the elderly.

**Mary Scanlon (Highlands and Islands) (Con):** How will the minister hold councils to account for their spending on care for the elderly, given that the Sutherland commission found that £750 million that was given to councils in England and Wales for care of the elderly was not spent on the elderly, and that Sir Stewart Sutherland confirmed, in evidence to the Health and Community Care Committee, that £75 million had possibly been lost in Scotland?

**Malcolm Chisholm:** I have highlighted the issue of GAE spending on the elderly. The considerable new resources that we announced on 5 October—up to £100 million for care of the elderly—will be allocated under a new system. A number of outputs for that money will be agreed between the Scottish Executive and local authorities and we will ensure that the money is spent on the many services for the elderly that Susan Deacon outlined on 5 October.

**Dr Richard Simpson (Ochil) (Lab):** As a result of the excellent work that has been undertaken by the information services division of the common services agency, in producing the statistics on delayed discharges, at least we have the facts. Can the minister assure me that the waiting times for those individuals who are, unfortunately,

delayed discharges will be restricted? Does the Executive intend to introduce targets as part of the system of allocation of funds to local authorities, to ensure that no one will have to wait longer than a year?

**Malcolm Chisholm:** It is clear that the assault on delayed discharge is right at the top of the list of the Executive's priorities for health and community care. As Richard Simpson indicated, those who wait the longest must be dealt with as a matter of the greatest urgency. The Executive is utterly committed to that, in terms of the announcement that was made on 5 October and future policy developments.

### Number Plates

**4. Mr Andrew Welsh (Angus) (SNP):** To ask the Scottish Executive what representations it has made to Her Majesty's Government regarding the proposed new regulations on number plates which would outlaw the Saltire being displayed. (S10-2759)

**The Minister for Transport (Sarah Boyack):** None.

**Mr Welsh:** Government by cop-out, as usual.

When European regulations say yes and the UK says no, why has the Scottish Government made no representations on the Westminster Executive's proposal to ban the Saltire from car registration plates? That is an issue of freedom of choice for the Scottish people and a specifically Scottish interest is at stake. Why is the Scottish Government failing to represent the Scottish motorist?

**Sarah Boyack rose—**

**The Presiding Officer:** No—there is more.

**Mr Welsh:** If Labour ministers will not speak up for the Scottish people on this issue, the Scottish people certainly will.

**The Presiding Officer:** Order. I think we have got the question now.

**Sarah Boyack:** Mr Welsh's question demarcates the difference between the nationalists and the rest of the Parliament. As Mr Welsh discovered when he asked a similar question in Westminster, the European regulations stipulate that the distinguishing sign must be that of the member state. Under international treaties, for us the sign is "GB" for vehicles that are registered in Great Britain. That does not rule out people being able to use "SCO" or Saltire stickers and will allow Scottish motorists still to display on their vehicles the signs that they wish to display. I think that we all agree on that point.

**Dennis Canavan (Falkirk West):** Will Scottish

drivers or indeed, Scottish ministers, be allowed to have L-plates with the Saltire on them? Are regulations on this matter not best left to the Scottish Government?

**Sarah Boyack:** If Mr Canavan so wishes, I will be happy to write to him about L-plates and whether national symbols should be displayed on them.

### Crown Estate

**5. George Lyon (Argyll and Bute) (LD):** To ask the Scottish Executive what recent discussions it has had with the Crown Estate. (S10-2737)

**The Deputy Minister for Sport and Culture (Allan Wilson):** The Scottish Executive is in regular contact with the Crown Estate on a range of issues.

**George Lyon:** I thank the minister for his answer.

Is the Scottish Executive pressing for an end to the Crown Estate's right to levy a production tax on the aquaculture industry? Will he clarify when we can expect planning powers for the sea bed, which are held by the Crown Estate, to be transferred to local authorities?

**Allan Wilson:** The administration of the Crown Estate is a reserved matter. While I am personally sympathetic to the point made by George Lyon, the matter is part of the Scotland Act 1998 and part of Scotland's constitutional settlement.

The planning control issue that George Lyon raised, on which we are consulting, will require primary legislation. In the meantime, interim arrangements are in place to enable local authorities to have a say in the planning process.

### Edinburgh Royal Infirmary

**6. Mr John Home Robertson (East Lothian) (Lab):** To ask the Scottish Executive what progress is being made with the construction of the new Edinburgh royal infirmary. (S10-2741)

**The Minister for Health and Community Care (Susan Deacon):** I am pleased to advise that the new royal infirmary of Edinburgh is on schedule for completion in the spring of 2003 and that the project remains within budget.

**Mr Home Robertson:** The minister may be aware that I nagged a succession of health ministers for quite a long time about the need for a new teaching hospital to replace the historic royal infirmary building. I welcome the fact that a Labour minister is delivering our new teaching hospital in accordance with the promises that were set out in the partnership's programme for government.

However, is the minister at all concerned that

certain politicians might try to find fault with the new hospital? Has she found anybody anywhere in the Lothians who would prefer to have spent the resources that are going on the new hospital on setting up a Scottish delegation to the United Nations or a Scottish embassy in Estonia?

**Susan Deacon:** My experience of speaking to people in the Lothians and throughout Scotland is that they are far more interested in devolution delivering improvements in their public services than they are in silly constitutional skirmishes.

I share a constituency interest in the new Edinburgh royal infirmary with John Home Robertson and it is right to point out that the people of Edinburgh and the Lothians have waited not years, but decades for the development of the hospital. We should be celebrating the fact that that project is rising from the ground and that it will be welcoming patients within the next few years.

**Ms Margo MacDonald (Lothians) (SNP):** I promise that I will not get into a "silly constitutional skirmish"—I am sure that the minister will recognise the real thing when she meets it. I am concerned about the practical application of the policy in regard to the new hospital, which is being built not with Scottish resources, but with private resources for private profit, as everybody in the chamber is well aware. I would like to know about the proposed size of the increased car parking facilities. Will the car park be free—which would leave the people in housing that is close to the hospital undisturbed and which would be fair for people who are visiting relatives in hospital—or will Consort Healthcare use the car park to make an even bigger profit from the so-called cutting edge of medicine in Scotland?

**Susan Deacon:** I indicated the significance of the development. While I think that it is right and proper that local members should ask—probably at a local level—questions of detail about how the project is managed, it is important that we do not lose sight of the big picture. The development is part of Scotland's biggest-ever hospital building programme. Issues such as car parking are a matter to be resolved at a local level. I am pleased that there has been effective co-operation between the NHS and the local authorities to ensure that progress takes place on those issues.

I am pleased also that the investment in transport that is being made by the Executive is contributing to the project. However, the big and important issue is that there is record investment in our public services and in the NHS in Scotland. People in the Lothians and throughout Scotland are benefiting from that.

### Contaminated Land

**7. Robert Brown (Glasgow) (LD):** To ask the

Scottish Executive what recent assessment it has made of the amount of contaminated land in (a) Glasgow and (b) Edinburgh. (S1O-2736)

**The Deputy Minister for Sport and Culture (Allan Wilson):** None. Under the terms of the new statutory regime for identification and remediation of contaminated land, which came into force on 14 July 2000, it is the responsibility of each local authority to identify contaminated land within its area.

**Robert Brown:** Does the minister accept that contaminated and vacant land—which represents about 9 per cent of Glasgow—is not only a problem, but a major economic opportunity for areas such as Glasgow and Lanarkshire? Does he also accept that targets for reclamation should be adopted—as recommended by the Scottish Office-sponsored Pidea study in 1997—and that that would require an additional injection of public funding? Finally, does the minister agree that the economic revival of Glasgow's west end, for example, would be greatly helped by industrial development projects on sites such as the former Provan gasworks?

**Allan Wilson:** The Executive has shown by its actions its commitment to ensuring that land that has been contaminated is made safe and is returned to productive economic use. Over the five years from 1999 to 2004, £24.4 million is being allocated to local authorities for contaminated land inspection, identification and recording. Once the local authorities have prepared their inspection strategies, which should be by October 2001, we hope to have sufficient data to set targets for returning contaminated land to productive economic use.

**Mike Watson (Glasgow Cathcart) (Lab):** Will the minister comment on the use of brownfield sites for house building, particularly social housing? Can he say anything about the cleaning up of contaminated land in our major cities, particularly Glasgow and Dundee, so that more people will be encouraged to come back to live in those cities and contribute to their economic regeneration?

**Allan Wilson:** The restoration of brownfield sites for either human habitation or productive industrial use is a priority of the Executive. We believe that the additional resources that we are giving to local authorities over that five-year period will enable them to make good use of that money to use brownfield sites either for human habitation or for a productive economic purpose.

### Acute Services Review (Glasgow)

**8. Mr Kenneth Macintosh (Eastwood) (Lab):** To ask the Scottish Executive whether any of the increased funding made available to Greater



Glasgow Health Board has been allocated to help to implement the acute hospital services review. (S1O-2730)

**The Minister for Health and Community Care (Susan Deacon):** It is for Greater Glasgow Health Board to determine how to utilise this increased funding in accordance with national priorities and local needs.

**Mr Macintosh:** Is the minister aware that residents of East Renfrewshire and the south-east of Glasgow are concerned that any new hospital that is established as a result of the review should be both centrally located and accessible to all? Will the minister consider sympathetically the capital funding requirements of any such proposals?

**Susan Deacon:** I am aware of the sensitivities and concerns in many parts of the country, as important changes take place in the national health service. I am particularly aware of some of the issues that I know Ken Macintosh has raised previously and which he has discussed with me. As we proceed with the modernisation of the NHS, it is important that those issues are properly addressed and that the local populations are properly consulted. In that way, we can ensure that the substantial additional investment that is going into the NHS next year—including a 7.7 per cent increase in funding for Greater Glasgow Health Board alone—is invested in the modern services that people need.

**Mr Kenneth Gibson (Glasgow) (SNP):** As the minister is aware, Greater Glasgow Health Board and South Glasgow University Hospitals NHS Trust are promoting only one site—that of the Southern general hospital—on which to build the much-needed south Glasgow hospital, despite public pressure to consider other locations, to which Ken Macintosh alluded. Does the minister agree that it is important to ensure that a full multi-option appraisal is carried out, covering the other potential sites at Cowglen and the Victoria infirmary? Will she use her powers of persuasion to ensure that some of the funding that is allocated to the acute services review is allocated for that purpose?

**Susan Deacon:** As the member knows, I have taken a close interest in the issue and in the general developments that are taking place in Glasgow. I stress that, if we believe in effective local consultation and discussion and in the need to enhance local accountability for the NHS, as much of that discussion as possible should take place at a local level. In our Scottish health plan, which was published in December, we set out clearly our determination to ensure universally high national standards in Scotland, which would deliver at a local level, in consultation with local populations. For now, the issues remain to be

discussed at a local level. However I will, of course, monitor carefully how things develop in order to ensure that the people of Glasgow get the services that they need, now and in the future.

**The Presiding Officer:** Question 9 is withdrawn.

### **Policing (North Lanarkshire)**

**10. Andrew Wilson (Central Scotland) (SNP):** To ask the Scottish Executive what plans it has further to develop policing provision in North Lanarkshire. (S1O-2761)

**The Deputy First Minister and Minister for Justice (Mr Jim Wallace):** Policing provision in North Lanarkshire is an operational matter for the chief constable of Strathclyde police who, in consultation with his joint police board, will allocate resources according to priorities and demands in the Strathclyde police area.

**Andrew Wilson:** Does the minister recognise that, not only in North Lanarkshire but in communities throughout Scotland, the fear of crime and disorder is on the rise? Does he agree with his federal leader, Charles Kennedy, who pointed out yesterday in the House of Commons that there are fewer police officers on the streets now than in 1997, when the Tories left office and Labour came to power? Is that fact contributing—in North Lanarkshire and throughout Scotland—to the fear of crime?

**Mr Wallace:** I am sure that Mr Kennedy, in exercising his federal responsibilities, was dealing with the situation in England. As far as the situation in Scotland is concerned, I can reassure not only Mr Wilson, but the whole Parliament, that the increase in funding for the police next year will be £44.6 million—6 per cent higher than this year's allocation—and that in May last year, when I announced an £8.9 million increase for police recruitment, the number of police officers was 14,699, whereas the latest figures show an increase to 14,870. That number is expected to rise further as the forces take advantage of the additional resources that this Executive is making available to them.

**Mr Michael McMahon (Hamilton North and Bellshill) (Lab):** Like me, does the minister wonder whether Mr Wilson's interest in policing in England has anything to do with his concern about the possible troublemaking of members of the Scottish National Party at forthcoming Scotland football matches? Will he confirm whether the record £258 million of extra funding for the police in Scotland that is being delivered by this Executive will be sufficient to keep any such troublemakers under control?

**Mr Wallace:** Fortunately, among my many responsibilities, I have none for SNP football

supporters. I can, however, confirm to Mr McMahon that considerable additional resources are being made available. That is no cause for complacency—rather it is an indication of this Executive's commitment to trying to secure a Scotland in which people not only are safer, but feel safer.

**Donald Gorrie (Central Scotland) (LD):** Will the minister and his colleagues help to ensure that there is enough funding for proper and constructive activities, especially for young people? That would avoid their getting into trouble with the police in the first instance. In many areas, such facilities and activities are sadly lacking.

**Mr Wallace:** I agree with the thrust of Mr Gorrie's question. Indeed, during a debate in Parliament last year, I announced that the Executive had made resources available for several pilot studies in different parts of the country to find ways of improving recreational facilities for young people as a means of diversion from criminal and other less socially acceptable behaviour.

#### **Central Heating Initiative (Aberdeen)**

**11. Richard Lochhead (North-East Scotland) (SNP):** To ask the Scottish Executive how many pensioners in the city of Aberdeen are expected to benefit from the implementation of the central heating initiative. (S10-2745)

**The Minister for Social Justice (Jackie Baillie):** Figures for individual local authority areas are not currently available, but the Scottish Executive has given a firm commitment that every householder aged 60 years or more who wants central heating will have it under the terms of the central heating initiative.

**Richard Lochhead:** If the minister cannot give us figures, can she tell us the time scale for delivering the Government's commitment to installing central heating in pensioner households and confirm whether it is dependent on the ballot on stock transfer? If so, why on earth is that the case?

**Jackie Baillie:** The scheme starts in April. It is a five-year scheme, which will run until March 2006. It is a £350 million initiative to install central heating and insulation in 141,000 homes, which has been warmly welcomed.

It is clear that, in the event of stock transfer, the package will be provided by the new landlords. That will be a requirement of the contract that is entered into with them, and the cost of that will be reflected in the value of the stock. If tenants vote against stock transfer, the central heating initiative—paid for by the Scottish Executive—will kick in and no tenant will lose out.

**Phil Gallie (South of Scotland) (Con):** On a point of order, Presiding Officer. On question 10, you seemed to take no account of balance in the chamber.

**The Presiding Officer:** Order.

**Phil Gallie:** You invited the nationalists, the Liberals and the Labour party to ask questions but failed to ask the Conservatives.

**The Presiding Officer:** Order. You cannot challenge the selection of speakers. I was careful to take questions from members with a constituency interest in the question. As far as I know, your constituency is not a part of North Lanarkshire.

**Phil Gallie:** Further to that point of order—

**The Presiding Officer:** No. Order.

**Phil Gallie:** Further to that point of order—

**The Presiding Officer:** There is no further point of order. Sit down, Mr Gallie. We will move on. I call Elaine Thomson.

**Phil Gallie:** Further to that point of order, my constituency is affected by the question—it is part of the Strathclyde police area.

**The Presiding Officer:** Order. Mr Gallie, if you do that again, I will ask you to leave the chamber. You had a fair crack of the whip.

**Elaine Thomson (Aberdeen North) (Lab):** Will the minister confirm that the central heating initiative is not only for council tenants, but for private owners and tenants? Does she agree that energy efficiency measures are just as important as central heating, and that they are possibly more important in terms of cost-effectiveness and environmental benefits?

Is the minister aware of the demonstration flat that is being set up by Aberdeen City Council in an old granite tenement, which is the hardest type of property to heat in Aberdeen? Is she aware that such flats, when they are made energy efficient, could reduce a pensioner's bills from £10 a week to £4 a week? I suggest that the minister consider visiting it later this year.

**Jackie Baillie:** I will be happy to visit the project in question and, if it is helpful, I will be happy to take questions from Phil Gallie.

Elaine Thomson is right. Through our warm deal scheme, we are installing insulation in thousands of houses throughout Scotland, which will lead to considerable savings on people's heating bills. Our ultimate aim of tackling fuel poverty in Scotland will be assisted by a number of practical measures, of which energy efficiency is one.

### Primary School Teachers

**12. Lewis Macdonald (Aberdeen Central) (Lab):** To ask the Scottish Executive what plans it has to increase the number of primary school teachers. (S1O-2763)

**The Minister for Education, Europe and External Affairs (Mr Jack McConnell):** The outcome of the McCrone negotiations will help to determine the number of primary teachers that will be required in years to come. As I announced on 8 December, we are currently involved in work to launch a recruitment campaign in preparation for follow-up work that may arise from the negotiations.

**Lewis Macdonald:** I thank the minister for that answer. Given the speculation that the McCrone negotiations may lead to a reduction in class contact hours for primary teachers of as much as 10 per cent, can he guarantee that new teachers will be trained and recruited in sufficient numbers to ensure that there is no reduction in teacher contact hours for primary school pupils?

**Mr McConnell:** Yes, I can. One of the reasons why the package that we hope to agree within the next few days will take time to phase in is that we need to recruit those new teachers. It will not be possible in the first year to do that, because many of the new teachers will still have to be trained. We will set a target on that. If agreement is secured, there will be a significant number of new primary teachers in Scotland. That will boost primary school education and the system as a whole.

**Michael Russell (South of Scotland) (SNP):** Does the minister agree that, whatever happens in the McCrone negotiations, there is already a developing crisis in the availability of supply primary teachers in almost every part of Scotland—a situation that will be exacerbated by winter illness? Are there any actions that the minister plans to take urgently to try to ensure that Scottish children do not suffer over the next few months because of the severe shortage of supply primary teachers?

**Mr McConnell:** We need to be careful about using words such as “crisis” when there is no crisis. However, difficulties are being experienced by some local authorities and the responsibility for solving the immediate problem lies with them. The long-term solutions, not only to the improvement in the work load and the quality of education in primary schools, but to the supply of teachers on an occasional basis, will be included in the agreement that we hope to secure in the next few days. There is a need for change in the longer term in supply cover in Scotland, as well as in permanent staffing.

### Tourism (Highlands)

**13. Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD):** To ask the Scottish Executive what plans it has to promote tourism in the Highlands. (S1O-2757)

**The Deputy Minister for Enterprise and Lifelong Learning and Gaelic (Mr Alasdair Morrison):** The new strategy for Scottish tourism, which we published last February, contains many new actions designed to grow tourism throughout Scotland. The industry will also benefit from changes to the structure and linkages of the Scottish Tourist Board arising from the recent independent review of that body.

**Mr Stone:** I thank the minister for that answer. Although one part of the Highlands has had a recent fillip in terms of tourism, does the minister agree with those at the sharp end—the tourism industry and the providers—that increased cohesion and co-ordination in the efforts made by the Scottish Executive and the STB would not only spread the load but lead to more imaginative thinking and a more broad-front approach to going out and grabbing tourists for the Highlands?

**Mr Morrison:** Uncharacteristically, Mr Stone has understated the benefit of the fillip of Madonna’s wedding in the Highlands. A report is currently being compiled and I understand that the immediate impact to the economy of the Dornoch area was in the region of £2.5 million. Early figures show that around £200,000-worth of accommodation was booked in the area. The question on greater cohesion raises an important point, which the STB is addressing through its work with the area tourist boards on recommendations that will be put to ministers at the end of February.

**Mr Jamie McGrigor (Highlands and Islands) (Con):** The position of tourist operators is particularly drastic in the Highlands and Islands and, although the reorganisation of the STB may help the industry in two years’ time, it is unlikely to help it next year. Will the Executive ring-fence the £2 million that Highlands and Islands Enterprise used to have for niche marketing the Highlands and Islands as a special destination, to try to help the situation in 2001?

**Mr Morrison:** I am happy to advise Mr McGrigor that we have already given additional assistance to the Highlands and Islands, which will benefit from additional funding for niche marketing this financial year. Marketing campaigns are promoting the Highlands as a walking destination and as an area for green tourism. We are also looking at plans for genealogical tourism, which will greatly benefit the Highlands and Islands.

**Mr Duncan Hamilton (Highlands and Islands) (SNP):** I am sure that the minister will agree that

one of the keys to promoting the Highlands and Islands is to give tourists the option of using Caledonian MacBrayne and the island-hopping tickets. Given the Government's determination to press ahead with the tendering process on CalMac's routes, will the minister guarantee that those island-hopping tickets will be continued if another contractor takes over some of the routes, which would then be lost to CalMac?

**Mr Morrison:** Once again we hear nationalist scaremongering. There is no intention to privatise Caledonian MacBrayne, which, as the Executive has repeatedly stated, will remain in the public sector.

**Maureen Macmillan (Highlands and Islands) (Lab):** Some parts of the Highlands have done particularly badly in the tourist season this year. I have had representations from the tourist industry in Lochaber, which has suffered a lot this summer. The industry feels that not enough money is spent on marketing tourism in the Highlands. As tourism accounts for a proportionately larger share of the economy in the Highlands than it does elsewhere, is the minister prepared to make increased funding available for tourism promotion in the Highlands?

**Mr Morrison:** I am happy to refer Ms Macmillan to the answer that I gave to Mr McGrigor. We are concentrating resources on areas in the Highlands that are not benefiting from the great advances that are being made in tourism. It is important to recognise that there are many areas in the Highlands that are doing very well. Recently, I visited Ardnamurchan, where an hotelier told me that his turnover was up by a large percentage. I also visited the island of Westray in the constituency of the Deputy First Minister, where I met an hotelier who told me that his turnover was up by 25 per cent. It is important that we consider the positive elements as well as dealing with the problems that must be addressed.

#### **NHS (Glasgow)**

**14. Ms Sandra White (Glasgow) (SNP):** To ask the Scottish Executive what representations it has received concerning the reorganisation of the health service in Glasgow. (S10-2760)

**The Minister for Health and Community Care (Susan Deacon):** The Executive has received approximately 690 letters about the review of acute services in Glasgow. We have of course copied the letters to Greater Glasgow Health Board as part of the response to the board's public consultation on the review.

**Ms White:** The minister says that she has copied the letters to Greater Glasgow Health Board, but I wonder whether she has replied to each letter individually and how long that took her. If the minister has received 690 responses, she

will realise that people in the north and west of the city are very concerned about the closure of the Western infirmary, which would leave that end of the city without an accident and emergency department. What are the minister's concerns on the high cost of private finance initiatives, which many believe will lead to the further decline of the national health service, not only in Glasgow, but throughout Scotland?

**Susan Deacon:** As I said in response to earlier questions on the subject, points of detail about local service reviews are important, but they should be considered through the proper process at a local level. The big picture—which is what the Executive is interested in—shows that record investment is going into the NHS, which will lever in the kind of change that must take place to ensure that the people of Glasgow have the services that they need and deserve. Our health plan for Scotland set out the extent of our ambition and vision for the health service in Scotland. I wish that the SNP would start demonstrating a wee bit of ambition and vision for our country, as we have done.

**Bill Aitken (Glasgow) (Con):** Is the minister aware of the considerable concerns of Glasgow citizens, particularly those in the west and south sides of the city, who see the health board's consultation process as a complete sham? What process will she put in place in order to allay those concerns?

**Susan Deacon:** I do not think that the consultation that has been carried out in the Glasgow area can, by any measure, be described as a sham. I believe that there is always room for improvement in consultation processes. Since devolution, a great deal of attention has been paid to ensuring that the methods used by public bodies—national and local—to take on board the public's views are more imaginative than they have been previously.

I have been watching developments in Glasgow carefully. I expect local concerns to be taken on board. However, I also hope that local members will engage fully in the local discussions that need to take place in order to move forward, modernise and change facilities and provide people with modern health services. Sadly, too many of those services do not meet current or future needs.

**Dorothy-Grace Elder (Glasgow) (SNP):** I can assure the minister that the consultation process is a fake and that the people of Glasgow are extremely angry. The health board has merely presented its plans for what it will do to the public—and the public do not like it. I draw the minister's attention to the desire of the people of Glasgow to retain local hospitals. They do not want the creation of a monstrously large hospital at the Southern general. They most certainly

desire the retention of the Royal hospital for sick children and the Queen Mother's maternity hospital on their site at Yorkhill.

**Susan Deacon:** With the greatest respect, none of us as individual politicians can say so simply that we know for sure the public's views. It is for the health board to ensure that it reaches out, gets as good a picture of the public's views as possible and takes them on board in relation to service changes. Striking the right balance between local provision and specialist facilities is one of the key issues that the NHS across Scotland, and particularly in Glasgow, must address. It is important that people have access to the quality of services that they need and deserve. Sometimes that requires greater specialisation.

The investment that we are putting in can, with modern medicine and modern technology, also provide many other services outside the hospital environment and in communities. That balance is what we are seeking to achieve for the NHS in Scotland. That is the vision that we have set out, and that is what is being developed in the NHS locally. It is a pity when local politicians focus on the points of disagreement rather than on the positive changes that are taking place for the future.

## First Minister's Question Time

### SCOTTISH EXECUTIVE

#### Prime Minister (Meetings)

##### 1. Mr John Swinney (North Tayside) (SNP):

To ask the First Minister when he will next meet the Prime Minister and what issues he plans to raise. (S1F-762)

I begin by wishing the First Minister a happy new year. In his capacity as First Minister—or perhaps Scotland's Prime Minister—when will he next meet his London counterpart, the British Prime Minister, and what issues does he plan to raise?

**The First Minister (Henry McLeish):** I thank John Swinney for his kind wishes for the new year, and I reciprocate them—not only to him, but to you, Presiding Officer, and to all colleagues in the Parliament. I benefited from four good days in Mr Swinney's wonderful constituency, and I thank him and the hoteliers for that privilege.

I expect to meet the Prime Minister at the British-Irish Council summit meeting on 23 January.

**Mr Swinney:** I am glad that the First Minister makes better decisions about his holiday destinations than about his press announcements. I read in the media this morning that, on the issue of calling the Scottish Executive the Scottish Government, the First Minister does not have a friend in the world. I can assure him that he has loads of friends in the SNP if he wants to strengthen the Scottish Government.

As the First Minister is obviously fond of using the term Scottish Government—he used it in his new year message, and he used it in, of all places, the *Sunday Post* last week—will he, in the face of all the bile from the Westminster sources who have been briefing against him overnight, continue to refer to his Administration as the Scottish Government? Yes or no?

**The First Minister:** In talking about friends in the world, I am conscious that, in the two elections in Anniesland and in the other by-election in Falkirk West, the Labour party has many friends. At the end of the day, it will be the Scottish people who will make some decisions.

I am pleased to have the opportunity for the first time to put my comments on the record. In devolved matters, we are governing in Scotland. That has always been so. In September 1999, in our first programme for government, we said:

“This document turns our agreement into a programme of work for this first Scottish Government.”

I can tell the chamber today that we will publish our second programme for government later this month. However, let me go further and make it clear that we have no plans to change the name of the Scottish Executive, as it stands in the Scotland Act 1998, because we do not need to—we are a Government.

**Mr Swinney:** We have just seen the Minister for Parliament hung out to dry with that answer.

In the newspapers this morning, a senior Labour minister said:

“They can call themselves the White Heather Club if they want, but they will never be the Scottish government.”

Does the First Minister agree that that is evidence of a contemptuous attitude towards his Government by unnamed Labour ministers who obviously do not have a real job to do at Westminster? Will the First Minister join me in condemning those unattributed and spineless remarks by Labour ministers? Yes or no?

**The First Minister:** The reflections on Westminster remind me of the best story this week. In response to the suggestion that Alex Salmond might stay at Westminster, Mr Stan Tennant, the convener of the SNP’s Banff and Buchan constituency party, said that Mr Salmond

“is obviously more comfortable with Westminster.”

We get all the lectures from the SNP about the quality of the Scottish Parliament and the drive towards the word that the SNP will not use—*independence*. It is important to stress that, as I have said, we have embarked on a new phase of devolution, in which we will move from the mentality of a Whitehall department to that of a responsible Government. I want to underline that.

I make no apologies for the fact that over the next few years we will have some tough choices and hard decisions to make. That means being mature as devolution progresses—we must be mature as a Government in making new priorities or resetting existing priorities, and we must be prepared to say where the money is coming from to do so. Let me emphasise that by confirming that decisions about Scotland on devolved matters will be taken here, supported by the coalition Government. We serve for Scotland. We have a Government in Scotland that deals with devolved matters. Let us end all the political froth. The nationalists like to use that as a smokescreen, because, despite their protestations, they still have no policies.

**Mr Swinney:** If Westminster sources can say that there is no question of the Scottish Executive’s calling itself the Scottish Government, is not it now an open question whether Henry McLeish governs Scotland or whether London governs Henry McLeish?

**The First Minister:** There is a dictum that the old ones are the best, but that question was slightly pathetic. We hear again that the Government at Westminster leads. I do not think that John Swinney is adapting his script as question time progresses. He is following the script that he brought into the chamber.

I reconfirm that we are making decisions on devolved matters in Scotland for the Scottish people. I have said the words “Scottish Government” three times. We govern for the whole of Scotland. That is crystal clear. If SNP members want to take advantage of this storm in a teacup, that is up to them.

I want to tell the Scottish people that we will put record numbers of police on the streets, that we have an NHS plan with which the SNP cannot compete, that we have taken unemployment to its lowest level for a generation and that employment is at its highest level for nearly 30 years. What do we get from the nationalists? More constitutional machinery. The people of Scotland want sound policies and the coalition will deliver.

### Cabinet (Meetings)

**2. David McLetchie (Lothians) (Con):** To ask the First Minister when the Scottish Executive’s Cabinet will next meet and what issues will be discussed. (S1F-752)

**The First Minister (Henry McLeish):** The Cabinet will meet on 16 January, when we will discuss issues of importance to the Executive—or the Government of Scotland, if Mr McLetchie so wishes—and to the people of the country.

**David McLetchie:** I am surprised that the First Minister does not want to rename the Cabinet, just in case people think that it is a drinks cupboard.

At its next meeting, the Cabinet will no doubt—*[Interruption]*. Could I have some order?

**The Presiding Officer (Sir David Steel):** Order. Let us hear the rest of the question.

**David McLetchie:** Thank you.

At its next meeting, the Cabinet will no doubt take stock following the First Minister’s disastrous attempt at a rebranding exercise. As we all know, that will not work. The team strips may change, but the results will still be shocking. Instead of all the dangerous and divisive squabbling between London and Edinburgh—all that political froth—done at the First Minister’s bidding, why does not the First Minister stop preening himself, get on with the job and concentrate on what really matters to people in Scotland?

**The First Minister:** It is with great apprehension that I reply to that mauling. One of the great novelties of my position is that I often want to ask

the leader of the Tories in Scotland when he last met William Hague, and what they discussed. Alas, Sir David, you would not allow me to do that. We will not find out about David McLetchie's discussions—he is now writing away furiously at his next response.

The coalition is delivering for the people of Scotland and delivering on policies. The Tories have an enormous problem. They cannot decide to say whether they are making £16 billion of cuts at the next election—£24 million in each constituency that is covered by the regional list in which David McLetchie is involved. In addition, whoever one speaks to gives different estimates of how well the Tories are doing at clawing back that £16 billion.

We need no lectures from David McLetchie about delivering policies for people. We are picking up the mess that we inherited from 19 poor years at the hands of the Conservatives. I hope that David McLetchie has some notion that, if he is part of the Parliament and of devolution, he should start to support it.

**David McLetchie:** From the events of the past 48 hours, it is obvious that I speak to Mr Hague a good deal more often than the First Minister speaks to the Prime Minister and, moreover, that our relationship is a good deal more cordial. The record that the First Minister describes is, quite frankly, not one that the public recognise. Indeed, even the Secretary of State for Scotland was forced to acknowledge that Labour has failed on many counts. The record makes pretty grim reading: taxes are higher; hospital waiting lists are longer; serious crime is rising; and school standards are falling. Is it not the case that the only one of its 1997 election pledges that Labour has met is the establishment of the Parliament, which, through his vanity, the First Minister is doing his level best to discredit?

**The First Minister:** To inject a bit of solidarity with our colleagues south of the border, let me say that I was intrigued by the comments of Mr Nigel Hastilow, the prospective Conservative parliamentary candidate for Edgbaston, who claimed:

"For many voters and most of the media, the Conservative Party is a lost cause."

Not only that, but it is suggested that we have never had it so good: people are prospering, unemployment is falling and interest rates are low—there is nothing much to worry about. Everybody in the coalition would agree with that assessment.

If we are going to exchange blows on policies and commitments, let us remember that in Scotland this year we are spending £0.5 billion extra on the health service—delivered by the

coalition. We will give Scottish police forces—which Mr McLetchie sometimes talks about—a record amount of finance to have record numbers of police officers. We have abolished tuition fees and we are working with the unions and the local authorities to give a 21<sup>st</sup> century deal to our teachers, who deserve it. We will take no lecture from Mr McLetchie. I want to know where the £16 billion is coming from.

**Richard Lochhead (North-East Scotland) (SNP):** Will the First Minister confirm to his Cabinet and to the chamber whether the European Commission minutes from last week's fishery talks in Brussels are accurate? They suggest that the London-led team agreed to a cod recovery plan that will devastate the Scots fishing industry.

Will the First Minister give a commitment to the chamber and to the Scottish fishing industry that his Government will support our own industry's proposals at next week's talks? In return for the sacrifice that will be made by our fleet to regenerate fish stocks and to save the industry, will he give an undertaking that he will match in this country the support that other states give to their fleets?

**The First Minister:** The fishing industry is very important to our country, which is why, over the past two or three question times, we have given absolute guarantees that we want to work with it to secure what is best for our fishermen, at an extraordinarily difficult time, given the Commission's proposals on stocks.

We are also working, through Ross Finnie and Rhona Brankin, to ensure that the current proposals from the Commission are effectively scrutinised. The Parliament is united in wanting the best deal, in difficult circumstances, for the fishermen of this country. I hope that no one would demur from that and I give the reassurance that we will do everything possible at the highest levels to ensure that it is delivered.

**Mr John McAllion (Dundee East) (Lab):** Without wishing to spoil the First Minister's excellent afternoon, I offer my unqualified support for his honesty in pointing out that Scotland has an elected Government as well as an elected Parliament. Does he agree that Scottish democracy is multi-layered, with Government operating at European, UK, Scottish and local government levels, powered by the principles of shared sovereignty and subsidiarity? Does he further agree that, while absolutist ideas such as independence—investing all political sovereignty in one place or one institution—continue to be of historical interest, they are of no relevance whatever to the new Scotland in the new century?

**Roseanna Cunningham (Perth) (SNP):** Give him a job.

**The First Minister:** I know how to deal with this.

As a long-time colleague of John McAllion in the other place that some people do not like, I am often apprehensive when he gets to his feet. However, I am pleased to respond to his question and to echo the sentiments that he has always made about the need for a Scottish Parliament to deliver at the heart of Scotland for the Scottish people. It is important in the coalition of interests in Scotland—whether it is local government, Europe, Westminster or Edinburgh—that we work together in the common interest that we serve.

This point is also worth making: despite the carping of SNP members, we have the benefit of being part of a devolved settlement that delivers from Westminster to Scotland—and from Edinburgh—the best partnership and the best balance.

### Farmed Salmon

**3. George Lyon (Argyll and Bute) (LD):** To ask the First Minister what the Scottish Executive's response is to recent reports that farmed salmon poses a health risk to consumers. (S1F-756)

**The First Minister (Henry McLeish):** On questions of food safety, the Scottish Executive is advised by the Food Standards Agency. The agency has advised that there is currently no evidence to indicate that farmed salmon poses a health risk for consumers. All new research is assessed as part of the agency's continuing review of contamination levels across the food chain from agents such as dioxins and polychlorinated biphenyls. It is important that consumers are fully informed on food safety issues, and the Food Standards Agency will ensure that scientific evidence is made public. The Executive believes in open government and we will do all that we can to give the public the information that they need.

**George Lyon:** The First Minister will be aware that the Scottish salmon farming industry produces a top-quality product that earns a premium in the European market. Most important, it provides nearly 5,000 jobs in remote parts of the Highlands and Islands such as Mull, Islay and the Argyll coast. Those rural communities are incensed and angry at the misrepresentation on the BBC programme "The Price of Salmon" of the facts surrounding PCBs. They are also incensed by the refusal to allow the industry a chance to respond. Will the First Minister support the representations that are being made to the BBC demanding that in future it ensures the highest possible standards of accuracy and balance in its programmes, as the general public expect from a public sector broadcaster?

**The First Minister:** George Lyon has raised an

important issue, which should unite the Parliament. I share his concern about the impact on employment in remote rural areas, where the industry provides jobs, prosperity and investment. When dealing with those issues in Parliament or in the media, we must be very careful about what we are saying.

It is always useful to have information. Salmon has innumerable health benefits. It is full of protein and rich in valuable omega 3 essential oils, which are recognised as vital ingredients in a healthy diet. Although concerns have been voiced—and I recognise the anger expressed by George Lyon and those in the industry—I hope that broadcasters dealing with sensitive issues will go to the maximum lengths to ensure objectivity. If they are dealing with surveys, they should do so from a wide survey base so that the figures that they are using have something positive to say to the public.

The Government has received a large number of representations from the industry and through the auspices of a former Conservative minister. We welcome that and we want to work with the industry to ensure that no one is undermined by the actions and discussions that have taken place. We will work with the industry to promote the benefits that it brings to Scotland and to the health of individual Scots who eat its product.

**Dr Winnie Ewing (Highlands and Islands) (SNP):** Will the First Minister order an investigation into the practicality of salmon fishing in the open sea, which has been done successfully off County Antrim? In such cases, the gunge under salmon cases is swept away and dispersed, thus reducing any possible health risks.

**The First Minister:** I am sure that Winnie Ewing will forgive me for the fact that my expertise does not extend to that level of detail. However, the Minister for Rural Development, Ross Finnie, was listening to her question and I am sure that he will want to record and acknowledge what she says and perhaps take action on it.

**Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD):** I am glad that Winnie Ewing has asked an intelligent question, because playground behaviour does not behave an issue as serious as this one. Jobs in north-west Sutherland are very scarce indeed, and the salmon farming industry is absolutely vital. Does the First Minister agree that public confidence in Scottish farmed salmon is essential and that, to that end, it would be useful for the Scottish Executive to work still more closely with organisations such as Scottish Quality Salmon and the Shetland Salmon Farmers Association?

**The First Minister:** I am sure that Jamie Stone was not suggesting for a moment that Dr Ewing



ever asks questions that are not sensible.

This issue should unite the Parliament. Jamie Stone is absolutely right to mention the fact that we need advocacy for such an important Scottish industry. That must be done properly, no matter what the medium is. I can assure members that the Scottish Executive, through its various departments, will work closely with the industry to tackle the issues that have been raised in all parts of the chamber today.

#### **Transport (Travel Information)**

**4. David Mundell (South of Scotland) (Con):** To ask the First Minister what steps the Scottish Executive is taking to ensure that accurate travel information is provided during periods of adverse weather. (S1F-744)

**The First Minister (Henry McLeish):** The national driver information and control system provides continuous information on the condition of many of the major roads in Scotland. Information on disruption to public transport can be obtained from the relevant operators. Up-to-date weather and transport information is also provided by the broadcast media.

**David Mundell:** I thank the First Minister for that answer. Does he recognise that this matter is of particular importance to the travelling public? Does he appreciate that, during the recent bad weather, members of the public would have been able to establish whether a local hospital was open but not whether there was road access to it, unless the hospital was situated on a trunk route or motorway? Will he undertake to investigate who owns information on whether roads are passable, so that there is a clear and coherent system, particularly given that many members of the public are reticent about contacting the police to find out travel information?

**The First Minister:** The final point is important. The police have many tasks. We should have sources of proper information. It is vital for an efficient transport system that we have information. I am happy to look into the points that David Mundell has raised. I recognise that he takes an interest in such matters. It is right not only for his area but for the rest of Scotland that information is provided so that the efficiency of the transport system can be enhanced.

## **Points of Order**

15:32

**The Presiding Officer (Sir David Steel):** There are several points of order. I have one of my own to start with. I do not want to leave any ill feeling between Mr Gallie and me, so I make it clear that, in choosing supplementary questions, I give priority to members whose constituencies are affected directly by the question. The question was about North Lanarkshire. The members whom I called, irrespective of party, were all members who represent North Lanarkshire. Frankly, it is not possible for me to call a member of every party on every question. If I did, members who have questions in the business bulletin would get annoyed when we did not reach them. I give Mr Gallie this comfort: at the end of every question time, the names of those who were not called are noted. I have ensured that those who felt disgruntled last week have been called this week. I hope that Mr Gallie will feel that I deal fairly with such issues, however disappointed he is that he was not called on this occasion.

**Phil Gallie (South of Scotland) (Con):** I apologise to the Presiding Officer for losing my temper. I accept that I usually get a fair call. In this instance, my interpretation of constituency interest was perhaps wider than the Presiding Officer's.

**The Presiding Officer:** I thank Mr Gallie for his gracious apology, which I accept.

**Mr Jamie McGrigor (Highlands and Islands) (Con):** On a point of order, Presiding Officer. I have in my hand an unembargoed press release from the Scottish Executive, which says that

"the Salmon Conservation (Scotland) Bill passed its third stage after a Scottish Parliament debate."

Is not that misleading, as we do not have the vote until 5 o'clock? Is it not also pre-emptive and, dare I say, rather arrogant?

**The Presiding Officer:** Technically, I believe that you may be correct, but if you will let me look at the press release, I will deal with it, although I do not think that it is a most grievous matter. You are quite right that the Parliament has not yet decided anything.

**Tricia Marwick (Mid Scotland and Fife) (SNP):** On a point of order, Presiding Officer. I have received your response to a point of order that I raised this morning about an article in *The Herald*, which contained details of the ministerial statement made by Wendy Alexander about the careers service. In your letter, you agree with me that almost all the information in the article was later contained in the minister's statement. I

accept that there was no Executive press release, but the information came from somewhere. I urge you to seek an assurance from the minister that she did not give out the information or cause any of her colleagues or officials to do so on her behalf. Do you agree that ministerial statements in the chamber should have the same standing as unpublished committee papers, the leaking of which is a serious matter?

**The Presiding Officer:** I do not necessarily accept that comparison, because the issue with committee papers is the collegiality—if I can put it that way—of the committee process. On the first point, I have already sought an assurance from the Executive that there was no release. I conveyed that in the letter. I will reflect further on the matter.

**Michael Russell (South of Scotland) (SNP):** On a point of order.

**The Presiding Officer:** Is it on a similar point of order?

**Michael Russell:** It is on the same issue. If the minister has given you an assurance that she did not provide the information to *The Herald* and her civil servants have given her a similar assurance, an offence—possibly a criminal offence—has been committed in that information and papers have been taken and leaked to *The Herald*. Will you seek an assurance that, if the minister and her civil servants did not do it, she is investigating thoroughly who did?

**The Presiding Officer:** You are asking me to go well beyond my powers. That is a matter for the minister. I am satisfied that there was no ministerial leak; that is as far as I can go. It is for members to pursue the issue further with the Executive if they want to do so. I cannot do any more.

## Stalking and Harassment

**The Presiding Officer (Sir David Steel):** We now move to the debate on motion S1M-1515, in the name of Jim Wallace, on stalking and harassment, together with two amendments to that motion.

15:35

**The Deputy First Minister and Minister for Justice (Mr Jim Wallace):** I think that every member of this Parliament would agree that stalking and harassment is insidious and instils much fear and suffering in its victims.

Strengthening the protection provided by the law for victims of stalking and harassment is high on our list of priorities. I will explain how we will make progress on the responses to our consultation on this complex issue. The 35 responses that we received to our consultation paper included views from victims, agencies in the criminal justice system and victim support organisations. I thank those who responded, especially victims who set out their personal and often painful histories.

Key points that arose from the consultation included the uncertainty surrounding the range of remedies available and how those work in practice; what the police can do in cases of breach of non-harassment orders; the cost of access to civil remedies; how much information on previous convictions can be made available to a court; and the level of incidence of stalking and the lack of research into that behaviour.

Let me make it clear at the outset that the status quo is not an option. Our action plan details practical and procedural changes that will enhance the protection offered under present laws.

Guidance and training are crucial. I will ask the Association of Chief Police Officers in Scotland and the director of judicial studies to respond to concerns raised in the consultation, especially the perception of many victims that the problems experienced by victims are not being fully recognised at early reporting stages. I want them to examine critically the way in which training and guidance for the police and judiciary can be made more effective. Agencies should address the way in which they communicate with each other; I will ask ACPOS to assist in organising a multi-agency seminar.

I know that good work is being done by various agencies. For example, comprehensive internal guidance was issued by the Crown Office to procurators fiscal in July last year, and stalking and harassment is considered in the context of a programme of awareness training on domestic

abuse, delivered with the assistance of Scottish Women's Aid. Best practice must be disseminated throughout the justice system.

I will also ask ACPOS to report to me on possible measures to increase public awareness of the steps that should be taken from when a person first fears that they are being stalked, and on practical measures that might help them.

Critical assessment of current procedure is only part of the way forward. Following those reports, we will consider our role in publicising the remedies available and the role of various agencies with which potential victims might have contact. For example, a booklet prepared by the Metropolitan police and the Home Office covers both guidance for the police and advice for victims—that seems to me to be an idea that we could tailor usefully to Scottish circumstances.

At present, neither civil interdicts nor non-harassment orders carry a statutory power of arrest if they are breached. The police have common law powers of arrest, but there is a perception that those are seldom used in such circumstances. To remove any uncertainty, we will look for an early opportunity to create statutory powers of arrest when a non-harassment order is breached.

That work will tie in with the proposals in our family law white paper, "Parents and Children", to reform the protections against abuse that are available under the Matrimonial Homes (Family Protection) (Scotland) Act 1981. Those would extend to spouses—whether married or separated—divorcees, cohabitants and ex-cohabitants. The scope of such orders will be widened to cover situations and places beyond the family home. We will also change the act so that a power of arrest can be attached to interdicts for three years.

The Justice and Home Affairs Committee carried out detailed work to develop its proposals for a bill on protection from abuse. Our objectives are the same—to provide improved protection. With the committee, I want to explore further whether its bill might provide a suitable vehicle for the proposal that I have made today on non-harassment orders and the institution of a statutory power of arrest if they are breached.

Access to justice was also raised during the consultation and in the Justice and Home Affairs Committee's report. Although I can understand the desire to make legal aid more readily available, it would be inappropriate to create special eligibility rules. Ministers have to ensure equal treatment for applications for legal aid: it would be unfair to others to single out one group for special treatment.

**Pauline McNeill (Glasgow Kelvin) (Lab):** Will

the minister consider what I regard as the unfairness of the cases of women who have been subjected to domestic abuse and who might pursue these orders in court? The minister has talked about legal aid, but some of those women might not be able to pay to take cases to court. It seems unfair that, although a criminal offence has been committed, such a case has to be pursued through the civil courts, and paid for. Could the minister consider another type of provision—perhaps along the lines of the system of legal aid in criminal cases—to ensure that we are not debarring women on financial grounds from pursuing orders?

**Mr Wallace:** I will make two points in response to those questions. First, Pauline McNeill spoke about women having to pursue a remedy for a criminal activity through the civil process. We want to ensure that criminal activity can be pursued through the criminal justice system. Secondly—and this may anticipate some of the points that I am about to make—although we are not proposing to change the rules for legal aid, we can use powers that are already available to ministers under the Legal Aid (Scotland) Act 1986.

As Pauline McNeill suggests, people have criticised the difficulty that is sometimes faced by applicants in obtaining legal aid from the outset for matrimonial exclusion orders and interdicts. We might be able to address those difficulties by setting up a scheme under which the services of a solicitor would not be required at the initial stage of an application to the court. Under such a scheme, specialised training could be available to lay advisers in women's refuges to assist applicants in getting interim interdicts as party litigants. Before fully committing myself to such a model of working, I wish to establish a pilot scheme. We are in discussion with the Scottish Legal Aid Board on how we might do that. It is early days and we can expect a number of practical hurdles to be got over, but I hope to make an announcement shortly. The working group that has already been set up to develop ideas for a community legal service will no doubt wish to consider that idea as part of its wider review.

Consultation has also indicated strong feeling that a way should be found to allow previous convictions to be taken into account by the courts—especially at the time of sentencing—subject to compliance with the European convention on human rights. That relates both to information that is available to the judge at the time of sentencing and to the question of how previous convictions can be used to establish a "course of conduct" for the purposes of a non-harassment order. Clearly, both those issues are difficult. The former is being considered by the Criminal Courts Rules Council, and we have been represented on a working group that is examining

how improved information can be made available. The latter is a bit more difficult. I can readily understand the arguments of those who feel that the definition of a "course of conduct" should be broadened to allow previous convictions involving the same victim to be taken into account. There are difficulties, but I hope that we can satisfactorily address that anomaly. I intend to pursue that.

It has been suggested that we should have a statutory offence of stalking and harassment. We have not ruled out introducing a new statutory offence. The issue was canvassed in the consultation document, and it is fair to say that opinion was divided. About one third of respondents wanted a new offence immediately, and a further third thought that a new offence was not needed but that if one were to be introduced, it should be on the back of comprehensive and specifically Scottish research.

There is no doubt as to our objective—to offer effective protection. That is more important than theoretical arguments over the common law versus statutory provision. I agree with the Justice and Home Affairs Committee's comment that it

"does not support the easy presumption that the only way to take a problem seriously is by means of a legislative solution. Often it is more important to make existing law work effectively".

I also agree with organisations such as Victim Support Scotland which have identified a lack of independent research into the full extent of stalking and harassment in Scotland. We need a real and proper understanding of the problems caused by stalking and harassment; the various forms that such behaviour can take; and how the justice system might be improved in its handling of cases.

We will commission research to examine critically the existing criminal and civil law remedies available to deal with stalking and harassment; to assess how those are working in practice; and to examine the nature and prevalence of the types of behaviour that might constitute stalking and harassment in Scotland. The research will also examine the perceptions and experiences of victims and those of professionals involved in the civil and criminal justice systems. That will be a major piece of work. Once we have the findings from the research, we will all be better placed to take an informed decision on the need for new law.

We are determined to find real answers to these problems. I believe that the package of measures I have just outlined underscores our commitment to work with all involved in the justice system to ensure that victims are put first, second, and third. The victim must be our priority.

In summary, we will look for an early opportunity

to add statutory powers of arrest to non-harassment orders; work with the police and judiciary to find ways of improving guidance and training and clarifying public understanding; look further at the question of how information on previous convictions can be used; institute pilot training for lay advisers in women's refuges to assist victims in getting interim interdicts; and conduct extensive research into all issues surrounding stalking behaviour in Scotland.

I will keep Parliament advised of our progress on all fronts. There is a determination to get to grips with the problem.

I move,

That the Parliament welcomes the work undertaken by the Scottish Executive to review the law on stalking and harassment; notes the completion of the consultation exercise carried out in 2000 and endorses the Scottish Executive's proposals for strengthening the law, procedures and practice in this area.

15:47

**Roseanna Cunningham (Perth) (SNP):** When reading such a motion, I find it a little difficult to know whether I can endorse something of which I have absolutely no knowledge. I wonder whether the matter should have been tackled by way of a ministerial statement, with a subsequent debate a week later. From the wording of the amendments, both Opposition parties have had some difficulty with the motion, which is perhaps vague to the point of pointlessness.

There can be no doubt that the justice system has dismally failed victims of these crimes. As this is a very important area of our current law, it would have been helpful if we had had some advance indication of exactly what was being proposed.

Thus far, our justice system has largely been unable to rise to the challenge; however, there is absolutely no reason why that should have been the case. The truth is that existing common law, particularly through the use of breach of the peace, could—if the will were there—deal effectively with stalking and harassment cases. I agree with the minister that the danger of trying to introduce an apparently new statutory offence lies in the difficulty of definition and the possibility that, right from the start, the definition would not be sufficient. Who, 10 years ago, would have thought of making specific provision to tackle cyberstalking? If we had enacted a specific crime at that time, we would already be having difficulties with it.

Sentencing limits for breach of the peace are limited only by the court in which the case is heard. It is theoretically possible—although very unlikely to happen—that a life sentence could be handed down for a breach of the peace if the case

was taken to the High Court. Of course, that does not happen.

That has been the problem in Scotland—there has been an inability to respond to the challenge using the mechanisms that we already have. Such mechanisms have rarely been used or have not been used effectively. Within the system there has been an apparent inability to charge properly and hand out appropriate sentences, which is unfortunate as the beauty of our common law—especially the charge of breach of the peace—is its very flexibility.

Although the failure of the system to deal properly with these crimes has led me on a number of occasions to express the rather reluctant view that we may eventually have to create a new statutory offence, I remain convinced that we can get things right within the available framework. However, for that to happen, there must be a change in practice, which I suspect will require a major change in culture throughout the system. Without a change in that culture, any new statutory offence could be equally ineffective.

This is not a new debate. In 1996, we had exactly the same debate in committee at Westminster, on the Crime and Punishment (Scotland) Bill. I raised an issue then that concerned me, which was touched on marginally by the minister, although he did not go into the issue. When someone is being sentenced following a conviction, the sheriff or magistrate has before him or her a schedule of previous convictions. Breaches of the peace are logged in the schedule as nothing more than that. The only guide to the seriousness of the offence is the sentence, which is likely to be minor—perhaps a fine. It is the previous convictions that the sheriff or magistrate will use as a guide when he or she decides what the sentence will be for the case before them.

It is possible for fiscals or the advocate depute to ascertain in advance details of previous convictions, so that at least it can be known what comprised a specific offence, but that does not always happen. People often have long schedules of previous convictions, many of which will be for breach of the peace, but there is little indication therein that a pattern of behaviour might be developing. However, in cases of harassment, it is important to spot such a development.

It did not seem such a radical step to start indicating on those schedules whether a breach of the peace was of such a nature. The former Scottish Office minister who was responsible for those matters, Lord James Douglas-Hamilton, responded positively to the suggestion that breach of the peace should be so indicated on schedules of previous convictions. He subsequently confirmed that the Lord Advocate was actively

“considering the possibility with a view to implementing it.”

In his closing remarks in that debate, speaking of adding “harassment” in brackets after “breach of the peace”, Lord James added that

“there are precedents for that: ‘theft’ can have ‘shoplifting’ added in brackets after it, so that, if someone is continually involved in shoplifting, that will be picked up. It should be possible to note that harassment has been involved in breach of the peace offences so that appropriate disposals will be made in the event of a long history of offending.”—*[Official Report, House of Commons, 18 December 1996; Vol 287, c 974, 978.]*

Some weeks later, Lord James wrote to me saying that the changes that had been suggested would be implemented, and that breaches of the peace that fell into the category of harassment were to be recorded as such. That would have helped enormously. One of the difficulties with harassment is that a number of apparently trivial individual incidents can together cause the problem. A qualification of a breach of the peace would allow a judge to assess the crime more effectively when it came to sentencing. Tougher sentencing would also begin to reassure victims, as the public perception of breach of the peace is that it is a minor crime. Indeed, victim organisations have talked of the feeling of being let down when they discover that the offender has been charged only with breach of the peace.

Such a change would have helped enormously. However, despite the fact that the commitment was made on record, as far as I am aware, that change was never implemented. Perhaps it fell down the back of a filing cabinet, following the change of Administration in May 1997. It would still be welcomed by the Scottish Police Federation and the Law Society of Scotland.

**Mr Jim Wallace:** I have much sympathy with the points that Roseanna Cunningham has made. Breach of the peace has been flagged by harassment since the beginning of 1998. However, statistics show that that measure is not being used effectively. We intend to establish a statistics working group to examine the recording of offences. The other working group that I referred to, the Criminal Courts Rules Council, is also considering the amount of information that can be made available when there is a breach of the peace, even when the offence is flagged by the word harassment on the schedule. Roseanna Cunningham makes a valid point.

**Roseanna Cunningham:** I am obliged to the minister for that useful information, which I have been unable to get from other sources. I have been advised widely that nobody who works in the courts is aware of that measure ever having been implemented. Clearly, if it has been used at all, it has been used only a handful of times. Nevertheless, it should be an important part of

assessing sentences. Sentencing is about punishment. That small change did not require legislation, nor do many such measures. It would make a difference if it was implemented properly and consistently.

Sentencing is about punishment, but we must also consider protecting victims and potential victims. The minister talked about non-harassment orders, the existing provisions for which have also been raised with me, because of the difficulty that arises: there is no specific provision in the legislation for interim orders. I understand that a degree of creativity is going on in a number of courts in order to deal with that procedural difficulty, but the solution that one or two sheriffs appear to have arrived at might well be challengeable. I suggest that it would take a relatively simple legislative change to sort out that difficulty, and I hope that the minister will consider allowing interim non-harassment orders. As I have little time left, I will write more fully to the minister on that issue.

I hope that the Minister for Justice will take to heart the lesson that he must not just identify from the consultation process the areas of practice that could be improved on—he must ensure that those improvements are implemented and he must monitor closely the progress that is made. Most of all, he must be absolutely insistent that the law that exists right now be used to its fullest extent.

I move amendment S1M-1515.1, to leave out from “and endorses” to end.

15:56

**Phil Gallie (South of Scotland) (Con):** I, too, welcome the debate and the Executive's commitment to strengthening the law, procedures and practice. At the same time, I have some sympathy with Roseanna Cunningham's opening remarks. The Executive's motion is virtually a blank cheque, as it does not detail the Executive's proposals for dealing with stalking and harassment. The amendment in my name widens the options and allows for further evidence to be taken in committee, considered and acted upon positively, in line with the principles on which the Parliament is based.

The subject of the debate is extremely serious, but perhaps the chamber will forgive me a moment of levity. Earlier today, we debated fishing and now we are debating stalking. Perhaps we could add a debate on shooting as a penalty for the perpetrators of vicious stalking crimes. Having said that, that may be a step too far, even for me.

The serious implications for victims of the effects of stalking merit the courts taking firm action against those whose actions induce misery, disruption, fear, loss of confidence and

depression. However, firm action, which may entail imprisonment, cuts across the Executive's policy on reducing the prison population, as I understand it. I have spoken to many people who believe that the imprisonment of those who constantly badger them is the only way forward if they are to have a fairer way of enjoying life.

We must recognise that evidence is available to show that stalking frequently leads to ever-increasing levels of violence, which progress from initial contact to touch and, ultimately, to violence.

From meetings with senior police officers, it is clear to me that stalking and harassment complaints are treated with great seriousness. However, the police point to the difficulties that they face in pursuing such complaints, given the lack of specific evidence in some cases. Stalkers can be unseen, although sometimes they may be heard—but from which location? Changes in information technology certainly induce that scenario. Evidence of an intrusive presence may be detected in some cases, but frequently the victim has only a feeling or suspicion of such a presence. The victim has no rest in their leisure pursuits or workplace, or as they go about everyday business such as going to the supermarket. At times, that intrusion even enters their homes.

As well as being a threat, modern technology can offer hope. Closed circuit television has proved to be of assistance in some instances and the Minister for Justice may wish to reconsider the cutbacks in support for the expansion of CCTV programmes. Surveillance is all-important to the police at times, but the Regulation of Investigatory Powers (Scotland) Act 2000 adds restrictions that will perhaps make life for the police a little bit more difficult. Apart from that, surveillance can be extremely time-consuming and there has been a fall in the available resources since the Government inherited them in 1997. The minister's intention to restore the levels of resources is important. He will be judged on the results of his actions, rather than on his present promises.

Since I was elected to Westminster in 1992, a number of extremely distressing cases have been brought to my attention. During my period at Westminster and since, I have concluded that the present breach of the peace legislation does not address the issue in a way that allows full protection for victims. I will not give details of many specific cases as I do not have the consent of those who are directly concerned, but I have been urged to mention the case of the Edmund sisters in Kilwinning. They claim to suffer from harassment that seems to them impossible to curtail. An interesting point that arises as a consequence of their complaints is that the police feel that the use of CCTV cameras to determine

the outcome of the case is prevented under the European convention on human rights. At this point, I can only take the police's word for that, but I must admit to some puzzlement. Perhaps the minister could examine that point.

A useful way to address stalking would be to establish track records, the importance of which Roseanna Cunningham underlined. She referred to commitments that the previous Government had given on ensuring that the crimes in an individual's track record are examined and linked. That does not seem to have been followed up, but I note that the minister says that he intends to pursue it and I am sure that the Scottish Parliament will hold him to that.

I recognise that the UK Parliament made a change that allows victims to use the civil courts, but that is insufficient. I identify with Pauline McNeill's comment on legal aid matters. If there were a specific criminal charge, however, I believe that the legal aid argument would be laid aside.

When the country enjoyed the benefits of a Conservative Government, I expressed my concerns about stalking to my colleague, Lord James Douglas-Hamilton—then the Scottish Office minister with responsibility for home affairs, now my party whip—but failed to convince him. Happily, I have now convinced him and some of my other colleagues that it is time to move on. Time has gone by and it is recognised that the crime of stalking is becoming more and more serious. We look forward to a time when adequate penalties will be available to the courts to deal with the matter and adequate charges will be available to the police to ensure that the incidence of this crime is curtailed.

We recognise that there are difficulties with definition. However, Janet Anderson's 1996 Westminster bill contained a reasonable definition of the crime of what she considered to be stalking. Roseanna Cunningham made the point that things have moved on since then and that we have to think about various uses of technology, which will mean that other factors have to be taken into account. There is plenty of evidence worldwide of other jurisdictions that have come to terms with the matter and have been able to define the problem. On that basis, I believe that a definition could be found.

At the time of Janet Anderson's bill, the national anti-stalking league stated that it believed that a bad bill would be better than no bill. The Executive has given some thought to the issue under discussion. The consultation process has brought out more information and there should now be a way ahead.

During First Minister's question time, I heard the First Minister express envy over the fact that David

McLetchie can ask him questions but he cannot reciprocate. If the Administration does not act quickly—if it just makes promises but does not act on stalking—I can see David McLetchie fulfilling the First Minister's wish: Henry McLeish will be asking First Minister David McLetchie the questions in the future.

I move amendment S1M-1515.2, to leave out: "endorses the Scottish Executive's proposals" and insert "will endorse practical proposals".

16:05

**Pauline McNeill (Glasgow Kelvin) (Lab):** It is clear that no one wants the current situation to remain, so there is an obligation on the Parliament to determine how to strengthen the current laws or, alternatively, to create a new offence, because stalking and harassment affect people's lives.

To illustrate the need to act fast, I will discuss the facts of the case of Kerry-Anne Thomson. She was 26 years old, and was shot dead by Kenneth Easton, who had become obsessed with her. They had dated a few times before she told him that she was not interested. He stalked her for a year and tried to abduct her outside a nightclub. He broke into her home and slashed her clothes. Kerry-Anne took out a civil interdict against Easton, but he ignored it. Sadly, Kerry-Anne was found dead in her car in August 1997, in a remote country lane. Easton had turned the gun on himself, and died in police custody the following day.

Two important points arise from that case. First, the civil interdict was ignored because it had no teeth—so the importance of Jim Wallace's statement cannot be ignored. Secondly, it is important for us to understand the nature of stalking. It is not just about people who know each other well; it is often about people who hardly know each other at all.

As other members have said, one of the difficulties with stalking—as with other new offences—is how to define the crime. One way or another, we will need some guidance on what we mean by stalking and harassment. As Victim Support Scotland pointed out to the Justice and Home Affairs Committee, the two words are not always interchangeable—they can mean different things.

Obsessional stalkers are thought to be the most common type. There are also love-obsessional stalkers: persistent stalkers who fantasise that they are in a relationship with a victim. There is delusional stalking, and there is false victimisation, in which a person claims to be the victim of a non-existent stalker, or reports the person with whom she or he is obsessed to the police. It is important to recognise the variety of types of stalker, and we must legislate for that.

Whether we strengthen existing laws or create a new offence, we should encompass three aspects. The first is intentional, repeated behaviour that is not reciprocated by the victim, who is in a state of fear or alarm. The second covers instances where there is a credible threat of violence, and the third covers both the first two when there is a suggestion that a person's life may be in danger as a result. Laws in other countries do not always have a definition that includes people's being harassed in the sense that they are in a state of fear and alarm. Distress to the victim should be taken into account here, and wide guidance should be issued on it.

As the minister pointed out, one of the problems is that not much research has been done on who is being stalked. We need to undertake that research. The only research about the scale of the problem in the United Kingdom was undertaken by the University of Leicester. According to its survey, 43 per cent of women reported being followed in the street; 29 per cent said that they had received excessive and unwanted telephone calls; and 16 per cent reported continuing spying.

The only available survey on the gender aspect of stalking was carried out in the United States, where women victims identified 94 per cent of stalkers as male; 60 per cent of male victims reported that the stalking was by other males. We need such data for Scotland to sort out how we are to address the problem here.

Although it appears that the majority of victims of stalking are women, we must also be sure to protect male victims, and the children who are affected, who are often forgotten about. Stalking targets also include various minority groups. Victim Support gave evidence that 50 per cent of lesbian and gay respondents to a survey that was conducted in Edinburgh reported that they had been the victims of stalking.

We must all concentrate on the question of whether the law is adequate. We know that Scots law will be more comprehensive on this matter in future, as we hope to pass Maureen Macmillan's proposed bill on domestic abuse, which has already been considered by the Justice and Home Affairs Committee. As members heard, Jim Wallace also announced some important changes to the law.

The question that we must ask ourselves is whether that will be enough. What emerged from the evidence that I took as reporter on this issue to the Justice and Home Affairs Committee was the need to bring cases to higher courts. If we do not do that, we will be left with a problem. Sentencing policy must be tougher. Judges must be given information about the nature of the breach of the peace, because if the offence is not assessed as harassment, they do not pass the appropriate

sentence. The Law Society made that suggestion, and I hope that the Executive will adopt it.

Other members, too, will have constituents who have been subjected to stalking and harassment. I emphasise the point that Jim Wallace allowed me to make in an intervention. I do not see why women in domestic abuse situations, where their lives are in danger and a crime has been committed, should have to pay to pursue their case through the civil courts, which they might not be able to afford to do. We have to address that point.

When I reported to the committee, I was not in favour of creating a new offence, for all the reasons that Roseanna Cunningham has given. However, a time scale has to be set for any attempts to beef up the current law and procedures, because if those attempts do not work, we will not have achieved anything even though we know that lives are at stake. The Executive should consider setting a time scale so that we can see how we are getting on with this. The task will be very tough. We are asking judges, the police, and all the agencies in the criminal justice system to change the way in which they do things. We know that that will not be easy. Let us set a time scale. If we need to create a new offence, let us not close the door on that option.

**The Deputy Presiding Officer (Patricia Ferguson):** We now move to the open debate. I can allocate up to five minutes for each speaker.

16:11

**Kay Ullrich (West of Scotland) (SNP):** On Friday 4 September 1998, a young woman—a mother of three young children—was found dying. Marilyn McKenna had told her family that she feared she would be found dead in a pool of blood and, sadly, that fear became a reality. It was no random killing. Marilyn's killer claimed that he loved her, and he killed her, seemingly, in the name of love. Almost half of all women who are murdered in Scotland meet their death at the hands of a current or former partner.

Marilyn had lived with her killer for six months. The relationship became abusive and ended at her insistence after her partner broke her nose in a violent assault. Marilyn pressed charges and, early in 1997, Stuart Drury was convicted of breach of the peace, fined £200 and ordered to pay £400 in compensation. However, that was not the end. It was the beginning of a year of hell for Marilyn and her family. He would not give up. He stalked her at work, at her home and even when she picked up her children from the nursery.

Marilyn's lawyer applied for an interim interdict, but when she tried to enforce it, she was informed by the police that they had no powers of arrest



because she was not married to, or living with, her abuser at the time of the incident.

In November 1997, after a violent incident at Marilyn's place of work, Drury was again convicted of breach of the peace. On that occasion, sentence was deferred for a year. Marilyn McKenna was murdered before that year was up. Indeed, before the year was up, a further three charges of breach of the peace had been made against Drury, but it was too late for Marilyn.

What can be done to prevent further tragedies like that of Marilyn McKenna? Marilyn cried out for help. She put her faith in the criminal justice system and was let down across the board: by civil law, over the interdict; by criminal law, which gave her no protection; and by the courts, which failed to grasp the seriousness of the threat to her life.

We need systems to track men who are accused of stalking and harassment. It was subsequently discovered that Marilyn's killer had previous convictions for assault and stalking of no fewer than two former girlfriends. Police systems must be set up so that future incidents are not viewed in isolation, as they have tended to be.

Training is needed for police, sheriffs, judges and procurators fiscal so that the seriousness of the consequences for victims is taken on board when such crimes are reported. As has been said, in Scots law stalking is the crime with no name.

I accept fully that breach of the peace is a wide-ranging offence and can be prosecuted at the sheriff and high courts. However, as has been said, the average person regards the crime of breach of the peace as a somewhat minor offence. If we are to continue to prosecute such crimes as breach of the peace, we must identify and differentiate the much more serious element that is the crime of stalking and harassment. Let us give a name to that terrible crime.

As a Parliament, we have a duty to ensure that any new law is applied properly in all departments of the criminal justice system. Stuart Drury stalked, harassed and murdered Marilyn McKenna, supposedly in the name of love. In the name of justice and humanity, let us try to ensure that we prevent similar, awful tragedies from occurring for other women.

16:16

**Paul Martin (Glasgow Springburn) (Lab):** I welcome the debate on stalking and harassment. I share many of Roseanna Cunningham's views, particularly on the legal remedies that are in place but are not being enforced by many of the agencies, and on the culture that unfortunately exists in the legal system. We have to move forward on that.

Kay Ullrich has raised the tragic case of my former constituent, Marilyn McKenna, and described the circumstances. I welcome what she said. I too will speak about Marilyn's case. I have a statement in front of me that gives in graphic, tragic detail the incidents that Marilyn and her three young children had to endure because of Stuart Drury's obsessive behaviour.

One of the concerns raised by Marilyn's family is the lack of support provided by agencies to victims of stalking. While the agencies show some care, they are not providing a joined-up approach to supporting victims of stalking. I would not rule out the possibility of legislation to ensure that agencies do provide a joined-up approach. Marilyn was dealing with bureaucracy over being rehoused outwith the area in which Stuart Drury was operating and she had great difficulty being rehoused as a result of problems in police reports going to the housing department and because it was referred to as a domestic incident. We have to get away from that terminology and definition. Marilyn's case was being treated as a "domestic" when it was her former partner who was harassing her.

We must put together a supporting framework for victims. I would not rule out setting up a harassment and stalking unit where case workers can support victims during the very difficult period that they have to endure. One of the problems that Marilyn's family told me of was that she had very few people to turn to. We must consider a unit being set up to ensure that someone like Marilyn, and their family, could speak to someone who could help at such a difficult time.

We have raised the issue of a stalking law. I agree with Pauline McNeill on the need for further research on that. In the memory of victims such as Marilyn, we should not allow the issue to be lost. Very sadly, as a result of the tragedy, there are three young children who no longer have the very caring mother Marilyn was, and a family who no longer have a caring sister and daughter. We must ensure that such an incident is not repeated. It would be a great credit to the Parliament if we could put a framework in place to ensure that such tragic events are not repeated.

16:20

**Bill Aitken (Glasgow) (Con):** Despite the fairly vague terms of the Executive's motion, two things have emerged. First, there is a general consensus about the direction in which we should be heading. Secondly, there is a general agreement that much more work is necessary in the months ahead, before this matter can come to a conclusion.

We have two options: either we operate on the basis of the current law or we legislate. If we were

to take the first option and stand by the law as it is at the moment, the question of awareness comes into play. There is an arguable case that the law as it stands is fully equipped to deal with such matters. Pauline McNeill and Kay Ullrich were right to highlight how what at first may be a nuisance can latterly become a tragedy. It is well that we remember that. However, as Roseanna Cunningham pointed out, charges of breach of the peace can be taken on indictment. Although, in practice, the High Court has not yet, under common law, imposed a sentence of life imprisonment, an eight-year sentence was recently imposed. The provisions are in place and deterrent sentences could be imposed. That is something to remember.

The current law on breach of the peace is sufficiently wide to include such matters, even under the narrowest definition. The narrowest definition was in the case of *Logan v Jessop*, where a breach of the peace had to involve a degree of alarm on the part of the individual. Arguably, the law is in place. Where it might have fallen down is in the fact that there has not been appropriate awareness on the part of the police, the prosecuting authorities and the judiciary that actions are necessary and that cases should be processed so as to deter such a course of conduct.

If we are not going to stick with the current law, we must bring in fresh legislation, which could be a complex matter. My research indicates that nowhere else has introduced such legislation, apart from the state of South Dakota in the USA, which has a definition of stalking. That is something that the minister might want to consider. I suggest that it is not appropriate for a court hearing a case of stalking to deal with someone who has previous convictions for a similar offence without being told of those convictions. I was quite surprised at Jim Wallace's comments—although I fully accept them—that such cases are now flagged.

If we are not prepared to go into complex legislation, there might be a case for creating a new offence and ensuring that those who are charged with stalking and who have committed previous offences are charged in a special capacity—in that they have been found guilty of a previous offence. The minister will be aware that there is provision in Scots law under several statutes to do that.

If we were to go down the road of creating a statutory offence, there is an argument that such matters should be dealt with on indictment. Such cases can be very serious indeed. However, there is always the difficulty of definition. What, on the face of it, might be trivial initially, may grow in seriousness. Nowadays, in domestic matters,

people are perhaps a little bit more inclined to go to the law as a first resort and that must be taken into consideration.

**Dorothy-Grace Elder (Glasgow) (SNP):** Can I remind members that we are not talking just about domestic relationships or the very worst results and tragedies? There are umpteen more victims of behaviour such as poison-pen letters, crank mail and other conduct that can go on for years. The term harassment should be attached to stalking—it must be stalking and harassment.

**Bill Aitken:** I fully accept that argument, which merely demonstrates—if any demonstration is needed—how complex the matter is. It has to be looked at carefully, and I look forward to seeing final responses from the committee and the Executive.

16:25

**Mr Gil Paterson (Central Scotland) (SNP):** Stalking and harassment is threatening and frightening. We all admit that the law as it stands does not do nearly enough to protect victims and punish perpetrators. As convener of the cross-party group in the Scottish Parliament on men's violence against women and children, I have had the benefit of discussions with member organisations on this issue, but I am by no means speaking on behalf of the group; I would rather express my own opinions on the matter. However, I find it difficult to speak to this motion, which endorses proposals that we do not yet know about, so instead I intend to talk about the options for improving the law to deal with stalking and harassment.

As Bill Aitken said, we effectively have two options: to improve our practice of the law that is already in place, or to create an entirely new offence that criminalises stalking. If we stick with the existing law, it needs to be improved. At the moment, stalking tends to be charged as a breach of the peace. It is a versatile offence and can be prosecuted in the High Court if the crime demands it. It is also a charge that the police are happy with and are used to using, but public perception of the offence of breach of the peace is that it is not a serious offence, so when it is enforced it is perceived as a relatively minor issue. Effectively, it disguises the severity of the offence and does not convey the reprehensible nature of the crime or its intrusion into the victim's life.

Perhaps that is a cosmetic argument. We should encourage greater use of the offence by higher courts and a dramatic change in attitude towards what the charge of breach of the peace can be used for. In addition, a charge of breach of the peace could be made specific to the crime. The alternative is to create a new statutory offence. I

can see the relevance of that because at the moment stalking is not a crime, and perhaps it should be.

Stalking is a crime only if it takes place in the context of another offence, such as a breach of the peace. Creating an offence of stalking would allow for earlier intervention by the police and might deter people from stalking someone if they thought that they would no longer be charged only with breach of the peace. However, that would not be without its problems. Defining the offence of stalking in statute would be difficult, and it would provide parameters for solicitors to try to escape from.

If it is difficult to know the best course of action to take, as little or no research has been conducted on stalking and harassment in Scotland and most of the available facts and figures were produced in the United States. As my colleague Christine Grahame said in the Justice and Home Affairs Committee when it considered consultation on this matter:

"the initial step is to change practices and systems, so that we are really informed before we consider changing the law".—[*Official Report, Justice and Home Affairs Committee*, 21 June 2000; c 1369.]

Any change in the law should be carefully thought out and should not be too inflexible, so as not to exclude new methods of stalking, such as cyberstalking through the internet and e-mail.

16:28

**Nora Radcliffe (Gordon) (LD):** This debate is a stage in the process—the welcome process—of increasing recognition of the serious nature of the patterns of behaviour that are described as stalking or harassment, and the determination to tackle them. That runs in parallel with the also welcome reappraisal of how we think of and deal with violence in the home and in relationships.

In the past, attitudes to stalking tended to be dismissive: "You have been followed but nothing happened. What are you getting excited about?" There is more understanding now of the serious effects that this type of behaviour has on victims, even without physical violence: the fear and terror that is suffered, because what the imagination can conjure up can be far worse than being attacked sometimes; the disabling of the victim, who is frightened and unable to go out, frightened and unable to socialise, and frightened to stay at home; and the gross, ruthless and total invasion of privacy. Those are now widely recognised as genuinely nasty stuff.

The emerging argument concerns whether the existing legal framework is adequate or whether new laws are required to deal with the issue as a defined offence. I agree with members who have

said that there are advantages to the flexibility of existing law. Some of the problems with using breach of the peace are more perceived than real. A breach of the peace is not necessarily a minor offence, but sometimes the public consider it as that and sometimes it is used in that way.

A great deal can be done to use existing law more effectively and take measures such as raising awareness, providing better training, tightening procedures and establishing better recording, exchange and use of information. The answer to a problem is not always to create new legislation. In the recent past, ill-thought-through, knee-jerk legislation has sometimes been more problematic than useful or effective.

Having said that, it is evident that some legislative developments will be necessary. I welcome the proposals that Mr Wallace outlined. It is my firm belief that good legislation is rooted in good information. The current consultation and consideration of the matter has revealed the paucity of robust information.

I am pleased to hear that determined action is to be taken on the improvements to training practice and procedures that can be undertaken without changes to the law. They will take place alongside a comprehensive programme of research to establish the extent and nature of stalking and harassment in Scotland, among other things. That knowledge is essential to determine properly the legislation that will be required and the baseline against which the effectiveness of action that is taken—whether under existing law or through extension of the law—can be measured.

My final point concerns the new phenomenon of cyberstalking—harassment and intimidation via the internet. The victim has no idea where the stalker operates—it could be next door or the other side of the world. It involves obvious problems of jurisdiction and is tied up in the general difficulties of regulating and policing the internet. That will have to be addressed globally.

We are moving along an important road to the effective protection of innocent people. Unnecessary delay is not to be tolerated, because it will be measured in misery or worse for some of our fellow citizens. Properly informed consideration will be needed to get legislative change. We must not shirk that stage.

16:32

**Maureen Macmillan (Highlands and Islands) (Lab):** I welcome the tone and content of the minister's speech and of all that members have said so far. It is generally agreed that non-harassment orders—whether civil or criminal—have not been a success and are not being used. In Lothian last year, only 17 non-harassment

orders were obtained, compared with 100 interdicts. There have been complaints of operational difficulties. The police are not always informed about the order, perhaps because it is not clear who has the duty to tell them. It is crucial that proper procedures for the orders are put in place.

Most important, the sanction of the power of arrest for breaching a non-harassment order does not exist. I was interested in the Minister for Justice's request to incorporate such a power in the Justice and Home Affairs Committee's proposed bill on protection from abuse. I hope that the committee will accommodate that, because that would make the difference between life and death for some victims.

Victims of harassment tend to prefer to take out an interdict, to which no power of arrest is attached. An interdict usually means that no action is taken until a criminal offence is committed, and the result is a breach of the peace or assault charge. As many members have said, that involves problems. Victims and the public do not consider breach of the peace to be a serious charge, no matter what assertions the legal establishment makes to the contrary. Public perception will be changed only if the courts take harassment seriously and deal with it in the higher courts, as Pauline McNeill said.

Even an assault charge does not always do justice to the victim. A constituent who was harassed by a former employee got in touch with me about such a situation. She wrote:

"I am expected to give evidence in a case which does not reveal the whole circumstances, relates only to the actual offence, and does not reveal to the court the purpose of the assault and that it is only one of a series of breaches of the interdict granted to me."

I believe that there must be some mechanism by which the court can be informed that one simple offence—breach of the peace or assault—is part of a pattern of harassment. At the moment, it would seem that the rules in criminal cases do not allow that, and since criminal proceedings take precedence over civil proceedings, a criminal charge of breach of the peace or assault will be used, rather than the breach of interdict, even if the victim would prefer the latter, believing that the whole history of harassment would then be addressed.

I am glad about the minister's announcement that a working party is to consider the criminal court rules in such cases, but I worry about the resistance of the legal establishment to change. I would prefer that solution to the solution of making harassment or stalking a statutory offence, since making them statutory offences would involve extremely difficult issues of definition. As Roseanna Cunningham said, definitions can soon

become out of date. I am concerned that the police and the courts properly realise what constitutes harassment.

I am especially concerned about the stalking and harassment that occurs when a woman has left an abusive partner and that ex-partner is determined to continue to exercise power over her by intimidation. That kind of harassment is often psychological and may consist of actions that to an outsider may seem innocuous, even friendly. Receiving a bouquet of flowers every week from an abusive ex-partner can be deeply terrifying to the recipient. It is of the utmost importance that the police and the judiciary treat non-physical harassment as seriously as physical harassment. The Justice and Home Affairs Committee's proposals for a protection from abuse bill, which will be debated in two weeks' time, will provide protection for some victims of harassment.

I must mention again my concern about the cost of access to justice. As the minister knows, I believe that people should not have to pay for their own protection and I urge him to consider how we might make protective interdicts and non-harassment orders considerably less expensive. A special case is to be made—I am glad that he is aware of the injustice. I ask him to consider again the issue of working families tax credit impacting on eligibility for legal aid.

When those who carry out stalking and harassment come to court, they should be psychologically assessed to judge how much of a threat they may pose in future, so that the real tragedies can be averted.

16:37

**Robert Brown (Glasgow) (LD):** I hope that it will be misunderstood in the context of this debate on stalking and harassment if I begin by declaring an interest, in the form of my membership of the Law Society of Scotland and my consultancy with Ross Harper and Murphy.

This has been an extremely good debate—colleagues have made not one bad speech. Like them, I welcome Jim Wallace's speech. Culture is one of the important aspects that have been touched on. I will give an example from my experience, in a slightly different context. I had a case some years ago when a client complained to his landlord about the dampness problems in his house. He obviously became too much of a pest, as he came back from shopping with his wife to find that the doors and windows of his house had been removed. There was enormous difficulty explaining to the police in Rutherglen that that was an offence, particularly in statute, because there was not a history of private lettings in the area and the police were not used to dealing with such

situations. They were not trained in what to do about it. I suspect that in the west end of Glasgow, where there are more private lettings, the situation would have been different.

I use that example to illustrate the issue of culture. It is extremely important that the police and the procurator fiscal's department understand the background and details of particular cases. What may begin with the police as a form of charge can be changed by the procurator fiscal; if he is doing his job properly, it will often, once the full circumstances are known, be changed into something more substantial or different from the original charge. On the whole, I tend towards the idea that we should think about the instigation of a new offence. I say that because it becomes much easier with a new offence—with a new title—to identify and deal with the specific situations that arise in harassment and stalking cases. The difference between the typical breach of the peace case and these cases is the element of persistence and repetition that emerges with them.

In my experience in the realm of family law, I have come across a number of cases where there is harassment in the background. It quite frequently relates to disputes about the breakdown of the marriage, to the on-going attraction that one party thinks he has for the other party or to disputes about access. Whatever the reason, it can be extremely frightening, distressing and difficult for the other party to deal with. We should be aware of such things when discussing changes to the family law system that Jim Wallace has been talking about.

Maureen Macmillan touched on something that I was surprised had not been mentioned before. We must consider how we deal with the situation once we get offenders into custody. It is all very well locking them up for 30 days, for 60 days or even for eight years, but at some point they have to come out again. It is to be hoped that when they come out, there will not be the same fear of repetition of the offence. I suspect, although I do not know, that there is a heavy element of mental health problems behind some of the cases that we deal with in this context.

I support Roseanna Cunningham's call for the introduction of a provision for interim non-harassment orders. My firm had a case in that regard that was reported early on in the law reports.

However much we improve the civil law, criminal law—without the personal element of the victim having to bring an action—is by far the better procedure. I wonder whether, in extending the powers of arrest in various directions, we ought not to use that as a lever into the criminal system, rather than as a mechanism for keeping somebody in custody for a day or so while

decisions are made by a private lawyer about civil breaches of interdict procedure.

It is important, as Jim Wallace said at the beginning of the debate, not to stand where we are. There must be action on the matter. This is a growing and dangerous problem that must be dealt with. The measures proposed by the minister today go a considerable distance towards improving the situation.

16:42

**Mrs Lyndsay McIntosh (Central Scotland)**

**(Con):** I am heartened to learn from the Minister for Justice that his objective is the same as that of the Justice and Home Affairs Committee. The Conservatives welcome the announcement of a pilot scheme and look forward to hearing of a successful outcome.

Roseanna Cunningham has eloquently detailed my own concerns. Breach of the peace was my area of habitual judgment in the district courts. Roseanna is quite right to point out that the existing remedy through breach of the peace would be adequate. The difficulty is in recording incidents and the burden of proof of a course of conduct. That makes a successful prosecution an achievement, so we support the suggestion that interim non-harassment orders should be introduced.

Phil Gallie gave our view on having a new offence of stalking. It would make the existing law work more effectively if people knew what stalking was, but the definition is a great difficulty. We would like improved guidance and training for sheriffs, police and judges in their practice and procedures. Interim orders could do much to help many women.

It is not only physical stalking that we should be concerned about. I have personal experience of a telephone stalker. There can be nothing worse than somebody being at leisure in their own home only to discover that the next call is from someone who wants to harass and menace them. It has happened to me and I know that there is nothing worse; it makes one feel afraid in one's own home. Paul Martin and other members have mentioned this problem, and it is something that we should consider.

I looked up legal definitions of harassment on the internet, one of which describes a stalker as

"a person who . . . sends, by means of a public telecommunication system, a message or other matter that is grossly offensive or of an indecent, obscene or menacing character or . . . sends by those means, for the purpose of causing annoyance, inconvenience or needless anxiety to another"

such a message. Believe me, it is needless anxiety. My experience was certainly enough to

cure me of any illusion that it was just harmless fun. It is not harmless fun by any manner of means.

Pauline McNeill mentioned the experience of one young woman. Kay Ullrich and Paul Martin also commented on the experience of Marilyn McKenna. It is shameful for something like that to end in someone's death. What isolation that woman must have felt—who would believe her beyond her own family? Who would understand that that kind of attention could have such a grave effect on her? I fail to see why we cannot take action on something like that.

Bill Aitken's position was that we can either stick with what we have or we can legislate. How do we define an annoyance or an irritation before it becomes a tragedy? Gil Paterson, who unfortunately is not here, chairs the cross-party group in the Scottish Parliament on men's violence towards women and children, of which I am a member. I know some of the stories that Gil has heard. He too could have listed a load of horrific experiences that have been relayed to him.

Nora Radcliffe's point about victims who are scared to stay at home hit home to me. I have been there; I know how difficult it is. Maureen Macmillan and I have debated many times the difficulties with interdicts and the action that can and cannot be taken. We need something with teeth, not something that people will look at and say, "What does it mean?" because we have no power to act on it.

I was grateful for Robert Brown's comments about the differences and was interested to hear his perception that a new offence would be preferable. We wait to see the outcome of the pilot study and will be supportive of action that will make life considerably less difficult for a lot more women.

16:46

**Michael Matheson (Central Scotland) (SNP):**

A number of compelling arguments have been made for the need to tighten up the regulations and to examine current legislation and the way in which our criminal justice system deals with stalking and harassment. A number of the strong cases that have been made have referred to individuals who have suffered as a result of stalking or harassment. Kay Ullrich, Paul Martin and Pauline McNeill all referred to such cases of which they have experience.

In recent years, a number of high-profile cases in Scotland and elsewhere have given stalking and harassment a major focus in the media. As a result, there has been growing public concern about the way in which the system addresses stalking and harassment. The primary focus of

concern tends to centre on the inadequacy of our present criminal justice system to provide protection to individuals because of the attitudes that prevail about the serious nature of stalking and harassment. Several members have referred to the fact that stalking and harassment are on-going issues. The matter was debated in Westminster back in 1996. That begs the question, "Why has it taken until 2001 to take real action to address that on-going problem?"

Roseanna Cunningham referred to the debate that took place in 1996 and the possibility that was raised then of attaching harassment to the charges against those who were found guilty of breach of the peace, so that harassment could be included on their charge schedule. As the minister pointed out, it has been possible to include harassment since 1998, but the measure has not been implemented. To some extent, that illustrates the nub of the problem: there are provisions, but they are not used adequately.

That leads me to the point that there needs to be a change in the culture of the criminal justice system and the way in which it addresses the serious nature of stalking and harassment. I welcome the fact that the minister has asked ACPOS to examine training and guidance for those who work in the criminal justice system. Will he say what time scale will be set, so that we will have some idea of when the provisions will be implemented?

The minister also referred to best practice throughout the system. As I am sure he is aware, one of the continuing concerns that people have about our criminal justice system is inconsistency of application. When he winds up, I hope that the deputy minister will refer to some ways in which it is hoped such inconsistencies will be addressed when new guidance and training provisions are introduced.

The minister referred to five points that were flagged up by the consultation exercise. The third point was that cost prohibits people from going to court to take civil action. Pauline McNeill made an important intervention, during which she stated that individuals feel that they cannot take action through the civil courts because of the limitations or inaccessibility of legal aid. On a recent visit to Glasgow sheriff court, that experience was highlighted to me by solicitors who deal with individuals who have suffered from domestic violence.

Although the minister referred to several ways in which he hopes to tackle that problem, I believe that the point about the cost of accessing civil courts to take out non-harassment orders or any other appropriate form of interdict must still be addressed. Although the minister mentioned a pilot scheme for lay advisers in Women's Aid

projects, I am reluctant to accept that as a suitable solution to the problem. However, I would be grateful if the minister indicated the time scale that will be set for the establishment of that pilot scheme and its intended duration.

I echo comments that my colleague Roseanna Cunningham made about the motion that has been put before the chamber. It is vague and our amendment was lodged on that basis. A ministerial statement would have been more appropriate to enable us to consider the proposals—we could then have had a debate at a later stage. However, given the minister's comments this afternoon, the SNP will withdraw its amendment and support the Executive's motion.

16:52

**The Deputy Minister for Justice (Iain Gray):**

We have had an interesting and wide-ranging debate. It has progressed discussions that, as Michael Matheson pointed out, have been under way in several forums over a number of years. It is clear that members from all parties feel deeply about this subject, and rightly so. I am sure that most members have had constituency cases in which people were scared, upset and angry about behaviour that they felt was causing them harassment, and in many cases much worse than that, as we have heard.

It is therefore understandable that arguments have been made for a new statutory offence. Most people would agree that clarity and simplicity make for effective law, but evidence-based law making is the right way forward and evidence is still lacking. Research is the key to understanding the motivations behind stalking and the forms that it takes and is, therefore, the most appropriate solution.

That is in line with the views that the Justice and Home Affairs Committee and Victim Support Scotland, among others, expressed in their responses to the consultation paper. Both those bodies pointed to the need for greater understanding of the issues. That position also reflects the mix of support, reluctant support and doubt about the idea of a new statutory offence that has been expressed in this debate. Until we have substantially improved our understanding of stalking, we cannot be in a position to create good law. Good law is important in this matter.

Several members have pointed out the failure to implement the current laws and the danger of bringing in new laws that we fail to use effectively. We cannot hope to find a definition that offers more than the current law until we have a greater knowledge of the types of behaviour that might comprise stalking.

**Phil Gallie:** It seems that I have heard those

words before. In 1996 a Government of a different complexion made the same comments in the House of Commons. It is now four years later and there has been a lot of research and information gathering. We are surely in a position to act more positively now.

**Iain Gray:** We are in a position to act more positively because of this Parliament and because of committees such as the Justice and Home Affairs Committee, which will not allow us to do nothing for a further four years. Doing nothing seems impossible, given the level of interest in this issue.

I will talk about the timetable later, but I believe—I think that the Executive believes—that we are unable not to make progress. We will have to demonstrate progress because of the level of scrutiny that we face.

I want to repeat Jim Wallace's assurance that we have not ruled out the introduction of a new offence. Pauline McNeill made a fair point about time scales. We will commission research imminently and we envisage a report being available by summer next year. That will give us time to get the information that we need. We will revisit the issue then, when we will consider whether, in the meantime, there has been any improvement in the application and effectiveness of existing law. That gives members a kind of timetable for bringing the issue back to the Parliament.

I must emphasise that we are not looking to fill a vacuum in the law. There would be no question of awaiting the outcome of research if people were left unprotected now. However, that is in no way to deny that some people have been failed by existing law. There have been tragic cases in which harassment has gone unchecked and has led to serious assault and even murder, as we have heard. However, there is law in place which, if it operates effectively, should protect people who are suffering at the hands of those who harass them.

The use of the law on breach of the peace might not be universally popular, because that might be perceived as too vague or too trivial. However, it has strengths: it is flexible; it is widely understood; it is used; and it results in custodial sentences. Indeed, as we have heard, one of the strengths of the charge of breach of the peace is that, as a common law offence, it can attract the heaviest of penalties. Roseanna Cunningham is quite right—in theory at least, the penalty could extend to life imprisonment. That brings out the weakness in Phil Gallie's point that a new offence would provide adequate sentencing. A new offence could not carry a heavier theoretical penalty than does breach of the peace. Even with a new offence, the key would lie in the way that it was applied and

used.

Several members have referred to the new crime of cyberstalking. Roseanna Cunningham pointed out that an earlier solution to the general issue of stalking might have left us with cyberstalking falling outside the law. The flexibility of the breach of the peace law helps us in such circumstances. It was used last year when a man in Ayr was sentenced to a term of imprisonment for harassing a young woman using e-mail. In that case, breach of the peace involved the sending of abusive e-mails and it resulted in a nine-month jail sentence. The sheriff commented on the ability of the common law to deal with electronic harassment.

However, we can increase the effective use and application of the law. The exchange between the Deputy First Minister and Roseanna Cunningham on breach of the peace and harassment demonstrated that the measures that we have are not being implemented fully. Paul Martin made an important point that responding for victims of harassment is an obligation for many agencies, not only the police and the judiciary. We take that point and we will consider it.

Existing law can be improved. We will act to strengthen the existing legal provisions. In particular, we will add statutory powers of arrest to non-harassment orders at the earliest opportunity. No one should be in any doubt that breach of an order is serious and will be treated as such by the justice system. Breach of a non-harassment order can result in a prison sentence of up to five years.

Several speakers made points about interim non-harassment orders. Our initial reaction is concern that it would be difficult to grant such an order, breach of which could be a serious criminal offence, without the defendant being heard. However, we would like to take time to reflect on the suggestions and we will respond in writing to Roseanna Cunningham, who raised the issue first this afternoon.

In conclusion, we believe that the package of measures that has been outlined today is sensible and sound and moves us forward. It will improve the application and awareness of existing laws at the earliest opportunity.

Furthermore, the research will improve our understanding of how a new offence might be defined and how it might work.

Above all, the package must offer better reassurance to anybody who fears that they are the victim of a stalker or harasser that protection and redress are available and that their concerns will be understood and addressed by the justice system. We all share that concern. We will move toward that aim this afternoon and will continue to do so in future.

## Parliamentary Bureau Motions

**The Presiding Officer (Sir David Steel):** The next item of business is consideration of Parliamentary Bureau motions.

*Motion moved,*

That the Parliament agrees that the Social Justice Committee is designated as Lead Committee in consideration of the Housing (Scotland) Bill and that the Bill should also be considered by the Local Government Committee.—[Tavish Scott.]



## Decision Time

17:00

**The Presiding Officer (Sir David Steel):** There are six questions to put to the chamber today.

The first question is, that amendment S1M-1502.1, in the name of Fergus Ewing, which seeks to amend motion S1M-1502, in the name of Ross Finnie, which seeks agreement that the Salmon Conservation (Scotland) Bill be passed, 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)  
 Canavan, Dennis (Falkirk West)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Elder, Dorothy-Grace (Glasgow) (SNP)  
 Ewing, Dr Winnie (Highlands and Islands) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 MacDonald, Ms Margo (Lothians) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McLeod, Fiona (West of Scotland) (SNP)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (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)  
 Salmond, Mr Alex (Banff and Buchan) (SNP)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Ullrich, Kay (West of Scotland) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Wilson, Andrew (Central Scotland) (SNP)

### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fergusson, Alex (South of Scotland) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Gallie, Phil (South of Scotland) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)

Gorrie, Donald (Central Scotland) (LD)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (Edinburgh Pentlands) (Lab)  
 Harding, Mr Keith (Mid Scotland and Fife) (Con)  
 Henry, Hugh (Paisley South) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (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)  
 Johnston, Nick (Mid Scotland and Fife) (Con)  
 Johnstone, Alex (North-East Scotland) (Con)  
 Kerr, Mr Andy (East Kilbride) (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)  
 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)  
 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)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North-East Fife) (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, Ben (North-East 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 33, Against 75, Abstentions 0.

*Amendment disagreed to.*

**The Presiding Officer:** The next question is, that motion S1M-1502, in the name of Ross Finnie, which seeks agreement that the Salmon

Conservation (Scotland) Bill be passed, be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Adam, Brian (North-East Scotland) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Campbell, Colin (West of Scotland) (SNP)  
 Canavan, Dennis (Falkirk West)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Elder, Dorothy-Grace (Glasgow) (SNP)  
 Ewing, Dr Winnie (Highlands and Islands) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (Edinburgh Pentlands) (Lab)  
 Harper, Robin (Lothians) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 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)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 MacDonald, Ms Margo (Lothians) (SNP)  
 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)  
 Matheson, Michael (Central Scotland) (SNP)  
 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)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McLeish, Henry (Central Fife) (Lab)  
 McLeod, Fiona (West of Scotland) (SNP)  
 McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 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)  
 Neil, Alex (Central Scotland) (SNP)

Oldfather, Irene (Cunninghame South) (Lab)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Quinan, Mr Lloyd (West of Scotland) (SNP)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Reid, Mr George (Mid Scotland and Fife) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Salmond, Mr Alex (Banff and Buchan) (SNP)  
 Scott, Tavish (Shetland) (LD)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Ullrich, Kay (West of Scotland) (SNP)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)  
 Wilson, Andrew (Central Scotland) (SNP)

**AGAINST**

Aitken, Bill (Glasgow) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fergusson, Alex (South of Scotland) (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)  
 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)  
 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 93, Against 16, Abstentions 0.

*Motion agreed to.*

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

**The Presiding Officer:** The next question is, that amendment S1M-1515.1, in the name of Roseanna Cunningham—

**Roseanna Cunningham (Perth) (SNP):** I wish to withdraw the amendment.

*Amendment, by agreement, withdrawn.*

**The Presiding Officer:** The next question is, that amendment S1M-1515.2, in the name of Phil Gallie, which seeks to amend motion S1M-1515, in the name of Jim Wallace, on stalking and

harassment, be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Aitken, Bill (Glasgow) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fergusson, Alex (South of Scotland) (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)  
 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)  
 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)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Canavan, Dennis (Falkirk West)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (Edinburgh Pentlands) (Lab)  
 Harper, Robin (Lothians) (Green)  
 Henry, Hugh (Paisley South) (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)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 MacKay, Angus (Edinburgh South) (Lab)  
 MacLean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAllion, Mr John (Dundee East) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McLeish, Henry (Central Fife) (Lab)  
 McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 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)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)

Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North-East Fife) (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)  
 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)  
 Elder, Dorothy-Grace (Glasgow) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Grahame, Christine (South of Scotland) (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)  
 Matheson, Michael (Central Scotland) (SNP)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McLeod, Fiona (West of Scotland) (SNP)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (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)  
 Salmond, Mr Alex (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Ullrich, Kay (West of Scotland) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)

**The Presiding Officer:** The result of the division is: For 16, Against 59, Abstentions 30.

*Amendment disagreed to.*

**The Presiding Officer:** The next question is, that motion S1M-1515, in the name of Jim Wallace, on stalking and harassment, be agreed to.

*Motion agreed to.*

That the Parliament welcomes the work undertaken by the Scottish Executive to review the law on stalking and harassment; notes the completion of the consultation exercise carried out in 2000 and endorses the Scottish Executive's proposals for strengthening the law, procedures and practice in this area.

**The Presiding Officer:** The next question is, that motion S1M-1519, in the name of Mr Tom McCabe, on the designation of lead committees, be agreed to.

*Motion agreed to.*

That the Parliament agrees that the Social Justice Committee is designated as Lead Committee in consideration of the Housing (Scotland) Bill and that the Bill should also be considered by the Local Government Committee.

## Autistic Spectrum Disorder

**The Deputy Presiding Officer (Mr George Reid):** The final item of business today is a members' business debate on motion S1M-1436, in the name of Lloyd Quinan, on autistic spectrum disorder provision. The debate will be concluded without any question being put. Nineteen members have asked to participate in this debate. Having checked that the minister is available, I am prepared to accept a motion without notice to extend the debate for up to 30 minutes.

*Motion moved,*

That the debate be extended for up to 30 minutes.—[*Mr Lloyd Quinan.*]

*Motion agreed to.*

*Motion debated,*

That the Parliament notes that the incidence of Autistic Spectrum Disorder has rapidly increased in the last ten years; further notes the challenge faced by parents, carers and organisations such as the Strathclyde Autistic Society regarding the lack of appropriate provision, and urges rapid action to address and rectify the current situation.

17:06

**Mr Lloyd Quinan (West of Scotland) (SNP):** I would like to thank those who are responsible for securing this debate, including the members of the cross-party group on autistic spectrum disorder, many of whom are in the gallery. I thank them for their input and for attending the Parliament today. It is the valued determination, guidance and support of the professionals, the parents and the carers that has brought this debate to the Scottish Parliament. I would also like to thank the Strathclyde Autistic Society for its contributions to the debate, and the children who took part in Project Ability's Saturday group, whose work is currently on display in the Parliament foyer.

As the convener of the cross-party group on autistic spectrum disorder, the people who are involved in the group and the Scottish Society for Autism have developed in me an insight into this condition. I am sure that, due to the enormous amount of media coverage, many more people will be aware of the possible link between the condition and the measles, mumps and rubella vaccine. Along with my many colleagues who have stayed for this debate—it is moving to see so many members here—I hope to address many issues beyond that.

The time has come to address the issue of the provision for and the prevention of autistic spectrum disorder, and to call for a long-term strategy of research and education. Most important, we must call for the provision of support

and respite for parents and carers. As many of us know, autism is an extremely complex condition. The effects can range on the spectrum from the very mild to the very severe, which may mean a profound difficulty in communicating with the rest of the world.

The following is a quotation from a book by Nick Hornby, whose son is autistic:

"there is a child who slept for maybe five or six hours last night. (He sleeps five or six hours every night, in fact, which means that if he can be kept awake until, say, nine, then he will wake up at two or three.) He is upset and frustrated, so he screams, and his parents, who have maybe slept for three or four hours, feel a mixture of exhaustion and depression and panic—they live in a small flat, and the walls are thin, and they know that they are not the only ones who are disturbed on a nightly basis. It is six hours until one of them starts work (the other would like to work, but in the absence of any suitable school place for the child, it is not possible), by which time the child will have attempted to hurt himself by hitting himself hard and repeatedly on the head, and maybe thrown some food around, and refused to use the toilet and ended up soiling a carpet, and demanded in the only language that he has at his disposal (one word, repeated with increasing force and volume) to go out to the park, even though it's pitch black outside . . . and then daylight comes, and because the local authorities don't as yet have a suitable school place for your child (although they're working on it, they promise, and even right now they are having meetings about possibly starting up a school which may well be open by the time your child is seven or eight or ten), then you're looking at another ten or twelve or fifteen hours of the same thing, alleviated only by the prospect of the child falling asleep—sleep he shouldn't really be having because it will make things worse the next night, but it's your only time off in the whole day. And there's nowhere to go, and no one to complain to, and there's no money in the bank that can be used to buy some respite care, because you're down to one income anyway."

I do not want to use this debate to reinforce statistics that have been produced in the chamber many times over the past 18 months. We are all aware that there has been a remarkable and alarming increase in the incidence of ASD, for which there are many theories, including better diagnoses and testing. However, the fact remains that these children and adults have a condition and we, as a Parliament, and the Government must take responsibility for them.

It is an unfortunate fact that current provision levels are far from satisfactory—in fact, they are shocking. We must address diagnosis, education, training, respite care and support as well as the often-missed element of ASD: adults who have autism. Autism does not go away when one reaches majority.

According to a study carried out by the National Autistic Society,

"frontline health professionals appear to have little knowledge or awareness of autistic spectrum disorders".

The study goes on to say that 65 per cent of people saw three or more professionals before

they got a firm diagnosis, and many experienced a vague diagnosis of the severity of the condition, followed by either limited or no support after diagnosis. That intolerable situation requires urgent action, but if there is little training, how can we expect professionals to know about ASD?

On education, it is without doubt that, in many cases, the Government's drive towards mainstreaming is admirable. Certainly it is a positive step. However, it is not a positive step for those with ASD. The severity of the condition can be extreme and many parents have assured me that a mainstream classroom environment is not appropriate. In Scotland, we are fortunate to have two schools that are held up as models of best practice: Struan House School, which is run by the Scottish Society for Autism, and Daldorch School, which is run by the National Autistic Society. The schools are staffed by highly skilled professionals who have both the time and the knowledge of the condition to allow the child to explore, grow and learn at their own pace, rather than at a pace set by the timetable of a state-administered school.

It is a fallacy to say that autism is a childhood condition. A conservative estimate for the Lothian area alone is that there are 223 adults who suffer from autism. What resources are in place for those people? There are few professionals who work in this field. Other than the work that is carried out by the Scottish Society for Autism, there is only one professional in Lothian. Where does a 72-year-old parent find a baby-sitter, for want of a better term, for a 50-year-old man? It is clear that we must address those issues because if we accept that there has been a massive increase in the number of people who suffer from ASD, we can look forward to a large number of adult sufferers. Adults with ASD have been forgotten by society. I admit that I wandered around not considering that adults could have autism. We may think that autism is about children, but children grow up.

I do not want to take up any more of the debate, as so many members have given up their time to be here. I know that they all wish to express their concerns from their constituencies and regions, and to raise individual cases.

The terms of my motion must be addressed, and I look forward to the deputy minister's response. I hope that he will give us a commitment to address genuinely a problem that is getting greater as each day goes by. I ask the deputy minister for that commitment not only on behalf of MSPs but on behalf of the parents, carers and professionals in the gallery.

17:15

**Elaine Smith (Coatbridge and Chryston)**  
**(Lab):** I too congratulate Lloyd Quinan on securing the debate tonight and recognise his sincere

commitment to trying to raise awareness about autistic spectrum disorders and to secure a much-increased level of service provision for children, their parents and their carers in Scotland.

As vice-convenor of the cross-party group on ASD, I want to make a contribution to the debate tonight and add my support to Lloyd Quinan's motion. As a constituency MSP for Coatbridge and Chryston, I have a large case load of wide and varying issues. However, an increasing number of parents have been seeking my assistance with the difficulties and challenges that they face on issues surrounding ASD, which range from worries over the triple vaccine, diagnostic difficulties and education issues through to problems with the criminal justice system. The main common issues are the lack of suitable support provision and the need for professionals across various agencies to work together to see the whole picture. Too often, professionals seem to have a lack of knowledge about ASD and an inability to work together to assemble all the pieces of the jigsaw and provide the best support for the individual child or adult.

I am sure that my colleagues will raise the issues that I would like the minister and the Scottish Executive to address. Lloyd Quinan has already raised some of them. I want to concentrate on a specific issue involving educational opportunities for young children. I am becoming increasingly disturbed by the number of parents approaching me to ask for my intervention with their local authority in a desperate attempt to secure the education that they feel is appropriate for their child. Obviously, I hear only from the parents who are unhappy at the provision that is being offered; there are no doubt many who are satisfied with the school that has been allocated for their child.

The nature of this disorder is such that it is referred to as a spectrum. Accordingly, there are different complexities in the spectrum and each child must be considered as an individual. Just because an excellent school exists that suits the majority of youngsters with ASD does not mean that it is appropriate for every child. I was going to intervene on Lloyd Quinan, but he was winding up. I must point out that local authorities provide some excellent schools that do good work in this area. One in Cathie Craigie's constituency of Cumbernauld, St Lucy's primary school, springs to mind.

I want the minister, in his summing-up, to pay some attention to the plight of parents who know their child's needs and abilities but fail to convince the education authority to enable their child to attend the school of their choice. Such parents face the prospect of going through the authority's appeal procedure and, if that fails, the long, arduous, daunting and often costly route of legal

proceedings.

In June last year, I asked the Executive to agree that the Standards in Scotland's Schools etc Bill should set the tone to enable parents—specifically those whose children have special educational needs—to have a greater say in the education of their child. I further raised the point that that should see an end to circumstances under which parents feel that they have no choice but to take legal action against the local authority to have their child educated in the school of their choice. I will quote briefly from the response. Peter Peacock said:

"It will always be regrettable if the relationship between parents and the local authority breaks down to the extent that parents feel that they must take court action. I would always seek to avoid that."—[*Official Report*, 15 June 2000; Vol 7, c 397.]

Perhaps the minister could comment on how he intends to address that issue, which I am being confronted with by an increasing number of my constituents.

In the spirit of the members' business debate, I will conclude on a positive note and commend the Executive on its decision to implement a key recommendation from its document "The same as you?" and develop a national network for people with an autistic spectrum disorder. Clearly, that is a positive start to recognising and, I hope, addressing the issues of lack of provision and the need for joined-up working by well-trained professionals.

17:18

**Nick Johnston (Mid Scotland and Fife) (Con):**

I congratulate Lloyd Quinan on securing this debate on a condition that causes distress to many families and is much misunderstood. Through the good work of the Scottish Society for Autism, we have more understanding of the condition and know that autism is not one singular problem but covers a wide range of conditions. One such condition, in the higher spectrum of autism, is Asperger's syndrome.

Those with Asperger's syndrome often have overlying conditions and, unless the sufferer is treated by professionals with experience of treating Asperger's, they are often misdiagnosed, put in inappropriate facilities and treated with medications that aggravate the syndrome. I have recently been contacted by the family of such a person in Fife and I use his circumstances with their full knowledge and permission. Their circumstances highlight the lack of facilities in Fife and in Scotland for diagnosing and treating Asperger's syndrome. Their son is 24 years old and is currently detained under the Mental Health (Scotland) Act 1984 in Stratheden Hospital. He came through the normal education system with

his parents and teachers being aware that he had speech and social interaction problems. Despite those difficulties, he gained a place at Glasgow School of Art. During an organised student trip to Paris in 1996, he experienced an exhibition of graphic proportions. Later on that trip, he was assaulted and received a head injury, which was not treated at the time. Shortly after that distressing experience, he started to show signs of mental stress.

Since then, the family has been trying desperately to get appropriate treatment for him. It was not until 1998 that a diagnosis of Asperger's syndrome was made. To date, he has not received any treatment for Asperger's, because of his psychosis. Attempts at controlling the overlying psychosis have been made by treating him with sedatives. He has been detained under the Mental Health (Scotland) Act 1984 since late 1999. Since then, he has continued to receive high doses of neuroleptic drugs, which have the effect of chemical lobotomy.

He now has a number of physical deformities and other medical conditions—all are probable side effects of the drug treatment. The published papers on the subject that I have read indicate that sufferers of Asperger's respond best to one-to-one therapy in a quiet, stabilised family environment. This particular sufferer has been placed in a secure unit, with people suffering from manic mental disorders. His room has been changed five times in six weeks, and only in the past week has he been allowed daytime access to his dormitory.

He does not have access to a smoke-free environment, nor has he any private toilet facilities. His family and visitors have no access to smoke-free private facilities, and have to ask a favour to use the staff toilets. He has become totally disorientated and has been left extremely agitated, which aggravates the Asperger's syndrome. Following years of the parents' trying to persuade Fife health care staff of their son's underlying problem, he is finally to be examined in a 30-minute meeting with a specialist, who is being flown in from England tomorrow.

Few people can be unmoved when faced with tales of misery such as this. There must be better ways of treating people in the 21<sup>st</sup> century. We ask the minister to ensure that resources are targeted, to pay heed to the pleas of the parents and to provide facilities, so that sufferers of Asperger's syndrome and autism can receive the treatment—and their families the support—that they so desperately require in order to lead socially acceptable lives.

17:22

**Donald Gorrie (Central Scotland) (LD):** I wish to associate myself with Lloyd Quinan's excellent

initiative, and I would like to indicate the all-party support for action in the sphere of autistic spectrum disorder.

I will make three points. First, there are, as in many areas of public life, very good voluntary organisations that have done a lot for people suffering from autism. They have very few resources, but have achieved a great deal. I hope that the minister can assure us that funding for the parts of the voluntary sector that deal with autism will be increased. They provide good value for money.

Secondly, there is a problem with autism, ME and other relatively recently researched conditions, especially when the behaviour associated with them comes and goes. There is a frequent, traditional view that the person concerned might just be being difficult, slacking or acting in an upsetting way unnecessarily. There needs to be an education of the public, perhaps even of some people in the educational and medical worlds, so that they might take the issues involved more seriously and sympathetically than they do. Autism is not a visible defect. If one of us were to come into this chamber with a broken leg, or if news got about that one of us was suffering from cancer, everyone would be duly sympathetic, and would take account of that. If we suffered from one of the problems that causes variable behaviour, people might be distinctly less sympathetic. We have to concentrate on that point.

Thirdly, in the days before this excellent establishment was set up, I was picked up—I suppose you would say—on a tube train, then the best way of getting from Westminster to Heathrow airport, by a very bouncy lady, who was promoting a way of dealing with autism that she thought had worked very well in certain cases. She had experienced enormous difficulty in getting the powers that be to take the condition seriously—because the method was, I think, invented by an American. Therefore, by definition, it was suspect. I honestly do not know whether her method was good or not, but I tried to promote it with the UK minister of the day.

We should not pooh-pooh imaginative ways of trying to deal with such disorders and help people in their trials. Some of the experiments may not succeed, but if there are exciting new ways of treating these problems, I hope that we will adopt them and that the innate conservatism of the British people will not stifle all initiative. I hope that we can do more to help people with this great problem. Parliament is at its best on occasions such as this when everybody works together.

17:25

**Mrs Margaret Ewing (Moray) (SNP):** I have

three minutes, I gather, to say a great deal. I start by congratulating Lloyd Quinan on procuring the debate for the Parliament, by thanking all the members who have stayed for the debate and by paying tribute to the people in the gallery.

If people have read the Scottish Parliament information centre paper on the subject of the debate, they will know that this is not a subject to which I have come lately or lightly. It is important to put this subject in the context of finding resolutions to a very complex and difficult problem.

I will address the issue of public confidence. I have no doubt that MMR will be a very serious issue. Those of us who listen to the radio, read the paper and watch television know that the issue has become prominent in the press and other media. A responsibility has been placed on us as legislators to try to restore public confidence.

No member here would argue against immunisation. We all pay tribute to the work that is done by experts and researchers who have eradicated diseases that we all regarded as killer, disabling or debilitating diseases. I would like this debate to restore public confidence in our health service.

The recent figures that are given in the SPICE paper show that there has been an increase in the number of young people who are defined as suffering from ASD. A problem that we face is whether the reason for that increase is diagnostic or causal. I draw the minister's attention to a written answer that I received from Mr Hutton on Thursday 21 December in the House of Commons. He stated:

"The number of children identified as having autism is increasing. Although the full explanation for this is not clear, it is at least in part—

I emphasise "in part"—

"due to improvements in diagnosis by the clinical professions, including child mental health specialists and community paediatricians."

We have to take that into account. Will the minister say what new diagnosis has been introduced that would lead to the idea that the explanation is diagnostic rather than causal, what diagnosis is being done in Scotland, and what money is being spent?

Likewise, what is the Scottish Executive doing on research into this problem? From a written answer to another question that I asked in the House of Commons, I know that

"The Medical Research Council (which is largely funded by Government) has recently invested £344,000 in one of the largest studies of the causes of autism ever attempted. The researchers will study whether autistic children have a history of other conditions or medical problems such as problems during birth".

Where does the Scottish Executive stand on that issue? How will it link into that MRC study? Will it ensure that the Scottish dimension is wholly involved?

MMR has caused a problem with public confidence. I know through constituents, but also from family and friends, of people who are talking about not having the MMR done because of their fears. Ms Cooper, in a reply to a parliamentary question, again on 21 December, said:

"The importation of unlicensed single antigen measles and mumps vaccines is restricted by the Medicines Control Agency under the Medicines Act."—[*Official Report, House of Commons*, 21 December 2000; Vol 360, c 278-79W.]

However, it is my understanding that the single antigen vaccines are allowed for named individuals and therefore that single vaccinations can be had through payment of money either to private practices or to hospitals. I believe that that is occurring in Edinburgh. What happens to the policy of social inclusion if people are travelling to Paris or paying money to have that choice? That choice is not available to everyone.

I hope that the Deputy Minister for Health and Community Care will be as compassionate in his response as Lloyd Quinan and others have been in what they have said in this debate.

17:31

**Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab):** I will try to be brief as we have already heard a number of very thoughtful and moving speeches. Lloyd Quinan and Elaine Smith outlined the very real difficulties that carers and parents of young people with autism face in their day-to-day lives. I want to take a slightly different perspective.

As a former art therapist, I want to say that all is not doom, gloom and despondency. Nobody can have failed to be moved by the visual display and demonstration of ability, as well as disability, currently on show in the Parliament foyer. Donald Gorrie was right to say that we need to be imaginative. Art, music and drama therapy are not add-ons after other forms of caring; they are an essential part of working with people with autism and a range of other disorders or problems.

As has been said, we need also to remember that with earlier diagnosis there is an opportunity to work with people at a much younger age. We ought to look at how we do that and how we resource it. I was disappointed to find a local authority social worker in my constituency having to find money from a charity to pay a voluntary organisation to do some of that work. That should be addressed.

I will mention Daldorch school, which is in my



constituency, only briefly as Lloyd Quinan has already mentioned it. It is seen as a centre of excellence and people travel from all over the UK to attend it. However, that is a very small provision in the overall scheme and it would be better if people did not have to travel so far—although they are very welcome in Carrick, Cumnock and Doon Valley. Surely it would be better to have that sort of provision on people's doorstep.

My final point is about the need for a strategy from the early years through to adulthood. With an increasing number of people being diagnosed, do we really have the provision to support young adults? Very moving publications have been written by people with autism. The comment that sticks in my mind was made by a young person who said that all they wanted from life was a roof over their head, a job and some money in their pocket—the same as everybody else. That is what we should be striving for and I hope that the minister will assure us that the Scottish Executive is working in that direction.

17:34

**Mary Scanlon (Highlands and Islands) (Con):**

I very much welcome this debate on the lack of appropriate provision for people with ASD and their parents, carers and organisations. I spent some considerable time during our holidays reading the papers on MMR and autism. I am sure that everyone will understand that, if it were otherwise, I would have discussed any conclusions I have come to with the Health and Community Care Committee.

The thing that struck me most in all the papers and newspaper articles was the parents' letters, and their concern and guilt that they are not doing enough to provide support and care for their children. That struck home, because when support services are not in place, parents take on themselves the responsibility and guilt for that provision. It should be our responsibility to provide that.

I believe that good provision of care can be addressed only by good diagnosis. Without consistent and thorough diagnosis, we cannot understand the problem or measure it, let alone try to address the needs of the individual. Many people have mentioned the fact that we are now much better at diagnosing autism, but I truly believe that there is vast under-diagnosis of autistic spectrum disorder.

I understand from the SPICe note that the Scottish Executive has funded a project in the Borders, which is devising good practice in diagnosis of autism and other disorders. I hope that we will all receive a copy of the external report so that individual MSPs can check that the provision in our areas is as good as the best in

Scotland.

In a debate last year on pre-school education, Peter Peacock gave me an assurance that he would consider integrating a diagnostic test into the procedures for nursery children. That would be a great help and relief to many parents and would address the support and needs of their child before precious time is lost.

It is tragic that so many people go through such a long part of their lives and miss so many opportunities simply because we cannot get our act together to diagnose their problems. Nick Johnston highlighted that problem with the example of a person who was diagnosed at 22. When I was a lecturer in further education, we often referred students to educational psychologists. Some of them had autistic disorders and a great many of them had dyslexia. It was a tragedy that many were in their 20s, 30s and 40s and had slipped through the whole educational net before a further education lecturer—without any training—spotted something.

It is incumbent on the Scottish Parliament to continue to monitor and scrutinise the 29 excellent recommendations in "The same as you?", which cannot be allowed to gather dust on the shelf. I would like to focus on two points in the document. Recommendation 28 suggests that the Scottish Executive

"should commission research into the number of people with learning disabilities in prison or in secure accommodation and the arrangements for assessing and providing them with care."

That would be an excellent example of joined-up government.

The other point is the personal life plan. I understand that, in September, the Scottish Society for Autism and the National Autistic Society provided the information to develop a national network for people with ASD. I ask the minister to assure the Parliament that that is progressing. Will he also update us on the excellent recommendations in "The same as you?", which address the whole subject of the debate?

**The Deputy Presiding Officer:** I must remind members that if their speeches run over four minutes, other members might not be called.

17:38

**Tommy Sheridan (Glasgow) (SSP):** I will be as brief as possible. There can be few, if any, letters and visits to surgeries that are more frustrating and heart rending than those that we have all received from parents who are experiencing a mixture of guilt—at being unable to provide for their children—and anger at the causes of the autistic spectrum disorder from which their

children suffer. They feel guilt because of their personal inability to provide services for their children. They feel frustration—as do we—at the lack of resources and support services.

I must pay personal tribute to Jane Hook and the Scottish Society for Autism. Without them, there would be nowhere to go. We would not know where to go if we were not able to contact the society and people such as Jane Hook and ask for help. MSPs and councillors having to go to the voluntary sector for help is not a state of affairs that can continue.

The Government and the country have to develop better support services. The minister has an unenviable task in replying to this debate. I do not believe that it is something that he looks forward to, given the base that we are starting from, because there is little in the way of a support network and services. That has to be addressed, and I hope that we receive some assurances today that there will be serious funding to develop networks and services across Scotland. That is the primary aim of this debate—to get that funding and support in place.

I will use my final minute to address the other part of the problem, which is the fear that others, such as Margaret Ewing, have referred to—the MMR vaccine. No one in this chamber can say for sure that there is a causal link between the MMR vaccine and autistic spectrum disorder, but neither can anyone in this chamber say that there is no causal link. There is increasing evidence to suggest that the MMR vaccine may be, if not solely, at least partly responsible for the increased incidence of autistic spectrum disorder.

It is from that point of view that I appeal to the Deputy Minister for Health and Community Care at least to consider a programme—even a five-year closely monitored programme—of single vaccines, which would be linked to a massive publicity campaign so that the single vaccine campaign did not lead to a fall-off in vaccination of children whom we wish to be immunised. If we link a programme of single vaccines to a massive and properly resourced publicity campaign, we can address some of the fears. If we find after five years—because we have recorded data and examined it—that there is no link between the MMR vaccine and autistic spectrum disorder, we may wish to reconsider the triple vaccine. However, it would be worth pioneering that programme in Scotland in order to put at ease the minds of many parents.

17:42

**Mr John McAllion (Dundee East) (Lab):** I too congratulate Lloyd Quinan on his success in securing this important debate and on the hard work that he and the vice-convenor of the cross-

party group on autistic spectrum disorder, Elaine Smith, have put into setting up that group, which is already beginning to impact on this Parliament.

I am greatly encouraged by the attendance at this debate. It is a good thing, because there are a number of current issues about this subject that are screaming out for the attention of the Parliament and the Government, not least the fact that we do not know the true extent or nature of the problem that we are dealing with because the data that we have are not uniform, reliable or in any sense comprehensive.

In fact, the SPICe note on autistic spectrum disorder uses data from general practitioners in continuous morbidity recording practices, which is one of the key sources of data on this condition, yet the GPs taking part in that system cover only 8 per cent of the Scottish population—so the data that we have are more likely to mislead than be helpful in determining what we need to do to deal with this problem.

The 2000 schools census is another example of unreliable data. It claims that there are 16 school-age pupils with autism in Dundee, yet in 2000 I attended an open day in the city that was organised by a group of local parents who had children with autistic spectrum disorder. It was attended by more than 100 parents in the city whose children have the disorder. The only conclusion that I can come to is that the school census data are wrong, and because they are wrong the provision that is made for children, parents and carers in the city is wrong as well. That is not a criticism of Dundee City Council, which is doing the best it can in difficult circumstances.

A resource location for children of primary school age with autistic spectrum disorder was set up for the first time in August 1999. A second resource location for pupils of secondary school age was opened in August 2000. They were good steps forward from the city council, which is strapped for cash. However, if we are honest, the provision was made only because of pressure from parents who campaigned in the city and who were not prepared to tolerate the lack of dedicated provision for their children. I pay tribute to people such as Kim Nicoll and Jennifer Kennedy, who were at the forefront of the campaign to make provision for autistic spectrum disorder in the city of Dundee.

There is still nowhere near enough provision. There are not enough places in resource locations. When youngsters leave secondary education, they are on their own. No provision is made. Nothing like sufficient respite care is provided for parents in the city who need it. The motion is not only necessary, but essential. If the Parliament is serious about social justice, it must

include in its definition of social justice youngsters and adults with autistic spectrum disorder and their parents, and do something about it. I hope that the minister will do that at the end of the debate.

17:46

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** Many members have been involved in the campaign for acknowledgement and understanding of and provision for autism and autism sufferers. I hope that the Presiding Officer will not mind my opening by mentioning the role that he played as George Reid MP in the 1970s. I hope that I do not embarrass him by pointing out that he played a major part in establishing the Scottish Society for Autism in Alloa. Thereafter, he continued to work for the campaign through Autism-Europe and the World Autism Organisation.

As with Elaine Smith, Nick Johnston and many other members, several constituents have consulted me about the issue, to which I have come lately—more lately than my wife, who has campaigned on it for a long period. I have been struck and devastated by the experiences of parents at the hands of local authorities—which are not always as sympathetic as we all recognise they should be—and in the daily grind of their lives.

I will canvass only one issue. A clear question exists, to which the Governments in Westminster and Holyrood must respond. Do parents have the right to have a single vaccination? The Government's response—saying that there is an absence of causal evidence—is wrong and will not be sustained. As Tommy Sheridan said, the important point is that there is no evidence of a lack of a causal link.

The approach that I adopt and that I imagine others would advocate is that of the precautionary principle. That is the approach that the Government in Westminster has advocated in respect of the BSE crisis. As I understand it, even now there is no proof of a causal connection between human consumption of BSE-infected material and new variant CJD, yet the Government acted on the precautionary principle. Therefore, the policy that the Government in Westminster has adopted for this issue is at odds with the policy that it has pursued for the BSE crisis.

For that reason, the current policy is unsustainable. I hope that the minister will deal at length with the argument, which has been made at least three times. I make the plea that if devolution is to mean anything worth while, it should mean that we respond to the concerns of the people who put us here. A programme of single vaccination, carried out with great care and full consultation

with all the relevant authorities, would show that devolution works.

17:49

**Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD):** Like Fergus Ewing, I come late to the issue. Only as a member of the Scottish Parliament have I come face to face with the cases that we are dealing with today.

Good work is going on in the Borders. The Borders Autism Support Group is trying to raise awareness and a pilot study of diagnosis is taking place in the Borders service, but constituents whose family members suffer from ASD still come to us with concerns. Such people, through frustration and sadness, will cry in front of us in our surgeries because they feel that the system is not working for their family and their child. Since Christmas, four families have come to me on the subject, some talking about the MMR vaccine, others worried about their toddlers.

There is a youngster who has been well treated in a language unit in a primary school with small classes. The parents have been pleased with the situation. Now, however, for various reasons—I am not blaming the local authority as such—the local authority wants to put the child into the mainstream school and the parents are not sure whether there will be enough physical support and whether the structures that he needs will be present. Lloyd Quinan pointed out the implications of the presumption of mainstreaming, but there needs to be a sensitivity to the needs of the youngsters.

Another case that came before me concerned an individual who had recently left school. His family had moved into a new housing association house which, because of the condition of the young person, needed adaptations. The housing association, however, does not seem to be treating the situation as seriously as it would if the individual suffered from a condition that is recognised as having an absolutely medical cause. Because the condition is seen to be slightly vague, the adaptations do not get done until some time in the future when they can be afforded. In the meantime, the family suffers greatly.

The final case that I will mention concerns a young man in his 20s or early 30s who was well treated in the residential facility in Alloa. The parents wanted him home because the family is close, but the strain of the behavioural problems was too much. There was inadequate respite care and the situation became unbearable. He moved into a local facility but that is now to be closed. I hope that this will not happen, but the young man may be moved to the place that the health trust believes is secure enough for him—an establishment in England. His parents live at one

end of my constituency and the young man is being taken away from his loving parents and moved to Northumberland. That is not happening due to any wickedness, but because the authorities believe that that is the only place that can cater for him. That is not good enough, as his will not be the only such case.

We must do more across Scotland. We need more facilities and more funding. I hope that today's debate will change the atmosphere. The number of MSPs who have attended the debate, the strong feelings that have been expressed and the spread of political will could change the whole attitude towards this area of disability.

17:53

**Mr Kenneth Macintosh (Eastwood) (Lab):** I too welcome today's debate and thank Lloyd Quinan for raising the issue. I would like to echo Ian Jenkins's remarks and say that the debate is part of the process through which the Parliament and society more generally can raise awareness of autism. I am glad that many constructive points have been made across a range of issues.

I will concentrate on education in early years. I want to emphasise the importance of early diagnosis. Earlier this week, I was talking to the mother of a young autistic boy who told me a disturbing, but familiar, story. Her child was not diagnosed until he was six years old. It took a further six months for the initial diagnosis to be confirmed. It would have taken even longer if she had not made a nuisance of herself and insisted on an early appointment with the consultant. When her son was diagnosed, that was it—there was no support and no follow-up. No one was there to tell her what to do—until she got in touch with the Scottish Society for Autism, which was able to help her.

Early diagnosis is essential. As soon as that mother found out that her son was on the autistic spectrum, she and her husband were able to adjust their behaviour towards him. No longer did they treat his behaviour as defiant or aggressive, and their relationship improved immediately.

It is quite staggering how many adults remain undiagnosed, possibly receiving inappropriate treatment or, even worse, ending up in the criminal justice system because of a lack of understanding. It is not possible to diagnose autism from birth, but Mary Scanlon referred to the checklist for autism in toddlers—or CHAT—which is recognised as a reliable method of screening from the age of 18 months. It is still little used in Scotland, and I urge the Scottish Executive to consider ways of encouraging greater awareness of CHAT, strengthening early assessment and therefore early intervention.

The problems do not end with diagnosis; they seem to begin there. A story that is familiar to me and probably also to other members concerns the difficulty that parents face in securing the appropriate educational and health provision for their child. Many families rely on the record of needs—that is, if they can get one for their child. Depending on where someone lives, trying to open a record of needs can be a dispiriting and exhausting affair. Local authorities, which should be seen as part of the solution to a family's concerns, sometimes end up as part of the problem. Psychologists, who should be impartially assessing a child's needs, can be seen as protecting an authority's resources. The assessment itself tends to vary according to the resources available in the locality, rather than according to the needs of the child, creating a geographical lottery. The system needs to be overhauled. I hope that the report of the Education, Culture and Sport Committee on special educational needs will address that point.

There are many other issues that I could mention, such as the lack of help for parents at holiday time. In some households, the end of term becomes something to be dreaded rather than looked forward to. There continues to be difficulty surrounding the transition from primary to secondary education and there is lack of awareness of autism and of teacher training to deal with the needs of autistic children at secondary level. Many families face difficulties in securing adequate resources to help them cope by giving them respite or by securing a suitable education for their child.

I hope that today's debate will be seen as just part of the process of raising awareness of autism and that we will have the opportunity to return to the subject in Parliament on many more occasions. I recognise the Executive's commitment to tackling the problem, as outlined in "The same as you?", the Government's review of services for people with learning disabilities. I look forward to hearing the minister's response to many of the points that have been raised this evening.

**The Deputy Presiding Officer:** I call Brian Monteith. During his speech, I shall take advice from the SNP as to which one of the three proposed SNP speakers is to fill the last spot.

17:57

**Mr Brian Monteith (Mid Scotland and Fife) (Con):** I thank and pay tribute to Lloyd Quinan. I do not mean to be patronising in any way when I say that he made a particularly eloquent speech. He has a reputation for being a bit of a firebrand, but he made a heartfelt and touching speech. I mean that sincerely and I pay my complements to him and to the effort that he has made in securing

this debate, in achieving cross-party support and in attracting such good attendance this evening. This is an issue that attracts controversy, because people care passionately and deeply about it—as they should. We have heard many touching stories this evening.

As education spokesman for the Conservatives, I want to touch on a slightly different aspect—the Riddell report on special educational needs. There is a tendency in education to follow fashions and trends and often we see things go full circle. The Education, Culture and Sport Committee is considering special educational needs and I hope that its inquiry will stress the importance of parental choice. There is a danger in always going to educationists and asking them how education should be run, but I believe that parents should have a strong say because they will overcome fashions and trends. The idea that inclusion is integration is wrong. To me, inclusion does not mean integration; it means trying to find the most appropriate provision for an autistic child. That means a variety of choices being available to parents so that they can choose for themselves.

Ken Macintosh mentioned the record of needs. I believe that there is a conflict of interest in that the local authorities decide on the record of needs and the assessment and they are also the providers. We must consider that carefully. I would be interested to know whether there is a conflict under the European convention on human rights. I do not believe that one can make recommendations and make provisions.

Finally, I want to touch on the precautionary principle as regards the MMR vaccine. The Conservatives have no particular party view on MMR. However, one thing that we all understand about this Parliament is that we can dare to be different; we can make our own choices and recommendations in Scotland. It is odd that we can have a policy on banning beef on the bone in relation to the contraction of CJD—people are 250 times more likely to be hit by a bolt of lightning than they are to contract CJD by eating beef on the bone—yet we do not yet have a move towards individual vaccines. I am sympathetic to such a cause, because the precautionary principle suggests that that is the way we should go. I thought that Tommy Sheridan's idea was interesting and could be developed.

This Parliament has the opportunity to be different. I hope that we will dare to be different—perhaps not tonight, but following the report on the Health and Community Care Committee's inquiry—and have a different policy in Scotland on this issue.

**The Deputy Presiding Officer:** I call Irene McGugan, who will be the final member to speak from the back benches. I apologise to Christine

Grahame and Brian Adam, who sat faithfully through the debate, but who will not be called for reasons of time.

18:01

**Irene McGugan (North-East Scotland) (SNP):** I want to quote briefly from the Scottish Society for Autism's annual review. Speaking at the Autism-Europe congress 2000 that was held in Glasgow in May, George Reid MSP—Deputy Presiding Officer of the Scottish Parliament—said:

"The battle for human rights is not won, so long as parents are denied early access to diagnosis and assessment of their autistic children; so long as that child has no proper access to education and other support suited to his or her needs; so long as there are no facilities for independent supported living; so long as there is no respite care for parents; so long as inclusion is seen as a bureaucratic duty and not the tolerance of diversity and the right to be different."

That seems to me to be a fairly accurate description of where we are. For example, research confirms time and again that respite care is an overwhelming need of families who care for an autistic child. Care for such children is a relentless task and it should not be too much to ask to have a break now and then. However, it is notoriously difficult to provide that kind of resource, not only because of the usual financial difficulties, but because autistic children often have communication difficulties that make it difficult for other people to look after them. Most important, they do not respond very well to change of any kind. Therefore, I appeal to the minister for more support to be made available, particularly home-based support and not just residential provision.

I hope that we will remember at all times that children are, first and foremost, children. All provision, including recreational facilities, play provision and events—all the opportunities that are available to other children—should be accessible to children with autism. Measures should be taken to ensure that that is the case. We must aspire to fulfil the terms of the European Parliament's written declaration on the rights of people with autism if we are to win the battle for human rights to which George Reid referred.

**The Deputy Presiding Officer:** It will be impossible for the minister to respond in detail to all the points that were raised in the debate. I call Malcolm Chisholm.

18:04

**The Deputy Minister for Health and Community Care (Malcolm Chisholm):** I congratulate Lloyd Quinan on securing this important debate. His motion reflects the interest and concern that many of us have in ensuring that

people with autistic spectrum disorders are correctly diagnosed as early as possible and that they and their carers receive the support that they need to live more healthy and enriched lives.

As Lloyd Quinan graphically described, autism is a devastating condition. It is without clear origins and it is poorly understood by scientists and the public alike. There is scant evidence of remedies that work and little appreciation of the lifelong consequences, which Lloyd Quinan highlighted.

For that reason, the Medical Research Council announced in April last year that it would fund a major research project to find out what causes the condition. That project, one of the largest ever undertaken on the subject, will last two years and will involve scrutiny of more than 2 million people's health records from more than 300 locations throughout the United Kingdom.

The scale of the study will allow consideration to be given simultaneously to all the risk factors, which was not possible in previous smaller-scale studies. The study has just started and we envisage that there will be Scottish elements in it. The Scottish Executive health department is fully engaged in MRC policy, but the chief scientist office would also be pleased to receive any quality research proposals on autism—proposals that are innovative and do not duplicate the MRC study.

**Mrs Margaret Ewing:** Will the minister make it clear that the issue of the MMR vaccine will be included in the MRC research? Is there an allocated budget from the Scottish Executive to ensure that, if innovative ideas are produced, they will be treated seriously and money will be made available?

**Malcolm Chisholm:** As I said, the CSO will be pleased to receive bids. That is how research works in the Scottish Executive.

I will now address the issue that was highlighted by Margaret Ewing, Tommy Sheridan and others—the MMR vaccine. Lloyd Quinan did not want that to dominate the debate, so I will make only three points about it.

First, in a UK context, the view of expert advisory committees—which advise UK health ministers and Scottish health ministers—is unequivocal that on the scientific evidence available, there is no causal link between MMR vaccine and autism. However, the joint committee on vaccination and immunisation continues to keep that under review. Secondly, it is important that the international context is that that view is shared by the World Health Organisation. MMR is used extensively throughout the world; in the USA, Canada, Australia, New Zealand and in other European countries. I understand from the Medicines Control Agency that no country in the world recommends that MMR be given as three

separate vaccines.

**Tommy Sheridan:** Will Malcolm Chisholm give way?

**Malcolm Chisholm:** I think not—I am halfway through my time and I have a great deal of material to get through. I do not want the debate, as Lloyd Quinan said, to be dominated by the MMR vaccine.

Thirdly, it is crucial that the confidence of parents is not undermined. We must remember the risks of lack of protection. Although it goes against the general spirit of the debate, I have to say that it was utterly irresponsible of Fergus Ewing to draw an analogy with BSE and CJD, on which the medical authorities of every country in the world accept a link. In contrast, the medical authorities of every country in the world say that there is not a link between the MMR vaccine and autism.

**Fergus Ewing:** Will Malcolm Chisholm give way?

**Malcolm Chisholm:** No. I have spoken for four minutes and I only have another three. The Presiding Officer might be generous and allow me a bit more time.

On the rapidly increasing incidence of autism, I accept that there is a dilemma—as Margaret Ewing emphasised—about how much is causal and how much is diagnostic.

**Christine Grahame (South of Scotland) (SNP):** Will the minister give way?

**Malcolm Chisholm:** I cannot take interventions, because of the time.

**Christine Grahame:** It is one point.

**The Deputy Presiding Officer:** Order. The minister is not giving way.

**Malcolm Chisholm:** I will not get through my speech if I take interventions.

It is possible that there has been a genuine change in the incidence of autism, but we have insufficient data on which to decide. There has certainly been a widening definition and greater awareness and detection of the condition. Our priority is to ensure that youngsters who have the condition are diagnosed early and are offered tried and tested interventions.

The needs of the autistic child, adolescent and adult are many and diverse and no single care agency can hope to meet all the needs effectively. I accept Tommy Sheridan's comment that we are starting from a low base, but I believe that the learning disabilities review was a major step forward. Donald Gorrie highlighted that one of its recommendations was a call for changing attitudes

among the public and professionals—that is important.

Secondly, resources of £36 million were put into learning disabilities in general by the review. Some of that will go towards autistic spectrum disorders. The main recommendation of the report, “The same as you?”, is the establishment of a national service network for children and adults who have an autistic spectrum disorder. The network will aim to bring together statutory agencies, professionals and voluntary organisations that have an interest in autism. In particular, the review recognised that support services were patchy throughout Scotland. Therefore, a key early priority for the national network will be to undertake a comprehensive mapping exercise. That will enable the network to identify gaps in services and training needs and to set out how best practice can be developed in assessment, diagnosis and care support.

To draw all that together, we have reached agreement with the Public Health Institute for Scotland to carry out a needs assessment of autistic spectrum disorders. That will address the scale of the problem and the adequacy of support services. We are considering a proposal that was submitted jointly by the Scottish Society for Autism and the National Autistic Society on how to move the network forward. I assure Mary Scanlon that we will make an announcement soon.

The network will link with the partnership in practice agreements that each local authority and health board is to put in place by June this year, which will set out how local services for those who have an autistic spectrum disorder are to be developed and delivered. As in all areas of care, a multi-agency approach is required—an approach that seeks to fill the gaps, where they exist, and to provide seamless care that matches needs and expectations.

Such a joint approach is being developed—as Mary Scanlon said—in the Borders. It is being funded by an award under the Executive’s mental health and well-being development fund. The initiative in the Borders is to establish an early detection programme for children who have a high risk of autism and to direct children to early assessment by a multi-agency team. The project also aims to ensure that the child and the family receive co-ordinated specialist follow-up support and care. There has been a 50 per cent increase in detection, commonly by the age of two and in time to intervene early to help parents and children alike. The project has also been instrumental in the decision to award some £117,000 to enhance the special education support that is needed by a number of children in the area. We await the next outcome report, but we are encouraged by what we have been told so far. If that work represents best practice, then our challenge will be to roll it

out for the benefit of all people who are affected and their families and carers. The national network will, I am sure, wish to examine the project for any lessons in good practice.

Do I have two minutes left, Presiding Officer?

**The Deputy Presiding Officer:** You have until 18:15, minister.

**Malcolm Chisholm:** That is two minutes, so I cannot say too much about either respite care or education. The Executive has highlighted additional resources for respite care for local authorities, which will benefit the people to whom Irene McGugan referred. Members referred to education—first Elaine Smith, then Kenneth Macintosh and Brian Monteith. Clearly, schools have a role in detection, assessment and management of autistic spectrum disorders. I must refer some of the more specific points—such as those that were raised by Elaine Smith—to the Minister for Education, Europe and External Affairs. However, we have allocated £5 million a year to local authorities for in-service development and training of teachers and other professionals who work with children with special educational needs, including autism.

We have also allocated £500,000 to six projects that are aimed specifically at supporting children who have autistic spectrum disorders and their families. Thirdly, Enquire—an independent national advice service that is based, as it happens, in my constituency—was launched last year by Children in Scotland to provide information and advice to parents, children and young people.

The key to addressing the needs of people who have autistic spectrum disorders is a strategy that aims to understand more about the condition, to detect young people who might be affected at the earliest opportunity and to offer high-quality, integrated services that place the child, adult and the family at centre stage.

I pay tribute to all those who have come to the debate and to all the voluntary organisations whose commitment and dedication improve the quality of life for people with autism. We are dedicating energy and resources to making progress across a broad front to improve understanding, diagnosis and care support services. I recognise, however, that we have a very long way to go. I hope that the debate has contributed to the journey.

**The Deputy Presiding Officer:** That concludes the debate on autistic spectrum disorder provision. I thank the minister, members, staff, and families and carers in the gallery for staying for the extra time in the debate.

*Meeting closed at 18:14.*





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