MEETING OF THE PARLIAMENT

Wednesday 17 January 2001
(*Afternoon*)

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Debates

Scottish Parliament

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

Time for Reflection

The Presiding Officer (Sir David Steel): We welcome to lead our time for reflection today the Most Rev Bruce Cameron, Primus of the Scottish Episcopal Church and Bishop of Aberdeen and Orkney.

The Most Rev Bruce Cameron (Primus of the Scottish Episcopal Church and Bishop of Aberdeen and Orkney): The beginning of a new year coincides with a season in the Christian calendar known as the Epiphany. It started on 6 January, the 12th day of Christmas, and is associated primarily with the story of the wise men visiting the child Jesus. Of course, that story—known as the story of the Magi—is not exclusive to the Christian religion. Other religions and other cultures have similar stories in their traditions.

In modern-day thinking, a story about three wise men could in some way sound exclusive. A feminist theologian once wrote—probably with tongue in cheek—that had it been three wise women, they would have asked for more directions and got there sooner; they might have cleaned the stable and fed the cattle; they would have brought useful gifts; and there might then have been peace in the world.

But the story itself, whether we come from a religious starting point or not, shows in those travelling sages characteristics that I believe to be worthy of reflection. They had a searching spirit—that human spirit which, through the scientist and theologian, the philosopher and politician, does not claim to possess the truth, but searches the world and the universe to find it. They had a questioning mind—which does not arrogantly claim to know all the answers, but which is at home with questions in exploring, and sometimes exploding, the false myths that have assumed over-importance. They had a discovering nature—which will find the glimpses of truth that will enable people to live in peace and harmony with one another.

In the years of my youth, a remarkable man was Secretary-General of the United Nations. His name was Dag Hammarskjold. He was tragically killed in an air crash in the early 1960s on one of his many journeys in search of peace. I believe that he was very much a wise man of his time. From the book "Markings", a collection of his thoughts, I offer you this prayer, for you are men and women who, in the political life of our nation today, are called to search, to question and to discover.

Hallowed be Thy name, not mine
Thy Kingdom come, not mine
Thy Will be done, not mine

Give us peace in our hearts
Peace with one another
Peace within ourselves
And free us from all fear

Amen

Parliamentary Bureau Motions

The Presiding Officer (Sir David Steel): The next item of business is consideration of Parliamentary Bureau motions. The first of those is motion S1M-1552, in the name of Tom McCabe, which seeks agreement, under rule 11.2.4 of the standing orders, that decision time today shall begin at 5.30 pm.

Motion moved,

That the Parliament agrees under Rule 11.2.4 of the Standing Orders that Decision Time on Wednesday 17 January 2001 shall begin at 5.30 pm.—[*Tavish Scott*.]

The Presiding Officer: No one has asked to speak against the motion, so I shall put the question on it.

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

The Presiding Officer: Do you have a point of order, Mr Rumbles, or did you want to speak against the motion?

Mr Rumbles: I agree with the motion that we extend business. I would prefer that we extended it a little longer as many members want to speak in the debate on the convenership of committees and I do not think that half an hour will be sufficient. I ask the business managers to accept a motion without notice further to extend business—even 15 more minutes would be helpful.

The Presiding Officer: It is for me to accept a motion without notice, and I do not think that I will do that. We discussed the matter in the Parliamentary Bureau. Mr Scott will reply to the point that Mr Rumbles made.

The Deputy Minister for Parliament (Tavish Scott): Yesterday, at the request of some bureau members, we allocated time for a debate on the convenership of committees today. There are Sewel motions and a considerable body of other business this afternoon, so half an hour was considered adequate for that debate.

The Presiding Officer: The question is, that motion S1M-1552, in the name of Tom McCabe, deferring decision time until 5.30 pm, be agreed to.

Motion agreed to.

The Presiding Officer: The next motion is motion S1M-1551, in the name of Tom McCabe, seeking agreement that an additional debate on motion S1M-1555, on the convenership of committees, be included in this afternoon's business programme.

Motion moved,

That the Parliament agrees the following revisions to the Business Motion agreed on 11 January 2001—

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after "Executive Debate on the Tobacco Advertising and Promotion Bill—UK Legislation", delete all and insert:

followed by	Debate on Convenership of Committees
followed by	Parliamentary Bureau Motions
5.30 pm	Decision Time
followed by	Members' Business—debate on the subject of S1M-1474 Janis Hughes: Acute Health Service Review in South Glasgow—[*Tavish Scott.*]

Motion agreed to.

Donald Gorrie (Central Scotland) (LD): On a point of order. Is the timetable for business this afternoon rigid? If the Sewel motions do not take as long as is allocated for them, will more time be available for the debate to which Mr Rumbles referred?

The Presiding Officer: Yes. If the earlier motions do not take up the full time, that debate will last longer than half an hour. It is possible that the debate on convenership will start before 5 o'clock.

The next motions are motions S1M-1553 and S1M-1554, on the designation of lead committees.

Motions moved,

That the Parliament agrees that:

the Health and Community Care Committee is designated as Lead Committee in consideration of the Regulation of Care (Scotland) Bill and that the Bill should also be considered by the Local Government Committee and by the Education, Culture and Sport Committee; and

the Justice 1 Committee is designated as Lead Committee in consideration of the Convention Rights (Compliance) (Scotland) Bill.

That the Parliament agrees the following designation of Lead Committee—

The Health and Community Care Committee to consider the Specified Risk Material Amendment (Scotland) Regulations 2001 (SSI 2001/3) and the Specified Risk Material Order Amendment (Scotland) Regulations 2001 (SSI 2001/4).—[*Tavish Scott.*]

The Presiding Officer: The questions on those motions will be put at decision time.

Mr Jamie McGrigor (Highlands and Islands) (Con): On a point of order, Presiding Officer. I want to put it on record that my vote against the passing of the Salmon Conservation (Scotland) Bill was not recorded.

The Presiding Officer: I understand that there was a defect in either your card or the console. The point is noted.

Mr Keith Raffan (Mid Scotland and Fife) (LD): On a point of order, Presiding Officer. If the debate on stage 1 of the Mortgage Rights (Scotland) Bill stops early, do you intend to proceed with the business for the rest of the day straight away?

The Presiding Officer: Yes. The business motion says that that debate is "followed by" other business. The only time that is fixed this afternoon is decision time at 5.30 pm. If everything else finishes early, we will move on.

Mortgage Rights (Scotland) Bill: Stage 1

The Presiding Officer (Sir David Steel): We now move to motion S1M-1534, in the name of Cathie Craigie, on the general principles of the Mortgage Rights (Scotland) Bill.

14:39

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I am pleased to move the motion at stage 1 of the Mortgage Rights (Scotland) Bill. I thank all those who have assisted me to prepare and lodge the bill. In particular, I thank those who have supported the measure, many of whom are here this afternoon and without whom the bill would not have reached this stage.

I also acknowledge the work of the clerks and the members of the Social Inclusion, Housing and Voluntary Sector Committee. Their examination of the bill and their questions and comments have helped me to clarify my thoughts on the matter. I also want to put on record the help that I have received from the Council of Mortgage Lenders, the Chartered Institute of Housing in Scotland, Shelter Scotland, the Law Society of Scotland, and the Scottish Association of Law Centres in the development of my bill. They pointed out difficulties with the proposals that might otherwise have been missed. I also thank Ian Smart, who is a solicitor practising in my constituency. He gave me some very good advice on the legalities of repossession.

The Mortgage Rights (Scotland) Bill seeks to give people in mortgage default the opportunity to get back on their feet while letting them stay in their home. At present, when a mortgage debtor gets into difficulties, in the majority of cases the lender will make significant efforts to resolve the situation with the debtor, in line with the mortgage code. However, where those efforts fail to resolve the situation, and the debtor who is burdened with worries simply buries their head in the sand and hopes that the problem will go away, the lender will most likely start an action to take possession of the house. Other than the lender's good will, there is no protection afforded to the debtor in the current legislation to stop that process, which leads inevitably to the debtor and their household losing their home.

There may be good reasons for the payment default. For example, the debtor may have been temporarily unemployed. I have long held the view that many such people and their families could have been spared the indignity of repossession had the courts been able to take their circumstances into account, as they are able to do

in England. Quite simply, it does not make sense to allow those debtors and their families to become another homelessness statistic.

However, I am not proposing to tie a tartan ribbon around English legislation. There are clear differences between Scots and English property law and we require legislation that addresses the specific circumstances in Scotland. My bill amends the provisions of the Conveyancing and Feudal Reform (Scotland) Act 1970, which created the standard security that is known to most of us as a mortgage, and I hope to give the courts power to consider the particular circumstances of the debtor in default.

The 1970 act provides three distinct processes that lenders may follow when a debtor defaults on their mortgage. The explanatory notes to the bill contain clear guidance on and illustrations of those processes, and it may assist members if I outline them briefly.

The lender can issue a calling-up notice, which requires the debtor to repay within two months the whole sum borrowed and any interest due. Alternatively, the lender can issue a notice of default, requiring the debtor to remedy the default within one month. Both notices expire five years after the date of the notice. Under section 24 of the 1970 act, the creditor can apply to the court for a warrant to obtain the right to exercise any of the remedies that are available to the lender when the debtor is in default. In addition to the provisions of the 1970 act, section 5 of the Heritable Securities (Scotland) Act 1894 provides that when a debtor is in arrears, the lender can apply to the court for permission to eject the debtor from the property. The court does not have the discretion to consider the debtor's personal or financial circumstances under any of those processes when deciding whether to grant the possession order requested by the lender.

The Mortgage Rights (Scotland) Bill seeks to introduce a legislative provision that will allow the sheriff to take the debtor's circumstances into account and to suspend enforcement of the lender's rights—in crude terms, to suspend the repossession, if the sheriff views it appropriate to do so. The bill will require the court to consider whether the applicant may be able to repay the debt in arrears or to fulfil the obligations under the standard security within a reasonable time. Where possible, it will allow the debtor and their family to remain in their home and to avoid the pain of repossession. If that is not possible, the bill will delay the enforcement process in order to give the applicant and their household a reasonable amount of time to find alternative accommodation.

I do not wish to give the impression or allow people to think that the bill is a debtors charter or that they will not have to bother paying their mortgage because the building society will not be able to repossess their house. That is not my intention.

I want to prevent avoidable homelessness. For example, someone might get into mortgage arrears because they are in financial difficulties and then might find that their financial position will allow them to address the situation. However, a repossession order could have been served already and there is no legal opportunity to halt that process at present. If the debtor does not face up to their difficulties or seek help by the time the case gets to court, it is far too late and the repossession order is granted.

Members of the Council of Mortgage Lenders follow the council's code of practice for dealing with mortgage arrears. Lenders who follow those procedures have nothing to fear from the bill. In fact, I suspect that one of the circumstances that the court takes into account is whether the debtor has tried to come to an arrangement to sort out the arrears with the lender. I have taken note of the CML's views and of the points made by the Social Inclusion, Housing and Voluntary Sector Committee on that matter and I am happy to lodge an appropriate amendment at stage 2.

Another concern that has been raised over the years about possession actions is that those who occupy the property may not know anything about the action until the sheriff officer arrives on their doorstep to evict them. The bill proposes amendments to the form of the calling-up notice and to the form of default so that notices are sent not only to the debtor but to other people who may be living in the property, such as tenants whose landlord is the debtor.

The new form of notice would explain that the action had been raised, and would advise the person to seek advice on their legal rights. In its evidence, the Law Society of Scotland suggested that the spouse of a debtor, who may be estranged but still carry on living in the matrimonial home—therefore having occupancy rights to that matrimonial home—should also be entitled to receive notice of the action. I will be happy to introduce an amendment at stage 2 to take account of that.

The Law Society also raised the issue of whether the provisions of my bill should apply only to the debtor's sole or main residence. My colleague John McAllion pointed out that not all second homes are holiday homes and that the repossession of a second home might well interfere with a person's employment. The example that John used in the committee caused quite a bit of hilarity, but he was right to bring the issue to the attention of the committee. It is right that the courts should be allowed to decide whether a home is or is not a holiday home. I am

pleased that the committee shares my view on that.

Some people do not take on board the implications of borrowing money, and some people who take out a second mortgage on their home do not realise that they run the risk of losing their home if they default on their payments. I am sure that we all understand the difficult financial choices that people have to make—especially people with children. Sometimes they fall on hard times and have to make really difficult choices about their priorities and about what they have to pay. I believe that those debtors need a chance to draw a line under their problems and come to an arrangement with their creditors. I believe that my bill would give debtors that chance.

The Social Inclusion, Housing and Voluntary Sector Committee went into some detail in considering the principles of the bill. I am pleased that the committee's report has supported those principles. I welcome that very much. I hope that Parliament will think along the same lines.

I move,

That the Parliament agrees to the general principles of the Mortgage Rights (Scotland) Bill.

The Presiding Officer: Before I call the minister, it might help members if I indicate that the debate should finish by 4 pm. It could, of course, finish earlier. The following debate should finish by 4.30 pm, although that, too, could finish earlier. The convenership debate should start at 5 pm or earlier. I hope that that helps members.

14:47

The Minister for Social Justice (Jackie Baillie): I take the Presiding Officer's comment as a clear hint to be brief.

I congratulate Cathie Craigie, who is evidently a very wise woman, on the introduction of her member's bill. The Executive is pleased to support the bill, which will assist those in mortgage arrears who might otherwise become homeless when their homes are repossessed. As members are aware, homelessness is one of the Executive's key challenges during the next few years. It may interest members to know that applications to local authorities for assistance due to homelessness resulting specifically from mortgage default have increased during the past few years, and that 600 of all those applying have been identified as being in priority need.

Let us consider for a minute the very real cost of repossession. Repossession is, without doubt, a personal tragedy for the individuals and families involved. It has a cost that goes far beyond people simply losing their homes or the resources that local authorities need to use to rehouse a family. The disruption to family life, the disruption to the education of children, and the very real health impacts due to worry and distress are costs not only to the individuals concerned but to society as a whole.

Repossession costs the lenders, too. The lenders tell us that repossession is a last resort because they inevitably lose money. In many cases of repossession, the lenders are not able to recoup the full value of their loan.

We recognise the significant role that the code of practice of the Council of Mortgage Lenders plays when lenders are dealing with cases of mortgage arrears. But some mortgage lenders—albeit a small proportion—are not members of the CML and in some cases they, or the lenders of secondary loans secured on a home, do not try to resolve the problem with debtors.

Even where the lender has made a genuine attempt to help the debtor, there may be cases where a neutral third party is better able to get agreement on a way forward. The Mortgage Rights (Scotland) Bill gives people a safety net in legislation to ensure that proper steps are taken in every case.

As Cathie Craigie reminded the Parliament, similar provisions have been in existence in England and Wales for many years. Research there has shown that courts suspend about 60 per cent of the repossession orders applied for by creditors. Of that 60 per cent of debtors, three quarters subsequently maintain their payments. That means that almost half—45 per cent—of debtors in default could get back on their feet and stay in their homes; that is a worthwhile objective.

I recognise that the bill will not help everyone who gets into mortgage default to keep their home. There are many reasons why people get into default and home ownership is not appropriate for everyone at all life stages. Some people are unable to cope with the responsibility that home ownership brings; for others, irregular employment patterns may make sustaining a mortgage difficult. For those reasons, the Executive will continue to look for ways to help people in mortgage difficulties.

That does not detract from the importance of what we are debating today. For those who can be helped in this way, the Mortgage Rights (Scotland) Bill will make a real difference. It gives people the breathing space that they need to sort themselves out. It stops the steamroller and gives a third party the opportunity to look at all the circumstances. If it looks unlikely that the debtor can get back on track, the court can give them enough time to secure alternative accommodation, while ensuring that the minimum of further arrears is accrued. That will help directly to minimise homelessness

as a result of repossession.

In evidence to the Social Inclusion, Housing and Voluntary Sector Committee, a number of people expressed concern about the risk of inconsistency in the application of the law. There are different views on consistency. There is the "one size fits all" kind of consistency in the current legislation. I hope that the bill will introduce the sort of consistency where, if a debtor can show a reasonable likelihood of clearing the arrears in a reasonable time scale, the court can give them the opportunity to do that, subject to time limits and conditions that reflect the debtor's particular circumstances.

Taken together, the Mortgage Rights (Scotland) Bill and the lenders' own good practices will give people in mortgage arrears a number of options to resolve their difficulties—crucially, in the way most appropriate for their own circumstances. That will help to avoid the impact that the negative effects of repossession can have on households around Scotland.

I welcome Cathie Craigie's willingness to take on board some of the positive comments and recommendations that have been made during the committee's examination of the bill. I confess that the Conveyancing and Feudal Reform (Scotland) Act 1970 is a fairly technical piece of legislation and care has to be taken in understanding it—never mind amending it. As a result, the bill is fairly technical—however, I would highlight the opportunity that the bill gives to the debtor to apply to the court.

For those reasons, I am happy to confirm the Executive's support for Cathie Craigie's bill. I also congratulate her on being the first woman to introduce a member's bill to Parliament. I commend the bill to members.

14:54

Fiona Hyslop (Lothians) (SNP): I am also pleased to welcome the debate. The issue has been a long time in gestation in the Parliament—I raised it 18 months ago and sought to change the very complicated Conveyancing and Feudal Reform (Scotland) Act 1970 during the passage of the Abolition of Feudal Tenure etc (Scotland) Act 2000. Robert Brown subsequently introduced—in the Family Homes and Homelessness (Scotland) Bill—measures that are similar to those in Cathie Craigie's Mortgage Rights (Scotland) Bill, which she introduced in July. Even before that bill was published, Cathie had managed to secure cross-party support.

The bill is the latest in the "your sofa is safer than your home" saga—people's sofas can be protected from repossession, but their homes cannot. It is important to note that a member's bill can make a real difference to people's lives—Cathie Craigie's bill is a good example of that. It is estimated that 900 out of the 2,000 repossessions that take place would be prevented if the bill were enacted.

Cathie Craigie talked about "avoidable homelessness", which is an important phrase. The bill is about ensuring that people can make financial arrangements to prevent repossession. It is another example of the way in which the Parliament's committee structure has worked well. There was cross-party support for the bill when it was published, but in the evidence that was heard by the Social Inclusion, Housing and Voluntary Sector Committee—which I served on at that time—several concerns were raised. I expect those issues to be raised in amendments at stage 2, not least because of some very pertinent points that were made by the Council of Mortgage Lenders.

The problem must be addressed. It is common sense that we should help people and try to ensure that they can come to some arrangement for repayment. However, paragraph 12 of the Social Inclusion, Housing and Voluntary Sector Committee report highlights the points that were made by the CML. We should recognise the steps that lenders have taken to assist borrowers who have repayment difficulties when we assess whether a suspended order should be granted. We should also recognise the inconsistencies in advice and decisions. The issue of advice to sheriff courts is important and might have a financial implication. I hope that the Executive will provide assistance on that.

The Government said that it was happy to support the bill. It was also happy to provide assistance in the drafting of the bill. That is an issue because, although such co-operation makes for better legislation, we should note that Robert Brown—whose bill was introduced at about the same time—was not provided with such assistance. The minister explained when she gave evidence why that was the case, but there is a problem; members' bills are meant to be equal, but some are more equal than others. That matter must be addressed, especially in relation to the introduction of bills by Executive party members.

Jackie Baillie: It was made clear at the time that the Executive judges each case on its merits. As Fiona Hyslop knows, the Executive is providing policy assistance to the Justice 1 Committee—in particular to Maureen Macmillan—on the prevention of abuse bill.

Fiona Hyslop: I acknowledge that, but I have concerns about the Parliament and the way in which bills are introduced. The issue could have been dealt with by the Executive, which could have introduced an appropriate bill.

Cathie Craigie introduced her member's bill in July. Before that, Wendy Alexander said that there was no problem, but that the Executive would make legislative provision and consult on the matter in "Better Homes for Scotland's Communities". However, the issue was not even mentioned in the consultation document. The Housing (Scotland) Bill—which was published in December—is clearly about the social rented sector. It does not cover the private sector. I do not know whether Cathie Craigie was clairvoyant in anticipating that. Did ministers know in July that the proposed housing bill would cover only the social rented sector? Is that why they were so keen to support Cathie Craigie's bill? That is an important constitutional issue that the Parliament must address.

I support the bill and I congratulate Cathie Craigie and Robert Brown on the work that they have done. We must, however, address the Social Inclusion, Housing and Voluntary Sector Committee report's reservations on reasonableness, advice and implications for the legal aid bill, as well as the points that Cathie raised on expiry dates. Members should support the commendation of the Edinburgh in-court advice service.

I plead that members' bills do not become the playthings of ministers. They must not cover up for deficiencies in legislation or be used as mechanisms to massage away the Government's broken promises.

Wendy Alexander promised to include mortgage rights in the consultation paper, but the matter was not included. I am pleased to support the bill, which is necessary. I congratulate Cathie Craigie on introducing the bill and for the hard work that she has done to ensure its development thus far. However, we must ensure that the Executive takes responsibility and uses its time to address such issues, rather than relying on members to introduce legislation.

15:00

Bill Aitken (Glasgow) (Con): I also congratulate Cathie Craigie on the progress of the bill to date and on the way in which she has progressed the debate. She has a fairly consensual attitude to life, which has benefited the bill's progress. Conservative members welcome the bill, but we may seek to amend it in one or two areas during later stages. Nevertheless, the bill is a welcome addition to a battle that we would all take part in to ensure that homelessness is minimised.

The bill is successful in that it would, to some extent, prevent homelessness. Although only three out of 1,000 loans result in repossession, 60 per cent of such cases down south have resulted in a favourable outcome, which is a good thing. The most positive aspect of the bill is that it would resolve the clear anomaly between the Scottish and English court positions. It is wrong and unjust that county court judges in England can take action to stay a repossession, whereas Scottish sheriffs cannot. English law is not often better than Scottish law, but it is undoubtedly so in this instance. We should recognise that and change our law accordingly.

There are certain aspects of the bill that concern Conservative members a little. As has been mentioned, the bill fails to recognise the considerable efforts to minimise repossession that are made by reputable lenders. The vast majority of lenders will go to any resort to avoid repossessing a house. Building societies and banks are in the business of acquiring money through lending money to buy houses, not by repossessing them. The main problem appears to arise from bucket shop loan operations, which frequently grant loans on a secondary basis at extortionate interest rates—those sorts of cases go sadly wrong. I wonder whether inquiries may be carried out into the operation of some of those lenders, who are basically loan sharks.

The other aspect that we must appreciate is that to some extent—it might be a fairly minimal extent—the provisions in the bill would increase the cost of borrowing. In addition, building societies and banks might take a tighter line when lending in marginal cases. If they felt that a particular applicant was not likely to be able to sustain a mortgage at the end of the day, they would be less inclined to take a chance, bearing in mind the increased difficulty of repossession.

On legal hearings, a hard-headed approach will be necessary. Despite John McAllion's amusing story about the debate on the matter at the Social Inclusion, Housing and Voluntary Sector Committee, there must be some realism. The criteria for homelessness should be based on the house or dwelling that is involved being the sole residence of the person who is party to the action. If we extend the criteria beyond that, we leave the legislation open to abuse and we should not follow that course.

The court must also consider the actions that the debtor has taken to alleviate the debt. We cannot allow the bill to be a charter for people who, when they are confronted with a situation in which they are unable to sustain their mortgage payments, take no action to resolve the situation. That would be irresponsible on their part, and it would be irresponsible on our part if we did not correct the legislation in that respect.

One aspect of the evidence that the Social Inclusion, Housing and Voluntary Sector

Committee took—which might be worthy of some further inquiry, not only with regard to this bill but elsewhere—is the experiment on debt awareness that is being carried out at Edinburgh sheriff court. At present, that pilot scheme would not take under its aegis any cases such as those with which we are dealing today, but I wonder whether some thought might be given to extending the pilot to include mortgage repossessions—there could be benefits in that.

Overall, the bill is worth while and worthy of support. When Cathie Craigie approached me, I remember that I commented that I thought that legislation might not do too much good, but that it would certainly do no harm—that was probably to damn the bill with faint praise. I am prepared to go beyond that today and say that the bill's introduction is positive. The Conservatives will support the bill's passage through stage 1, but we might seek to amend it in future.

15:05

Robert Brown (Glasgow) (LD): I begin by putting on record my membership of the Law Society of Scotland and of Ross Harper and Murphy, in case any interest considerations arise.

On behalf of the Liberal Democrats, I give the bill a warmer welcome than Bill Aitken did. I will start by making a parallel with the position in family law. A few weeks ago, the Minister for Justice, Jim Wallace, announced proposals to reform family law by reducing the necessary separation periods for divorce to one year and two years. Since then—as other members may have—I have had one or two letters from constituents who are worried about the subsequent break-up of the nation's moral fabric. Perhaps that is an argument for another day. However, it is worth saying that reducing—in the fashion that Cathie Craigie's bill would—the number of families who lose their homes would do more to stabilise family units and increase security for children than any conceivable legal tinkering with the family law arrangements and the grounds for divorce. Most such families do not end up on the street, but the cost to them and to society in family break-up, ill health, stress, rehousing provision and other matters is incalculable.

It is an astonishing indictment of the existing law that no legal redress exists for a defender who is in arrears with mortgage payments, perhaps for temporary reasons such as unemployment, sickness or credit card overruns after Christmas. None of those typical situations gives a sheriff in Scotland the discretion to refuse a repossession order. There is unanimity in the chamber that that situation is grotesque and must be changed.

The debate has already touched on the evidence that the Social Inclusion, Housing and Voluntary Sector Committee heard about the extent of the success of the experience in England, and the analogous situation of rental evictions in the sheriff court. We have heard about the experiences of the Edinburgh and Glasgow advice groups, which have got about three quarters of the people with whom they have dealt back on the track. Such a high rate of success for intervention gives the lie to the claim—which Bill Aitken made in many respects—that the procedures prior to court are all that are needed. They are not.

Anybody who has dealt—as I have—with lending companies or their solicitors, or with councils in rent eviction, knows that however good the procedures are on paper, they are a bit like the Soviet constitution; they are perfect in theory, but not quite so good in practice. The procedures are not always followed on the ground. Sympathy and acceptance of realistic and workable proposals are not always the most prominent characteristics of people's experiences, so a fail-safe power for the court to do justice is necessary.

Detailed issues are involved. I like especially one or two features of Cathie Craigie's bill, such as the possibility of pre-emptive action by a debtor prior to court action being raised, and the provision of a proper style of notice to be served on the defender to outline remedies and sources of help. Anything that we can do to help people who get into financial trouble and then bury their heads in the sand and do nothing is useful. It is extraordinary how often people in such situations do nothing until the last minute.

The bill could have one or two improvements. The central issues ought to be spelled out for the courts. The Scottish Executive's suggestion to the Social Inclusion, Housing and Voluntary Sector Committee that all the information could be found in the records of parliamentary debates is not satisfactory. The law must have clarity so that solicitors, practitioners and people who are affected—the intelligent layman—can look up the legislation and find out what the main issues are.

As one or two members have said, the main issues include the history of the debt repayment and, I suggest, the need to prevent homelessness and to consider personal circumstances. Cathie Craigie has accepted that the bill has a fault, in that the ability to repay arrears is not necessarily the only criterion that should be used in deciding on an order. In some situations, people can pay the interest and their house has sufficient equity to make it possible not to require that as a qualifying criterion, as one section of the bill does.

One clear strand during stage 1 consideration has been the need for proper, expanded debt advice facilities. I know that the minister is well

aware that that is an inevitable backdrop to a bill such as this, but unless that can be addressed, a lack of such advice will damage the effectiveness of the bill and, more generally, its social purpose.

My final point is that there is a need to have such cases dealt with by sheriffs who have experience and a background in this sphere, perhaps called together in one housing court. That has already been touched on. The bill will improve significantly the rights of the citizen and his or her power to save their home from repossession during hard times. This is a win-win situation for the Scottish Government; agreement to the bill will reduce the potential extent of homelessness without costing the Government much. There would not have been time for consideration of the bill at Westminster. It is worth saying that the Parliament has been able to deal with the bill reasonably speedily. It will be a useful reform when it is implemented in a few weeks' time.

On behalf of the Liberal Democrats, I beg support for the bill.

15:11

Karen Whitefield (Airdrie and Shotts) (Lab): I begin by quoting a participant in research that was carried out by the Joseph Rowntree Foundation, who stated:

"Apart from the death of someone close to us, we found that repossession was the most traumatic experience that we have ever been through. We would not wish this experience on anybody."

The experience of house repossession is devastating for the families who are involved, which is why we must ensure that that method of recovering debt is never needlessly used. For too long, Scottish courts have lacked the power to take a reasoned and responsible approach to repossession orders. Too many people lose their homes needlessly.

In England, where the courts have greater powers, research has shown that about 75 per cent of people who have their repossession orders suspended—about 60 per cent of all repossession orders—subsequently maintain their payments to mortgage lenders. That means that three quarters of suspended repossessions enable people to hold on to their homes successfully.

At the heart of the Scottish Executive's programme for government lies the struggle for social justice. A commitment to social justice also lies behind the bill. Cathie Craigie's Mortgage Rights (Scotland) Bill is a sensible and caring response to the misery that is caused when—often needlessly—people's homes are repossessed.

I understand some of the lenders' concerns. The Council of Mortgage Lenders pointed out to the Social Inclusion, Housing and Voluntary Sector Committee that in Scotland, lenders comply with the mortgage code, which is monitored by the independent Mortgage Code Compliance Board. The CML says that the success of the code is evidenced by the fact that only 0.3 per cent of loans end in repossession. On the face of it, that sounds impressive. I commend the CML for its work in establishing a good code of practice.

However, even the CML's own statistic of 0.3 per cent represents around 3,000 repossessions a year. That means 3,000 families going through the trauma and upheaval of having their home taken away from them; 3,000 families, many of whom—on the basis of experience in England—could have recommenced their mortgage repayments and kept their homes.

Research by the Joseph Rowntree Foundation into the social consequences of mortgage repossession showed that the experience can have

"distressing and enduring social, psychological and health consequences for both parents and their children."

The research showed that many people who have had their homes repossessed felt ashamed and that their sense of self-worth had been damaged. Depression was common among them and there was often an increase in chronic conditions such as asthma and seizures.

The report showed that women were especially vulnerable to poverty and debt as a result of repossession. It highlighted that women were often unaware that their husband or partner had stopped paying the mortgage until he had left the family home. Often, the departing partner has incurred other debts; many women are then left with the dilemma that is posed by the need to gain employment and pay for child care.

The report concluded that the effects on families of mortgage repossession are so great that repossession should be avoided wherever possible—a conclusion with which I am sure we all agree and one that lies at the heart of Cathie Craigie's bill.

The Mortgage Rights (Scotland) Bill will allow the courts to suspend the enforcement of a repossession order where that is deemed appropriate. It will allow a breath to be taken in the midst of what many experience as a bureaucratic marathon. It will allow a sensible evaluation of a debtor's ability to repay a debt and it will provide some protection to the tenants of owners who have defaulted on their mortgage.

In many respects, it is a simple bill. It is straightforward and has as its motivation a simple concept—the avoidance of the unnecessary repossession of a family's home. I therefore ask all

members to support it.

The Presiding Officer: Before I call the next speaker, I should mention that it looks as if the next debate will start six or seven minutes early. Members who are involved in that debate had better be alerted. I call Sandra White.

15:16

Ms Sandra White (Glasgow) (SNP): The SNP welcomes the principles of the bill. In fact, we feel that such legislation is long overdue. As Fiona Hyslop said eloquently in her opening speech, the SNP lodged an amendment to the Abolition of Feudal Tenure etc (Scotland) Bill 18 months ago. That amendment was not agreed to, unfortunately. However, agreement to it would have meant that the provisions in the Mortgage Rights (Scotland) Bill would have been well on their way to implementation by now.

I congratulate Cathie Craigie on her bill's having reached the stage at which its general principles are to be agreed. I am sure that it will meet with the approval of all members.

Fine words are all very well, but the public—the people who would be affected by the legislation—want to know exactly what agreement to the bill will mean, what it would change and what it would deliver. It would certainly mean that repossessions would decrease. As has been mentioned, 3,000 homes were repossessed in 1999. Enactment of the bill would mean that homelessness through mortgage default would decrease. There were 1,200 applicants for housing in such circumstances in 1998-99. As Jackie Baillie said, such homelessness is on the increase, so the bill should help to decrease the number of people who are made homeless in that way.

The bill would give people a better opportunity to rectify defaults on their mortgages. It would change the way in which mortgages were looked at. People would be properly notified and their circumstances considered by a sheriff. For once, people would be heard—the bill would provide for a fair and honourable way to go about that. If a landlord defaulted on a mortgage but did not notify the tenant, that tenant would now be notified, were the bill to be enacted.

I ask Margaret Curran to comment on funding. I know that the National Association of Citizens Advice Bureaux has been involved in the bill. Bill Aitken also mentioned the Edinburgh agencies. I ask ministers to consider carefully the funding of those agencies and to ensure that they are adequately resourced. Citizens advice bureaux and other agencies are the first port of call for many people; if we do not fund them properly, we will fail the very people whom we are trying to help with the bill.

Many members have mentioned disruption to families who are made homeless because they are unable to pay their mortgages. We all know that that can happen to anybody. Any one of us could lose our job or fall ill. Anything could happen—every member of society is affected by the problem. The principles and resulting legislation of any bill must be about delivery. I see Margaret Curran laughing, but—

The Deputy Minister for Social Justice (Ms Margaret Curran): That is not what I was laughing at.

Ms White: I know why Margaret Curran is laughing. Well, I shall certainly contest her seat at the next election—she might then be one of the people I am speaking about.

My sincere wish is that, through the bill, children and families will not have to go through such disruption. Losing their home can make people suffer from depression. Children are moved from their schools. The current system is crazy, when all that is needed is a couple of hours to explain the situation and a couple of months to allow people the opportunity to pay off their debts. As has been proved, they will probably do that.

I welcome the principles of the bill and I look forward to its being brought to fruition.

15:19

Mr John McAllion (Dundee East) (Lab): I should apologise for my intermittent but persistent coughing during the debate. I know that it can be disruptive for other members, but my health has never been the same since I was moved to the Health and Community Care Committee and I am not sure whether the two things are linked. I am certainly pleased, Presiding Officer, that you are more understanding about such things than the Emperor Caligula who, when confronted by somebody who coughed persistently in his presence, had the person's head cut off. I am grateful to Dr Richard Simpson for that valuable information. He seems to have a huge databank of such illuminating anecdotes for use in all contexts—and perhaps prescriptions as well.

I, too, congratulate Cathie Craigie, first on getting her member's bill to this stage, but also on being the first woman in the Scottish Parliament to achieve that notable landmark. I am delighted that she has the Executive's support for the bill and that there will be no need for another back-bench rebellion to get this member's bill through—some of us get stressed out by all the confrontation and unpleasantness that is associated with back-bench rebellions and we do not like them. It is nice to have consensus breaking out all over the Parliament and to see everybody being nice to one another. That is the way that it should always

be and I wish that it were like that all the time. I see members looking in disbelief at that final remark, but I assure them that I am sincere.

The Mortgage Rights (Scotland) Bill gives rights to home owners in Scotland that are similar to those which are enjoyed by home owners in England and Wales. The provisions in the bill would allow the court to take into consideration the nature of and reasons for mortgage default. In a sense, we are dealing with the reverse of the Sutherland situation. In this case, the Scottish Parliament is catching up, because the UK Parliament has already legislated for this in England and Wales. I must say, however, that I have not noticed a massive flood of Scottish home owners heading south of the border because it is better to default in England and Wales than it is to do so in Scotland. Even if that were the case, however, the bill would put it right, and I am sure that when we implement the Sutherland recommendations in full, the UK Parliament will catch up with us.

Homelessness is a serious problem in Scotland and it is on the increase. The Minister for Social Justice was absolutely right when she said that tackling and reducing homelessness in Scotland is a priority for the Scottish Government. I believe sincerely that Cathie Craigie's bill is a necessary part of the wider strategy that the Scottish Government is pursuing to try to bring down homelessness, and that it will be of important in assisting many people who face homelessness in Scotland.

Cathie Craigie and Bill Aitken referred to the fact that I caused some amusement on the Social Inclusion, Housing and Voluntary Sector Committee—it is nice to know that I was bumped off it for reasons other than being boring. If I remember what happened correctly, they referred to my reaction to the concern that was expressed by the Law Society of Scotland about the wording of the bill in relation to the sole or main-residence criterion.

The Law Society felt that the main criterion on which a sheriff should grant a stay of execution should be whether people would be made homeless, regardless of whether they had one or two residences. I will not say that Robert Brown is the spokesman in the Parliament for the Law Society of Scotland, but he must certainly declare his interest every time he speaks on an issue that affects it. Nevertheless, I recognise the concern that he and others have about people who own holiday homes or rich people who have several homes all over the country who might be able to manipulate the situation to avoid their mortgage-paying responsibilities. However, there is a group of workers who could, for legitimate reasons, have two residences, instead of the one that most people have. I use the example of Scottish members of the UK Parliament, all of whom have a main residence in Scotland and another residence south of the border, in my case in Dolphin Square in London. I may have had a lot of problems trying to convince the TV licensing authority that my licence in Dundee would cover my TV in London—it would not accept that—but I know that my main residence is in Scotland.

Some MPs, however, have their main residence in London and have another residence here in Scotland. I know that, given the wages that they are paid, it is unlikely that they would default on their mortgages, but there are other workers—such as oil workers—who might find that they need two residences because of their work and it is important that they are also covered. That is why the sole or main-residence criterion is an important part of the bill.

Karen Whitefield called this a simple bill. It is also a good bill, which deserves the support of the entire Parliament. I congratulate Cathie Craigie on getting it to this stage.

15:24

Brian Adam (North-East Scotland) (SNP): The primary impact of this bill will, I hope, be on levels of homelessness. The impact will not be massive, but it will be significant for those who are affected. The bill is certainly good. There may be some technical defects, but I am sure that they will be rectified at stage 2. The bill's impact on homelessness should not be understated: the fact that, each year, several hundred families will have the stability that comes from not having to move home makes it very worth while.

When I was a councillor, a number of families came to me to seek local authority accommodation as a consequence of problems that they had with their mortgage. Not all of them would have been saved by this mechanism, but some of them would have been. That would have made a major difference to the stress experienced by the adults in the family and meant that the children would not have had their education and other aspects of their lives disrupted.

Robert Brown made the valid point that the bill will help families. It will help to keep them together, which is important. The consequence is that there may be some impact on the lender. However, the lender will not bear all the cost; some of it will still be borne by those who have the debt because only part of it will be transferred. Only when the debt cannot be recovered at all will it fall on the lender. The overall level is fairly modest, to say the least, so the impact on mortgage rates—those costs are always passed on to others—is not likely to be great.

The bill will have a major impact on local authorities and other registered social landlords—depending on what make-up we end up with—as they will not have a large number of folk coming along each year seeking to be rehoused as a result of debt.

When some folk find themselves in debt, they will not address the problem until the last possible moment. Currently, the last possible moment means that they are out of the door. The bill will allow the sheriff to intervene. It will allow mortgage holders and tenants of mortgage holders another opportunity to get their finances sorted out. I do not think the disadvantage for the lender is of such significance that we should turn the bill down. Not even lenders are saying that; they say that they have many mechanisms in place to try to retrieve the situation when people are in default. I do not doubt that—I know that that is the case—but this is another mechanism and no argument that we should not introduce this bill holds water when its overall impact is considered.

This is a worthwhile bill and I am delighted to be able to support it.

The Deputy Presiding Officer (Patricia Ferguson): We now move to closing speeches. I call Euan Robson to close for the Liberal Democrats.

15:28

Euan Robson (Roxburgh and Berwickshire) (LD): This is an important bill. I congratulate Cathie Craigie, everyone who has been involved in bringing the bill to stage 1 and my colleague Robert Brown, who has taken a particular interest in this matter. This is a significant and welcome reform. As Robert Brown said, it will attract the support of the Liberal Democrats.

We have heard about the key features of the bill. It is worth recapping them briefly. The most significant is the prevention of homelessness and the reduction of the misery that that state causes so many people. That is an especially important and welcome feature.

In the calculations of the extra expenditure that will be caused by the bill, has account been taken of the fact that some savings should accrue to other parts of the public purse if we can prevent homelessness? We could examine funding some of the parts of the public purse that will be stretched as a result of this bill through the savings that will accrue to other parts of it.

Another important feature of the bill is that it updates Scots law and makes it comparable to that in England. That is not necessarily important in itself, but it is important in this instance because the English experience has been that similar provisions have had the desired effect. It was shown in evidence during the committee stage that such provisions have reduced homelessness.

A further important feature of the bill is the advocacy or increased use of payment arrangements and the good management of personal financial affairs. We have seen the necessity for extra help in that area in other bills. We must encourage creditors to consider a wider range of payment arrangements.

We must also invest substantially in advice services for people in debt. My previous professional experience showed me that this is an extremely underdeveloped area of public work—if I can put it that way. Much advice relies on the efforts of volunteers from voluntary groups. Although I would never wish to discourage that, we can build on the foundations that organisations such as Money Advice Scotland and citizens advice bureaux have worked so hard to establish over many years. Quality advice given early to people whose problems with the payment of mortgages and securities are developing is helpful and appropriate.

Amendments will need to be lodged at stage 2. For example, some of the timetabling might be quite tight for debtors, particularly those who understand their responsibilities late in the day. Although section 1(3) suggests a period of one month, that might be very difficult for certain debtors. Perhaps the issue will be re-examined when the bill returns to committee.

I also note that none of the notices specified in parts 1 and 2 of the schedule suggests to the debtor the time by which they ought to make their response. Perhaps I have misunderstood the act into which the notes will be inserted—amendments might cover the point—but the reforms of the Heritable Securities (Scotland) Act 1894 might not specify time scales. That said, we can consider that issue at stage 2.

This bill is a most welcome reform and I reiterate my congratulations to those who have introduced it. It is further testimony of the benefits of our constitutional settlement that we can very quickly take action on such outstanding matters.

15:33

Mr Keith Harding (Mid Scotland and Fife) (Con): I am pleased to wind up this debate for the Scottish Conservatives and congratulate Cathie Craigie on introducing her bill.

While I support the bill's principles, I want to point out certain areas that will have to be addressed during the detailed scrutiny at stage 2. First, the bill fails to recognise adequately action that lenders have already taken to assist

borrowers in repayment difficulties. In English courts, the suspension of a repossession is subject to conditions on the repayments of the arrears. That power should be considered for Scotland and the courts should be able to take into account any previous action, including the debtor's record on previous voluntary repayment agreements. Otherwise, the bill could be a one-way street for the feckless to avoid repossession, which would ultimately mean an increased cost to all borrowers and reduce lenders' willingness to lend.

As Bill Aitken said, the bill must also define tightly who is considered when homelessness is being dealt with. Doing otherwise might unfairly affect lenders and local authorities might be deterred from providing alternative accommodation under their statutory homelessness duties if they see no urgency in the case. Lenders might also refuse to lend on any property where a tenant is involved, which could limit young people's ability to get on the housing ladder if they rent a room to a friend to assist with the mortgage. Furthermore, it is possible that the bill could increase homelessness by reducing the amount of privately rented accommodation that is available. We must give the matter very careful consideration if we are to reduce and prevent homelessness.

Tighter restrictions on repossessions could hurt the poorest most. Without the ultimate sanction of repossession, lenders may decide not to lend to their less-well-off clients, which would effectively reduce access to mortgages and home ownership for those seeking to get on the bottom rung of the property ladder.

Regularising protection for debtors is welcome, but their rights must be appropriate. The bill needs careful consideration at stage 2 to strike the correct balance between the rights of borrowers and of lenders. That said, we support and welcome the bill and look forward to its speedy and successful passage.

15:35

Linda Fabiani (Central Scotland) (SNP): Like other members, I welcome the introduction of this bill and congratulate Cathie Craigie on it. I was also pleased when the SNP tried to lodge a similar amendment to the Abolition of Feudal Tenure etc (Scotland) Bill some time ago, although it was not accepted. It should be noted that the proposed change to the law would already have been enacted if that amendment had been accepted and agreed to by the Parliament.

I have some experience, through previous work, of homelessness due to repossessions. It is fairly common for people who work in housing to come across people who, at the last minute, turn up at their door and say, "I am going to be homeless because my house is being repossessed." I regret the fact that Wendy Alexander did not fulfil her statement and invite consultation on this aspect of housing in the consultation for the Housing (Scotland) Bill. It would have been good to have an all-encompassing housing bill rather than one that deals only with social housing—especially because, as the minister said, the numbers for homelessness and repossessions are rising.

In the area in which I worked, there was an especially high take-up of the right to buy, so there was proportionally less social rented housing for homelessness purposes. I find it horrifying that, in housing repossession cases in which people own their homes, local authorities can deem those people to be intentionally homeless—as if they do not pay their mortgage deliberately, rather than in situations in which they find it impossible to pay.

I was pleased to hear that Cathie Craigie is willing to consider and accept amendments at stage 2. She has already noted that some are likely to go ahead. Because I am not a member of the committee that will deal with the bill, I would like to mention a couple of aspects of it for clarification, with the intention of possible future amendment.

My first point seems fairly minor, but people who work in housing would say that it is major. Many members have mentioned that folk bury their heads in the sand when they are faced with the repossession of a rented house or the repossession of an owned house by lenders. The bill says that notices will be served by recorded delivery. Although that sounds good and proof can be obtained of the receipt of that notice, there can be no proof that the person who has received a recorded delivery letter has opened the envelope, let alone read and understood its contents.

I have known cases when notices have simply been ripped up and thrown in the bin without being read—the ostrich syndrome. I wonder whether discussions at stage 2 could focus on how we can ensure that people realise what is likely to happen to them. It should not be about simply ensuring that they receive a letter.

My second point is that I would like consideration to be given to section 24 of the Conveyancing and Feudal Reform (Scotland) Act 1970, whereby people can be taken to court by the lender for refusing to participate in maintenance of their property. That can be a big problem in tenement property, where there is common ownership of some aspects of the accommodation. I would like that part of the bill to be considered in more detail and perhaps expanded. There is a proposal for tenement law to be revised, and the matter could be addressed as

part of that revision.

Cathie Craigie and other members mentioned that there should be some form of amendment concerning the Council of Mortgage Lenders, as some lenders have good codes of practice, but we should not forget that lenders also have obligations. The onus is on lenders to be realistic about people's abilities to make payments when they set the level of the loan. That applies particularly when new houses are sold with mortgages covering fixtures, fittings and carpets. In such cases, people can end up paying a mortgage over 25 years for a fridge. That is a bad practice and lenders should take a look at themselves in relation to it.

Government also has a responsibility. I repeat what the minister told us today: repossession and homelessness are increasing. Maybe home ownership is not the answer to everyone's prayers. While many aspire to home ownership, for many people that aspiration can never be a reality. We should recognise that fact and the Government in Scotland should admit it and rethink its strategy of attaining 80 per cent home ownership. It should also reconsider the proposed extension of the right to buy, which will negatively affect the stock of some of the landlords in Scotland who play an active role in rehousing those who have their houses repossessed.

My last comments aside, I warmly welcome the bill and look forward to its next stage in the Scottish Parliament.

The Deputy Presiding Officer: We are running ahead of time and the next debate is likely to start a little early.

15:41

The Deputy Minister for Social Justice (Ms Margaret Curran): It would be remiss of me not to congratulate Cathie Craigie on producing the bill. I, like many others in this chamber, used to be on the Social Inclusion, Housing and Voluntary Sector Committee and witnessed the commitment Cathie Craigie gave to this area of work. Producing the bill involved a lot of work on her part and I genuinely want to record the thanks of the Parliament for the kind of effort that members are prepared to give.

I should also pay tribute to the work of all the members of the Social Inclusion, Housing and Voluntary Sector Committee who, from varying perspectives, tried to get inside the bill and tease it out. The committee did not undertake a soft exercise, but listened to a substantial amount of evidence before it came to its conclusions. That justifies the case for a member's bill and for using that mechanism as a vehicle in this case.

The committee was able to provide a platform for many organisations to give their point of view, which will ultimately lead to more effective legislation. If we get through this process, Cathie Craigie will experience great satisfaction because she will have made a significant contribution to delivering progress in housing in Scotland. Members' bills are a genuinely effective part of the Scottish parliamentary process.

I hoped to be able to get consensus today, but that has not quite been possible, which is a bit unfortunate. Nevertheless, a consensual approach, without any dumbing down because of people being frightened of consensual politics, has been taken to the bill. The quality of the evidence, the quality of the questioning and the commitment of Cathie Craigie and others have been first class and have done credit to the process.

The range of organisations that support the bill—although they might want to amend it at a later stage—persuades us that legislation is necessary. The Convention of Scottish Local Authorities, the CML and Scottish Homes have said that, at last, we are beginning to appreciate that the system does not always allow reasonable consideration of the plight of certain families. They have welcomed the bill, as has Shelter Scotland and the Scottish Council for Single Homeless.

On behalf of the Executive, I am pleased to say that we are offering debtors the right to seek a suspension of the lender's rights of enforcement subject to conditions for repayment. The bill gives the debtor the chance to go to court and put their case to the sheriff. The Executive endorses the new notices to occupiers that alert them to mortgage difficulty and advise them to seek advice on their legal rights.

Too many occupiers have first become aware of a court action when the sheriff officer turned up on the doorstep. In some cases, the occupier has panicked and left when there was no need to do so. The bill will ensure that they know well enough in advance that they can seek legal advice. We are happy that Cathie Craigie has accepted and is willing to consider technical amendments that have been suggested and which most people agree will enhance the bill.

We do not take our responsibilities lightly in the Scottish Parliament and we know that technical legislation in particular can have unintended negative effects. We want to ensure that we get the process right. The consultation process and the committee process have been helpful in trying to clarify many matters. We acknowledge that the bill will not help everyone in mortgage difficulties, but it will help many.

I wish to respond to one point that Linda Fabiani made—I want to clarify what Jackie Baillie said in

her introduction. We can check the *Official Report* for this, but I do not think that Jackie Baillie said that homelessness is increasing; she said that the number of repossessions is increasing.

Under the bill, a woman whose husband leaves her with the children and the mortgage arrears can stay in the house; the children can still attend the same school and see the same friends; and she has her own friends and neighbours to help her through the difficult times. Such a situation is much better than becoming homeless and moving into bed and breakfast accommodation, only to be rehoused away from all her established support networks.

Many people have mentioned the social consequences of homelessness and the difficulties that people get in. I take Robert Brown's point about other responses in other contexts: I think that the bill is a measure to support families.

Robert Brown: Section 2(2)(b) deals with

"the applicant's ability to fulfil . . . the obligations under the"

mortgage "within a reasonable period".

Does Margaret Curran accept that that is perhaps a bit too stringent and that, in a situation such as a family break-up, it might be possible to pay the interest on a mortgage, but not necessarily the full commitment, "within a reasonable period"? Perhaps that point could be examined a wee bit more closely.

Ms Curran: My understanding is that sheriffs will have the opportunity to consider people's particular circumstances. That may help to address some of the points that have been made.

We recognise that the bill makes a contribution to the wider efforts to assist people in mortgage difficulties, and I take the points that have been made about the CML and other organisations.

I am beginning to run out of time, so I will move quickly to deal with some of the points that have been raised in the debate. I saw Bill Aitken at his most enthusiastic today. If other people say that he is not enthusiastic, those of us who know him a bit better know that this afternoon's performance was not bad going for him. He mentioned Edinburgh sheriff court. We are evaluating the project to which he referred and we will come back to him with a response.

I take Sandra White's point about funding. It is important that people get high-quality, free advice. Jackie Baillie and I are committed to ensuring that a network of advice is available. Financial exclusion lies at the centre of what we are doing, and the national debtline, which we are about to establish, should assist. We will keep that at the top of the agenda.

The Executive will provide the judicial studies committee with the relevant sections of the parliamentary reports and a statement of the thinking behind the bill which is to be taken into account in that committee's compilation of guidance for training of sheriffs.

The Executive made it clear that we would support a member's bill on mortgage rights. We never envisaged its being part of our housing bill. This member's bill amends conveyancing legislation. Surprisingly enough, the Housing (Scotland) Bill amends and develops housing legislation.

We must be careful not to do a disservice to Cathie Craigie. She presented herself as someone who is very committed in this field, who is energetic about it and who wants to pursue the bill. We have seen the work that she has done. It is a tribute to her. It is not at all appropriate to use words such as "plaything".

This is how the Parliament should work. Over the next year, we will debate many facets of housing. The coming year will be vigorous, energetic and busy. It is important that we start this year with such a contribution to legislation, which takes the housing debate forward and actually meets people's needs.

The Parliament and its committees have worked well together on this member's bill—by that I include their work with outside people and organisations. It is time to be gracious and recognise the commitment that Cathie Craigie has made. We should give her her due now, and not try to steal some of her thunder.

15:49

Cathie Craigie: I am tempted to use up the remaining time allotted to this debate on the Mortgage Rights (Scotland) Bill, but I will try to contain myself to responding to some of the points that have been raised. It is not often that back benchers get this amount of time to speak in the chamber and I hope that none of my back-bench colleagues will fall out with me if they think that I am not using that time to the full.

We have had a very good debate and I welcome the cross-party support. There has been Executive support for the bill from the word go but, as Margaret Curran suggested, it was very much a case of me chapping at the Executive's doors, vying with Robert Brown—who promoted the Family Homes and Homelessness (Scotland) Bill—to see who would be first to get a bill in this area.

I am interested in this subject. As housing convener and leader of Cumbernauld and Kilsyth District Council, and in the wider North Lanarkshire housing authority area, I saw many

families who faced the terrible consequences of repossession. If someone had taken account of all their circumstances when they went to court, and not regarded their cases as black-and-white, right or wrong matters—those people were in arrears, but there were good reasons for it—the shame that many of them felt and the disruption to their lives could have been avoided.

As Brian Adam said, the bill will not just help people who are affected by the problem of repossession; it will help local authorities by easing the strain that they are placed under by having to find housing for those families.

Unaccustomed as I am to having such an opportunity to sum up, I will respond to some of the points that members have raised. I welcome the support of the SNP. I found Fiona Hyslop's description of me as a plaything of the Executive amusing. By raising points that are not relevant to the debate, the only people who played with this serious matter were SNP members. It is like playground politics: who was here first? SNP members claim that they raised this matter first, but if Sandra White and Linda Fabiani check the amendments that they lodged to the Abolition of Feudal Tenure etc (Scotland) Bill, they will see that the Mortgage Rights (Scotland) Bill goes much further, creates a more rounded approach to the issue, and takes into account the tenants of landlords in default, who are often forgotten.

Fiona Hyslop is right: the committee structure is important for the Parliament. That fact is shown today. I assure members that the Social Inclusion, Housing and Voluntary Sector Committee considered the bill in great detail to reach this point. I see that many of its members are here today and want to get involved. The committee structure offers balance and allows members to examine the details, question the evidence, take on board the points that are made, listen to advice and improve the bill.

Fiona Hyslop talked about assistance with drafting. I am grateful for the assistance that the Executive has given me. Certainly I could not have managed to draft the bill on my own—I might have had difficulties paying my debts if I had had to pay for the sort of legal advice that I have received. I am not the first member to receive assistance in drafting a member's bill, either in the Scottish Parliament or at Westminster. At Westminster, if the Government supports a proposed private member's bill, assistance is available. Last week, in the debate on the Leasehold Casualties (Scotland) Bill, Adam Ingram thanked the Executive for its support in drafting and introducing his member's bill.

Fiona Hyslop asked whether ministers knew in July that they would not include anything on this subject in the Housing (Scotland) Bill. We have a joke: it is either my bill or the Housing (Scotland) Bill. Today, it is my bill. I cannot say whether ministers knew the answer to Fiona Hyslop's question. As Margaret Curran said, the Housing (Scotland) Bill is about the provision, funding and regulation of social housing, rather than conveyancing.

I thank Bill Aitken for his kind words about the bill. I will consider the points that he and other members raised when we go through stage 2. He was right to point out that the bill will resolve differences between provision in Scotland and in England.

It has been suggested that some lenders may fear additional costs—for example an increase in the cost of borrowing. I do not think that that will be a major problem. Repossessions impose a cost on lenders, but I am sure that the cost to the borrower is greater. The cost to both lender and borrower will be seen to be minimal as the years go by. It may even be that savings can be made in the costly business of auctioning off properties, given that a borrower is left with little money or a bill—which is more likely at the end of the process.

The Social Justice Committee will have another opportunity to debate the argument about sole residences, which Bill Aitken raised. The right decision has been arrived at—it will be for the courts to establish whether a property is the sole or main residence of a debtor and whether that person would suffer great hardship if they were to lose that property.

Bill Aitken mentioned the level of awareness of the pilot scheme in Edinburgh. I share his view that it is important to take the advice of that scheme and I hope that the Executive will seriously consider doing so. I also hope that the Executive will consider expanding the advice that is available to people who are in difficulty with debt repayment, irrespective of their situation. That point was made to the Social Inclusion, Housing and Voluntary Sector Committee by many organisations, and other members have raised it again today. The sooner people can get advice, the better. People should be able to go to friendly advice centres that do not put people off and where workers speak their language and understand them.

I am pleased by the support for the bill given by Robert Brown and the Liberal party, although I wonder whether he shrank a little when Fiona Hyslop defended his position. I welcome his support and the advice and knowledge that he was able to share when the bill was discussed at the Social Inclusion, Housing and Voluntary Sector Committee. Lawyers take a lot of stick, but they can be useful when taking us through the legal minefield. He was right to say—

The Deputy Presiding Officer: Wind up, please.

Cathie Craigie: Am I to wind up? I cannot believe it.

It is true that we must deal with the procedures that are followed before people get to court. Karen Whitefield and Robert Brown both said that the bill makes changes to conveyancing, but we must all remember that the bill is about people: it is about allowing people to be spared the indignity of repossession and the problems that go with it.

I thank members for their kind words. I wanted to make one point—

The Deputy Presiding Officer: Quickly, please.

Cathie Craigie: Paul Brown, who works for the Scottish Association of Law Centres, gave me some help and advice in the bill's early days. He reckoned that the bill will probably have a greater effect on many more people in Scotland than will the Abolition of Poindings and Warrant Sales Act 2000. I take that comment on board, given that he has worked in the debt field for a long time, and I hope that the Parliament will also do so.

Health and Social Care Bill

The Deputy Presiding Officer (Patricia Ferguson): The next item of business is a debate on motion S1M-1529, in the name of Malcolm Chisholm, on the UK Health and Social Care Bill.

15:59

The Deputy Minister for Health and Community Care (Malcolm Chisholm): The first part of the motion seeks Parliament's approval for the Westminster Parliament to legislate to end the system of preserved rights and to bring those people with preserved rights into the mainstream community care arrangements. The second part proposes the introduction of enabling powers that may be authorised under the Medicines Act 1968 in respect of new groups of prescribers.

Preserved rights are the rights to higher rates of income support for some people who have been living in residential accommodation since before 1 April 1993. When the current community care arrangements were established in 1993, people already resident in independent sector nursing or residential homes acquired those preserved rights. That was a means of reassuring and protecting existing care home residents by continuing to give them a higher rate of income support so that the choice that they had already made about their residential accommodation continued to hold sway. It also ensured that local authorities were not faced with the considerable task of assessing the care needs of existing residents.

There are two principal concerns about the system of preserved rights. First, a significant number of people with preserved rights, such as younger people with learning disabilities, are locked into residential care when their needs could be more appropriately met in supported accommodation. Secondly, there are concerns about a shortfall between the fees charged by homes and the weekly benefit income of residents.

The Royal Commission on Long Term Care for the Elderly considered those concerns and recommended that we should consider whether preserved rights payments in social security should be brought within the post-1993 system of community care. In our response to the royal commission on 5 October 2000, we accepted that recommendation and announced our intention to transfer funding and responsibility for the assessment and care management of everyone with preserved rights to councils in April 2002.

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): Will the minister give way?

Malcolm Chisholm: I have five minutes. If I

have time left, I will give way when I have got through my speech.

A mixture of reserved and devolved legislation is required to make the transfer of responsibility from the Department of Social Security to local authorities. In those circumstances, there are clear benefits to having a single bill to cover England, Scotland and Wales. A single bill will make it much more straightforward to ensure that the transfer is clear and consistent across the United Kingdom. Were we aiming for separate Scottish legislation on the devolved aspects, we would have to wait for the outcome of the DSS provisions in the Westminster bill. Achieving the transfer in a single UK bill ensures that there is no possibility of a gap between the end of DSS preserved rights and the commencement of new responsibilities for local authorities. That will avoid disadvantage to those people with preserved rights in Scotland. Otherwise, we would have to ask the DSS to continue the scheme in Scotland only for the interim period. I therefore ask the Parliament to agree that the provisions for those devolved aspects of the preserved rights transfer be made through the Health and Social Care Bill.

The second strand of the motion proposes the introduction of enabling powers in respect of new groups of prescribers that may be authorised under the Medicines Act 1968, which is reserved. Extending prescribing rights to health care professionals other than doctors, dentists and some nurses is in line with the recommendations of a UK review that was carried out in 1997. The "Review of Prescribing, Supply and Administration of Medicines" concluded, after wide consultation, that the introduction of new groups of prescribers would benefit patients.

The proposed enabling amendments provide the legal framework for such an extension. Amendment of the National Health Service (Scotland) Act 1978, as proposed in clause 44 of the bill, will enable Scottish ministers, through regulations, to give newly authorised prescribers NHS prescribing rights in Scotland.

The Medicines Act 1968 and the National Health Service (Scotland) Act 1978 are being amended in parallel so that the changes that they make possible are available for implementation throughout the UK. It will be for the Executive to decide whether and to what extent that legislation should be enacted in Scotland. The first and most important consideration will be the absolute need to ensure patient safety. Moreover, we must ensure continuity of care, avoid fragmentation of services and safeguard patient choice and convenience.

Before any new health care groups are designated as NHS prescribers, ministers will have to be satisfied that there is a clinical need, that any new prescribers are properly trained and that their skills can be kept up to date. Health care professions that might be considered for prescribing rights include pharmacy, chiropody and physiotherapy.

The motion also provides for Scottish ministers to determine the medicines and appliances that each group of prescribers may prescribe. That is a commonsense measure, given the very different areas of health in which the new groups of potential prescribers practice. With all those safeguards in place, I believe that extending the right to prescribe will help to break down the divisions between health professions and will play an important role in the introduction of more flexible team working across the whole of the UK.

Will the Deputy Presiding Officer let me give way to Alasdair Morgan now?

The Deputy Presiding Officer (Mr George Reid): Yes—for one question only.

Alasdair Morgan: What we are doing is in effect deciding that we agree with the principles of the bill as it applies to Scotland and asking the Westminster Parliament to carry on with it. The Westminster Parliament has already given it a second reading, so the principles are now unexaminable even for that Parliament. Why was the motion not brought before the Scottish Parliament before the bill was given its second reading?

Malcolm Chisholm: The critical factor is that we should deal with the motion before it is dealt with in committee at Westminster. Because of the time scale, it was not possible to deal with it here before the bill was given its second reading at Westminster—the bill was introduced just before Christmas and had its second reading in the first week back after Christmas.

I move,

That the Parliament endorses the principle of transferring to local authorities in Scotland the responsibility for the funding and care management of people in residential care and nursing homes with preserved rights to higher levels of income support as set out in the Health and Social Care Bill; also endorses the principle of introducing enabling powers to extend recognition to specific groups of healthcare professionals for the purposes of dispensing NHS prescriptions written by them and of determining the list of medicines and appliances which they may prescribe and which NHS community pharmacists may be paid for dispensing, and agrees that the relevant provisions to achieve these ends in the bill should be considered by the UK Parliament.

16:06

Nicola Sturgeon (Glasgow) (SNP): The SNP does not oppose the provisions of the Health and Social Care Bill that relate to Scotland. The provision on preserved rights implements one of

the recommendations of the Sutherland commission and I look forward to further announcements on the implementation of the Sutherland recommendations over the next few days.

I also welcome the proposal to enable Scottish ministers to extend to certain categories of registered health professionals the power to prescribe medicines, and to determine what each group is able to prescribe. That is a step forward, although I ask the Deputy Minister for Health and Community Care to give an assurance that there will be full consultation with health professionals before those powers are exercised. Collaboration between different groups of health professionals will be needed, as they may all be prescribing medicines to the same individuals. It is important that arrangements are in place to ensure that prescription policies do not conflict at the individual level.

In the remainder of my comments, I will concentrate on the important point that Alasdair Morgan made about the Parliament's procedures. I hope that the deputy minister will address it in more detail and with greater conviction than he did in his response to Alasdair Morgan.

I am sure that all of us in this Parliament would agree that Westminster should legislate on devolved matters only in very limited circumstances and after this Parliament has fully considered and approved the proposals. That approval should be sought as early as possible in the process and it should never be assumed, as it appears to have been in this case. The Sewel motion asks us to agree

"that the relevant provisions to achieve these ends in the bill should be considered by the UK Parliament."

The motion is about a bill that was introduced at Westminster on 20 December and that received its second reading on 10 January. In other words, MPs were asked to agree it in principle, including the provisions relating to Scotland, before this Parliament had the chance to consider whether it wanted to cede legislative competence in those areas to Westminster.

To add insult to injury, the explanatory notes to the bill give a clear impression that the Scottish Parliament had already asked Westminster to legislate. On clause 49, the explanatory notes say:

"At the request of the Scottish Executive and by the approval of the Scottish Parliament *clause 49* amends devolved legislation concerning Scotland".

MPs who agreed the bill in principle did so under the impression that this Parliament had already asked them to legislate for Scotland. That is presumptuous, to say the least. I would like Malcolm Chisholm to give an assurance this afternoon that that will never happen again and that Sewel motions will be considered as early as possible in the procedures so that this Parliament is not taken for granted. It is for this Parliament and no other body to decide when and if Westminster should legislate on devolved matters.

16:09

Mary Scanlon (Highlands and Islands) (Con): The Conservatives are pleased to accept the bill as it relates to Scotland. We welcome the end of preserved rights, which will ensure consistency and equality of funding based on appropriate health care.

I will flag up some issues on prescribing. Given that many of them are devolved and are in line with long-term planning and the successful implementation of the bill, I think that it is appropriate to raise them at this stage.

There is a need for absolute clarity about who retains clinical responsibility. My colleague David Davidson—a pharmacist—has given me some advice on the matter. It is important that the control of a patient's management and care is fully known and integrated. One person must hold a full record of all prescribing. How will all the new prescribers be aware of a patient's clinical history and care? Will that require the use of smart cards and a fully integrated information technology system, as mentioned in the health plan? The success of the initiative seems to depend on that.

The extension of prescribing rights leads us to seek further reassurance on training. I understand that ophthalmic opticians are trained in prescribing drugs and therapies in relation to their professional obligations. However, will dental auxiliaries be given full training before the new prescribing regime is implemented? David Davidson raised with me the point that osteopaths and chiropractors do not tend to prescribe medicines as part of their care. The new prescribing rights would be quite a departure from that conventional line of care. Again, that raises issues about training, clinical responsibility and knowledge of a patient's history.

I fully endorse Nicola Sturgeon's point about consultation. The question of liability is also crucial, particularly in relation to the side effects of drugs. How will liability of the prescriber be determined, given that one patient can be prescribed drugs by several health care professionals? We seek assurances on who is ultimately responsible for the patient's health.

Much has been said about nurse prescribing. The Royal College of Nursing has pointed out that all those who gain prescribing powers will already have undergone professional education—they will be on a professional register and they will be expected to comply with a code of professional

conduct. However, are we not asking nurses to take full responsibility for prescribing without full and adequate training? Given that nurses have a broad input into health care, how can we limit the number of drugs on the list and the disciplinary action that can be taken in the event of a lack of judgment?

16:12

Mr Keith Raffan (Mid Scotland and Fife) (LD): The Scottish Liberal Democrats support the motion and the principles of the bill. I agree with the minister about preserved rights income support. In certain areas, there have been problems with the shortfall in funding between the fees charged by homes and the benefit that is available to the people who are resident in them. There is also a shortfall in funding between fees and benefit when people have to move from residential homes to nursing homes. I hope that the new system will cover that. There should be assessment across the board and everyone should be treated equally.

We support in principle the proposal to widen the categories of groups who can prescribe, although we have some concerns. The need for co-ordination between different professionals prescribing different drugs is clear. Often, the patient may not be fully aware of, or may forget, what they have been prescribed. Recently, I was in hospital and was yet again asked for my clinical history, which I am glad to say is not that long. However, I forgot certain things from the past, which I later let the doctor know about. Patients may forget relatively recent prescriptions and it is important that the person who is writing a prescription knows about those. There is an argument for having a card or some kind of record of prescriptions that can be given to patients, so that they can pass it on to specialists, consultants and even those in the extended groups.

I have been lobbied by registered osteopaths and chiropractors—as I am sure other members have—who would like to be able to prescribe certain steroids without having to send their clients to general practitioners, who then anyway send them back to the osteopaths, chiropractors and physiotherapists to inject the steroids. Steroids are a controversial issue and can raise difficulties, particularly when patients—depending on their clinical history—are on them for too long. It is important that the new groups are properly trained and that there is close co-ordination between what they are doing and what much more experienced GPs know.

With those provisos, we support the bill. I hope that the minister will be able to respond to the brief points that I have made. There was a debate on this subject in the House of Commons last week; I disagree with what the SNP has said about that, because I am glad that the debate took place—it has been interesting to read the report of it. We know that the Executive will deal with the issue of free personal care in a positive manner when the Minister for Health and Community Care makes her statement shortly.

16:16

Dr Richard Simpson (Ochil) (Lab): I should begin by declaring that I am a director of a nursing home company that operates in England. I am probably more concerned about the bill in the English context. However, I welcome this Sewel motion and the proposal to transfer preserved rights, which makes sense and is simply the implementation of the Sutherland recommendation. As Keith Raffan said, we await the announcements on the rest of the recommendations next week.

The extension of powers to prescribe medication is welcome and long overdue. The groups mentioned in the reference papers have for some time been straining at the bit to be able to prescribe. However, it is important that prescribing is properly controlled and managed and that those who prescribe are properly qualified and trained. The section of the Scottish NHS plan that deals with information refers to the accessibility of clinical history information to the various prescribing groups. Confidentiality will have to be managed in a highly effective way. That is an important issue.

I hope that the minister will extend the range of prescribing that nurses undertake, which is currently severely limited. There are specialist nurses in diabetes, epilepsy, asthma, colostomy care and a number of other areas, but they cannot prescribe the drugs for the care area in which they operate. I particularly welcome the extension to pharmacists of powers to prescribe, because pharmacists are partners in health care who have been seriously underutilised.

My one concern is that we may have missed an opportunity with this Sewel motion. The Scottish Executive is not taking up the references to care trusts in clauses 45 and 46 of the Health and Social Care Bill because they implement paragraphs 7.9 to 7.12 of the English NHS plan. The Health and Community Care Committee of this Parliament, in its recent report on community care, referred to problems between social services and the NHS, which those clauses will address in an extremely positive way, so I wonder whether we have missed an opportunity. I acknowledge that the Scottish NHS plan states that the Executive will at a later date deal with any impediments to appropriate accommodation between the NHS and social services in terms of

pooled budgets, for example, but the Sewel motion would have provided an opportunity for us to piggy-back on the much more advanced measures that are being taken in England.

However, I welcome the motion and hope that it will be supported.

16:19

Shona Robison (North-East Scotland) (SNP): The SNP is happy to support the principles of the bill, although we have concerns about the process. The proposal to end the preserved rights system is welcome, as it leaves residents at a disadvantage, both financially and in not having their care needs properly met.

The widening of the categories of registered professionals who are allowed to prescribe is also welcome. Clearly, widening prescribing rights will reduce the need for routine visits to GPs, which will, we hope, free up time for GPs to spend with patients.

However, two questions remain for the minister to answer. First, will he confirm that there will be a rigorous and validated education and training programme and closer links between professionals to protect the patient and professional accountability? Secondly—as Mary Scanlon asked—will safeguards be developed to ensure communication between multi-prescribers and so avoid potentially harmful interaction of drugs that have been prescribed by different health professionals? I look forward to hearing the minister's response to those questions.

As I said, the content of the bill is to be commended, but the process by which this and other Sewel motions are presented to the Parliament leaves a lot to be desired. The memorandum that is attached to the bill says:

"Parliament's approval is sought to include devolved issues in the UK Bill."

The motion seeks the agreement of the Parliament that

"the relevant provisions to achieve these ends in the Bill should be considered by the UK Parliament."

However, it is presumptuous to introduce a Sewel motion for approval so late in the bill's process at Westminster. What if this Parliament were not minded to support the bill?

As Nicola Sturgeon said, the explanatory notes that accompanied the bill at Westminster say:

"At the request of the Scottish Executive and by the approval of the Scottish Parliament *clause 49* amends devolved legislation concerning Scotland so that preserved rights can cease across the whole of Great Britain on the same day."

To me, that suggests that approval had already been given when the bill had its second reading last week. That is misleading to MSPs and to MPs. It might be appropriate for the Procedures Committee to consider suitable timetabling of Sewel motions. I look forward to the response of the committee's convener to that.

16:22

Malcolm Chisholm: I will deal mainly with the substance of the debate, but I must refer to what Nicola Sturgeon and Shona Robison said about procedure. I think that Nicola Sturgeon answered her own point by reminding us that the bill was introduced at Westminster on 20 December and received its second reading on 10 January—the dates on which this chamber adjourned for Christmas and returned after the break. Normally, debates such as this one will take place before a bill's second reading at Westminster. In this case, that was not possible.

Richard Simpson also made a comment that was off the main topic. He made an interesting point about care trusts. What he said may be his view, but it was not that of the Health and Community Care Committee. The Executive is determined to go forward through joint working and pooled budgets.

I remind members that it is up to us to decide who prescribes. Patient safety will be paramount when we consider whether to grant prescribing rights to any professional group. It is also up to us to decide what is prescribed. We hope to follow Richard Simpson's suggestion of including extra prescribing rights for nurses.

Members asked about one person holding the records for prescribing. The answer to that comes from information technology systems—smart cards are not necessary.

Mary Scanlon and Shona Robison talked about training. Before any new category of prescriber is designated, ministers will have to be convinced that all new prescribers will be fully trained and competent to fulfil the responsibility.

Nicola Sturgeon mentioned consultation. Proposals for granting prescribing rights for some medicines to a group of health professionals will be subject to wide consultation with relevant organisations.

Extending the right to prescribe will help to break down the divisions between health professions and will play an important role in the introduction of more flexible team working throughout the NHS. It is in line with the commitments in "Our National Health: A plan for action, a plan for change", which proposed change to the traditional ways of delivering services to patients.

I am pleased that members have welcomed the

change to preserved rights. Keith Raffan asked about the shortfall in funding. I assure him that approximately £8.9 million of the proposed funding that will be transferred is included to top up shortfalls and to meet existing home care charges. No one will be disadvantaged under the arrangements. No one will have to change their accommodation. Some people will for the first time be able to obtain appropriate care in the community. I therefore once again ask the Parliament to agree to the motion.

The Deputy Presiding Officer: We saved five minutes on that debate, which I hope will be added to the debate on convenerships. Likewise, perhaps we can make good speed in the next debate.

Tobacco Advertising and Promotion Bill

The Deputy Presiding Officer (Mr George Reid): The next item of business is a debate on motion S1M-1527, in the name of Malcolm Chisholm, on the UK Tobacco Advertising and Promotion Bill.

16:25

The Deputy Minister for Health and Community Care (Malcolm Chisholm): I had a most constructive session last week with the Health and Community Care Committee when it considered the Executive's memorandum on the Tobacco Advertising and Promotion Bill. While the committee accepted and endorsed the arguments for a single UK bill, it felt that it would be worth while for the Parliament to have the opportunity to consider the arguments.

Smoking is the greatest single cause of preventable disease and ill health in Scotland. I am sure that members would not argue with the Executive's desire to put tobacco control high on its list of health priorities. "Our National Health: A plan for action, a plan for change" reaffirms our commitment to battling against the impact of tobacco, and demonstrates our intention to focus on prevention and enabling people to stay well and to stay out of hospital.

The Executive and the Parliament owe it to Scotland and Scots to do all we can to reduce the toll that smoking takes of the nation's health. Indeed, the Executive is already introducing a comprehensive range of measures to reduce smoking levels. All those measures are important, especially in relation to persuading children and young people not to start smoking, but they will not work as effectively as they might if they need to compete with powerful and stylish tobacco advertising.

At the most recent UK general election, a ban on tobacco advertising was a Labour manifesto pledge. In its first programme for government, the Executive pledged to implement the European Union directive to ban tobacco advertising. However, effecting a ban has not been straightforward due to legal challenges in the European and English courts, resulting in the decision to annul the directive.

Advertising and promotional activities do not respect national boundaries. All UK Administrations have a common objective to effect a ban. It is vital to have a consistent approach throughout the UK if the ban is to be effective, robust in the face of any legal challenge and

capable of effective enforcement, and the Executive is in no doubt that a single UK bill is the right way forward.

As the memorandum and supporting papers explain, the bill is comprehensive. Although the European Court of Justice ruling means that the UK no longer has an obligation to implement the measures in the EU directive, the bill follows the policy that was set out in previous consultations on implementing that directive.

The bill will ban all forms of tobacco advertising and promotion, including sponsorship and brand sharing. In some instances, detailed measures will be set out in subordinate legislation, on which there will be consultation. However, the legislation also takes account of the legitimate right of those who are involved in the tobacco trade to go about their lawful business.

The bill contains a number of regulation and order-making powers, some of which will be conferred on Scottish ministers. On other areas—that is, on brand sharing, distributions at nominal cost and advertising by electronic means—it is intended to legislate on a UK-wide basis. Those are areas on which it is difficult to legislate, from both a technical and a legal standpoint, and on which legislation would, potentially, be difficult to enforce in a Scotland-only context. Moreover, they may—under the technical standards directive—require notification to the EU, which would take some time. We are keen that that does not delay the introduction of wider statutory controls.

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): I hear what the minister says about technical difficulties, but are not there technical difficulties relating to advertising from other countries in the European Union? I am thinking especially of motor racing, and other sports events where there is advertising or satellite television. What do we intend to do about that? Will it be banned in some way?

Malcolm Chisholm: There was a European agreement on that; we hope that another directive will be introduced soon. The original directive was disallowed because it was introduced as a single market measure and was judged to be a health measure. It would be more effective to have measures such as sponsorship bans on a Europe-wide basis. We hope that that will happen, but we will not wait for Europe to decide before we take action.

I ask the Parliament to support the Executive's motion. It makes good sense to work co-operatively with other parts of the UK. In lodging the motion, our overriding concern is to introduce a firm and effective ban on advertising and to do so quickly. The bill is a major step in our drive to cut the devastating toll that smoking takes on our nation's health.

I move,

That the Parliament endorses the need to ban tobacco advertising and promotion in Scotland as set out in the Tobacco Advertising and Promotion Bill and agrees that the relevant provisions in the Bill should be considered by the UK Parliament.

16:30

Nicola Sturgeon (Glasgow) (SNP): I place on record the SNP's support for a comprehensive ban on tobacco advertising and promotion. As Malcolm Chisholm has said, smoking kills far too many people in Scotland and ruins the lives of many more. Banning advertising and promotion will not provide the entire solution to the problem of smoking and smoking-related illnesses, but if it helps at all, it will be a measure worth supporting.

Nevertheless, I seek reassurance from the minister on a number of points, the first of which concerns the time scale.

Mr Keith Raffan (Mid Scotland and Fife) (LD): I would like Nicola Sturgeon to clarify her position. Is she dissociating herself from the other SNP member of the Health and Community Care Committee, Dorothy-Grace Elder, who asked that newspapers and the printed media be exempt from the ban?

Nicola Sturgeon: All members of the Health and Community Care Committee are entitled to ask questions of the minister. Dorothy-Grace Elder also placed on record her support for a ban on tobacco advertising. Perhaps Keith Raffan should read the *Official Report* properly.

As I was saying, I would like the minister to address concerns about the time scale. As he said, a ban on advertising and promotion of tobacco was a Labour manifesto commitment, yet here we are, weeks from a likely general election, and it is only now that the bill is being introduced. There are reasons for that, which we do not have time to go into today, but I seek a guarantee from the minister that, if the bill is not on the statute book before the House of Commons is dissolved for a general election, separate Scottish legislation will be introduced immediately so that the progress that he has said is so important can continue apace.

I have several points about the content of the bill. First, I am concerned about point-of-sale advertising, which is exempted from the ban subject to regulation by Scottish ministers. I think that we would all accept that the adverts that young people are most likely to come into contact with are point-of-sale adverts in, for example, newsagents. Does the minister agree that the regulations on that matter must be very tightly drawn? Will he give an assurance that the effect of

regulations in that area will be to outlaw point-of-sale advertising in newsagents and similar outlets?

My second point is about brand sharing. Unless the regulations on brand sharing are extremely tightly drawn, that area will be open to exploitation by imaginative and determined tobacco companies. Regulations on brand sharing will be the responsibility of UK ministers, not Scottish ministers. Will the minister tell us what input Scottish ministers will have into the detail of those regulations?

My third point concerns sponsorship. The minister is aware of my concerns about a potential loophole in the legislation. At the Health and Community Care Committee, he gave me an assurance that that loophole will not be open to tobacco companies.

The final point that I would like the minister to address when he sums up is when the ban will come into force. Under European provisions, we have until 2006 to bring the ban into force. My view, which is shared by many members, is that that is too long to wait. Can we expect the ban to be implemented much more quickly than that, notwithstanding the views of a certain Mr Ecclestone or any of his colleagues?

16:33

Ben Wallace (North-East Scotland) (Con): The Conservatives support the aims of the Tobacco Advertising and Promotion Bill. As a unionist, I recognise that some legislation, especially on subjects that impact on all of us in the British isles, is best dealt with in a Westminster context.

Many members, including the minister, welcomed the European convention on human rights and were particularly proud of the fact that acts of the Scottish Parliament can be held more strongly to account by the courts than can Westminster acts. I do not pretend to be a lawyer but, although I applaud the noble aims of the bill, I ask the minister for an assurance that the UK bill does not infringe the ECHR, especially article 10, and that he is satisfied with the bill. A Sewel motion should not mean that Scottish ministers abdicate their responsibilities in favour of the Westminster Parliament.

The Conservatives are concerned by the timing of the bill, which Nicola Sturgeon mentioned. I note from the *Official Report* of the Health and Community Care Committee that the minister put responsibility for much of the delay at the door of EU courts and legislation, but the Labour party was not precluded from introducing a bill much earlier, rather than in year 4. What is the minister's view on that?

Because of the lateness of the bill's introduction and, if press speculation is correct, a coming general election, the minister cannot give a guarantee that the bill will be enacted. If his party is not successful in the election, which I am sure that it will not be, a Conservative Government's different priorities could mean a different Queen's speech. We should remember that. Perhaps the Scottish Parliament should decide on its own bill, which could encompass not just advertising, but point-of-sale materials, sales to those who are under age, and more enforcement. Perhaps more of the issues should be dealt with in this chamber.

There is no doubt that there is a desire among Conservative members to reduce the incidence of smoking. However, we should remember that, in today's world, in which the Government seems to want to control everything, tobacco is still a legal commodity. Many people smoke because they want to. That is their responsibility and their choice. We are not all seduced by formula 1 and adverts. It could be argued that the large tax revenue that Scotland receives, in effect, from smokers—I note that it totals £1 billion—goes some way to covering the costs.

We will support the motion, but we will do so with some reservations about the freedom of the individual and the Government's timing.

16:36

Mr Keith Raffan (Mid Scotland and Fife) (LD): Ben Wallace had a go at the minister because the bill is being introduced in year 4. The Conservatives had 18 years and did nothing. Some of us might have preferred the UK Labour Government—

Ben Wallace: Will the member give way?

Mr Raffan: Sit down. Go back to the slopes of Mirabelle.

Some of us might have preferred the UK Labour Government to act earlier, but I congratulate the minister and the UK Labour Government on acting now. The bill is long overdue, especially as tobacco advertising on television has been banned since 1965. Action should be taken through UK legislation, especially as media are increasingly cross border. The minister and the Government are right to want a ban that is as comprehensive as possible, especially as the centre for social marketing at the University of Strathclyde has shown that children as young as six associate certain brands of cigarette with excitement and fast cars.

We are completely in support of the comprehensive ban on print and electronic media, billboards, direct mail and so on. In particular, we support the fact that the UK Labour Government

has moved to impose a ban on sponsorship, which will help to retrieve the Government's reputation following the Ecclestone affair. The trouble for far too long has been that Governments—and the Treasury in particular—have shown an ambivalence towards tobacco, for the simple reason that they get so much tax revenue from it. We are at least making a move in the right direction. However, as Ms Sturgeon said, we must not underestimate the ingenuity of tobacco companies in shifting promotional funding from one area to another. They have already done so in the past few years, moving from billboards and outdoor advertising to direct mail. The total spend in 1999 was £52.8 million. I am sure that companies will try to use those resources in other ways.

There is one means of promotion that we cannot affect. Companies have shown great adeptness at product placement, in particular in movies and television films. I want to raise with the minister the exemptions for the BBC and the other broadcasting media. I understand that those exemptions are to do with the fact that the codes of conduct to which broadcasters have agreed in the past are regarded as having been effective. However, I presume that it is also in part to do with the fact that movies, increasingly, are shown on television and that one finds product placement in them. I understand that product placement has declined in recent years, but there is no doubt that the comprehensive nature of the ban will mean that it is likely to be extended.

Mr Brian Monteith (Mid Scotland and Fife) (Con): If we take the member's point to its logical extension, he is suggesting that tobacco products should be banned from drama, be it film or television. Is that so? If it is, does he believe that the ban should be extended to alcohol products to try to reduce further levels of alcoholism?

Mr Raffan: If the member had listened carefully, he would have heard what I said, which was that it is impossible for us to affect product placement in movies, television drama and so on. If we are to be consistent, alcohol advertising and promotion must also be examined. I agree with the member on that. We should also consider the state laws in the United States on the banning of tobacco in public places such as restaurants.

The Deputy Presiding Officer: Five members have asked to speak, so speeches should be no more than three minutes long.

16:40

Mrs Margaret Smith (Edinburgh West) (LD): I do not know how much support Keith Raffan would get if he suggested that the characters in "EastEnders" and "Coronation Street" should drink milk in the Queen Vic and the Rovers Return instead of doing what they usually get up to. However, it is an interesting point. The insidious nature of advertising and promotion, in its many guises, means that we should do everything that we can.

I will pick up on Malcolm Chisholm's remarks. All of us must have been very disappointed by the European directive being annulled by the European Court of Justice. I welcome the possibility of the European Union examining the matter again and producing legislation that cannot be challenged, but that does not mean that members in the Scottish Parliament and the UK Parliament should not do something about tobacco advertising. It is essential that the bill be passed before the general election. I would be concerned—as would be members of the Health and Community Care Committee—if there were to be any slippage. We must not lose this opportunity to make progress.

It is heartening that all members are as one on the subject. We must do everything that we can to limit the advertising and promotion of tobacco products. An estimated 300 lives are at stake throughout Scotland in any given year. That is a prize worth fighting for, so we must do everything that we can. If that means working in conjunction with the UK Parliament on the matter, so be it.

It is right that we are having this debate in the chamber, although I and colleagues in the Health and Community Care Committee had the opportunity to question the minister about it last week. If Sewel motions are to be used, we must scrutinise them as much as possible.

One of the matters in the bill on which orders and regulations are left in the hands of Scottish ministers—the exemption for point-of-sale advertising—is especially interesting. Members of the Health and Community Care Committee were concerned that ministers should take that matter seriously. The point of sale is where youngsters and others—perhaps those who are trying to kick the habit—may be seduced or taken unawares and, in a blinding flash, suddenly just think of buying cigarettes. If we tackle advertising, we must tackle it in all its guises. We must not underestimate that.

Nicola Sturgeon alluded to clause 9(1) and (2) and the loophole on sponsorship. In the explanatory notes to the bill, it says that companies will be able to sponsor events by using not their product's name, but their company name. That is very dangerous. How long will it be before a tobacco company makes its name the same as the name of its main brand? We must be vigilant.

16:43

Pauline McNeill (Glasgow Kelvin) (Lab): I support the motion and will take this opportunity to remind Parliament of the widespread problems that are caused by tobacco products.

I believe that Kenny Gibson will speak next in the debate. I am glad about that, because the cross-party group on tobacco control, which he convenes, must be congratulated by Parliament. It has done a lot of good work.

In Glasgow, one in five people die because of their smoking habit; that amounts to 2,367 deaths in greater Glasgow each year. The in-patient cost to the national health service in Glasgow alone is estimated at £14.44 million. Hundreds of NHS beds, nurses, doctors and theatres are taken up by smoking-related illnesses. Think what we could do in the NHS if we could free up those resources in Glasgow, never mind across Scotland.

We must have a comprehensive strategy to encourage people to give up smoking. A ban on tobacco advertising will be only part of that strategy. Advice and counselling will also be essential. For the strategy to be most effective, we should support the Sewel motion this afternoon, because any measures should be brought in throughout the UK. As previous speakers have pointed out, there have been several attempts to regulate the industry, including a failed attempt by the European Community. However, we all hope that we will return to that issue.

As we have seen many times, the tobacco industry is exploitation orientated. There is ever-increasing evidence about why we should proceed with the Tobacco Advertising and Promotion Bill. For example, a Department of Health report showed that advertising bans reduce tobacco consumption, which is a trend that has been followed in countries such as New Zealand, Norway and France.

Unlike adults, children are not impressed by the cheapest cigarettes; they tend to buy the trendiest and most advertised brands. Members with their own teenagers, or who know any teenagers, will be only too familiar with the culture of the importance of brand names and well-known labels. We must think about the impact of advertising and sponsorship on children.

As for women and smoking, a leading trade journal has stated openly that women are a prime target for any alert European market. Feminine brands and low tar cigarettes play on women's traditional fears of weight gain. There is no doubt that the industry targets its brands at women; it is not simply a question of asking people to change brands. We should see what is happening with our own eyes and not listen to what the industry says—it is targeting new recruits all the time.

Ben Wallace mentioned choice. People have a choice, but we have a responsibility to point out that smoking kills. Lung cancer is one of the nastiest cancers anyone can get. There has been an increase in cancer among women; we have a responsibility to do something about that, and we can take the first step today by supporting the Sewel motion on the banning of tobacco advertising.

The Deputy Presiding Officer: Before I call Mr Gibson, I point out that if all members press their claim to speak, the time that we saved on the previous debate will be used on this debate and not on the debate on convenership of committees.

16:47

Mr Kenneth Gibson (Glasgow) (SNP): As convener of the cross-party group on tobacco control, I am pleased to be able to speak in this debate.

The cross-border nature of tobacco marketing means that a ban on tobacco advertising would be much more effective if it were carried out simultaneously across the UK. The tobacco barons argue that they use advertising to encourage brand switching. However, in reality, cynical and often subtle marketing has been used to encourage people to start and continue smoking, with all the corresponding damage to health and all the heartbreak that is endured by the loved ones of the 14,000 Scots who die each year as a result.

Young people, the socially excluded and the emotionally vulnerable are deliberately targeted by market segmentation strategies that are aimed at attracting new customers to replace those who quit or die, while strengthening individual brand identity and awareness. The tobacco industry is highly profitable and can afford to hire the most creative and inventive people. Restrictions to date on advertising have helped to reduce consumption significantly, particularly in the more prosperous socioeconomic groups. However, progress has slowed due to the strength of the industry's more subtle campaigns, which currently outspend Government health campaigns on smoking by a factor of 10.

A complete ban on advertising works. In countries from Norway to New Zealand where advertising has been banned, consumption has fallen by 14 to 37 per cent.

I realise that the odd member might believe that newspapers should be exempt from a ban, as they judge tobacco advertising in that genre to be ineffective. Although I am sure that advertising executives in our newspapers would be apoplectic at the very suggestion that our newspapers are a poor advertising medium, it is at best naive to

suggest that tobacco companies advertise in newspapers for charitable reasons. They know that it works; in any case, it is not our job to boost the profits of the Rupert Murdochs of this world at the expense of Scotland's public health.

For a ban to work, it must be comprehensive and include all media, brand names and logos. The bill must clamp down on direct marketing, including the practice of sending "money-off" vouchers to people's homes unless they are directly solicited. Brand sharing—the promotion of tobacco through non-tobacco products such as clothing and coffee—must be banned and tight restrictions must be introduced at point of sale, including packaging and shop displays. Sports sponsorship and internet sales require regulation, and initiatives such as handing out free cigarettes to young people at the industry-sponsored Edinburgh fringe comedy festival should no longer be permitted. I am pleased that the bill covers most of that, but the sponsorship and point-of-sale loopholes must be eliminated.

We must put a nail in the coffin of the tobacco industry—after all, it has been putting nails in the coffins of millions of us for many, many years.

16:50

Mr John Home Robertson (East Lothian) (Lab): For the first time, I agree with everything that Kenny Gibson says. I am in the happy position of never having smoked a cigarette in my life, although I was nearly asphyxiated many times early in my career in the Labour party, when we conducted our business in smoke-filled rooms. Happily, all that has changed, but there is still a serious problem of tobacco addiction in many parts of Scotland and a lot of people find it hard to kick the habit.

We all know that tobacco addiction makes people ill and kills 120,000 people every year throughout the United Kingdom. It is a serious epidemic. Despite that knowledge and the tobacco tax escalator, many people are finding it very hard to give up cigarette smoking. More alarming, many young people—especially young women—are taking up smoking. We must address that problem, and that is what today's motion is all about.

It is in the interests of the tobacco companies to recruit new addicts while they are young, by means that include the most cynical method possible: the direct or indirect sponsorship of sports. Tobacco advertising is a deliberate programme to attract healthy young people to becoming addicted to cigarettes, to generate profits for the tobacco companies and to condemn a high proportion of those young people to a life of ill health and, in many cases, an early death.

Some of us have taken interest in this matter for a long time. I introduced the Protection of Children (Tobacco) Act 1986 to the House of Commons as a private member's bill, and tried to include in that bill a provision that would have prevented tobacco advertising anywhere near schools. That measure was resisted by the former Government and the Home Office, to their eternal shame. However, I am delighted that, with unanimous support across the political spectrum, we are now proceeding along that route.

It is a pity that we could not have had the legislation sooner, but delays were caused by legal challenges in Europe. I have total confidence in my parliamentary colleagues in the House of Commons to get it right and to progress the bill as quickly as possible. I hope that the bill will help to raise the standard of health across the UK, especially in Scotland, and to save a lot of lives.

16:52

Dorothy-Grace Elder (Glasgow) (SNP): All members want to achieve a clampdown on tobacco advertising. Above all, we must try to prevent young people from taking up smoking. However, a tremendous amount of hypocrisy surrounds any debate on clamping down on tobacco advertising.

Over the past 200 years, all Governments have been passive inhalers of the revenue from tobacco, and states are, to a large extent, run on booze and fags. No one has ever gone the full hog and banned tobacco. In the 19th century, when asked to ban tobacco, Napoleon III said:

"I will certainly forbid it at once, as soon as you can name a virtue that brings in as much revenue."

The Labour party has turned full circle, from accepting £1 million from Bernie Ecclestone and his tobacco-related interests to introducing a piece of legislation that is, in parts, too draconian.

Parts of the bill should perhaps be reviewed, as it would criminalise the news-vendors who sell papers on the street corner but allow the tobacco lords to move abroad and promote cigarettes on the internet. The bill would also exempt the producers of magazines that are printed outside the United Kingdom, whose principal market is not the UK or any part of it. Those people will make a fortune out of the extra advertisements that will come to them because all other legitimate forms of advertising have been banned. Furthermore, to very young people, the glossy magazine may be more attractive than advertisements in newsprint, which, as smokers know, are just a reminder to buy another packet of cigarettes and are not designed to lure a 17-year-old who might buy a newspaper.

The bill will not hit at the large newspaper that is

owned by the mega-press baron, which is a problem. When the large newspaper that is the flagship of a chain suffers a serious reduction in revenue, the smaller newspapers in the chain will suffer first and suffer most. I should point out that although I am a journalist—an interest that I have declared—I am speaking from my own point of view entirely.

I urge the minister to consider the parts of the bill that criminalise people such as the news-vendors. According to the bill, if a paper with an advertisement for cigarettes is sold, responsibility would rest not only with editors and proprietors but with the news-vendors who dare to sell the paper. That must be considered unfair. We must not create a new criminal class of decent folks.

16:55

Malcolm Chisholm: I welcome the support from a large number of speakers for the principle of banning tobacco advertising on a UK-wide basis. Nicola Sturgeon asked what would happen if the bill were not passed before the UK general election. I can give no guarantees about that, but I can remind her that the measure was a Labour UK manifesto commitment. In response to Ben Wallace's point, the only reason that the bill was not introduced earlier was because of the European directive; detailed regulations had been worked out for implementation. Clearly, we will have to review the situation if the general election comes first. I remind Nicola Sturgeon, however, that many speakers have said that the issue is not only about timing, but about the effectiveness of a ban and the ability to enforce it.

Point-of-sale advertising was mentioned by Nicola Sturgeon and Margaret Smith. I agree with them that regulations on such advertising must be tightly drawn. Such regulations will be a matter for the Scottish Parliament. As I indicated at the Health and Community Care Committee, we will soon consult on the matter. We are minded that there should be regulations on the size of units for selling cigarettes in shops, on their position and on the size of the name on the units. We also think that such units should carry health warnings. Members of the Scottish Parliament who want the regulations to be even stricter will be able to express their views.

Nicola Sturgeon referred to the so-called sponsorship loophole. I remind her of clause 9 of the bill, which is quite strong. It says:

"A person who is party to a sponsorship agreement is guilty of an offence if the purpose or effect of anything done as a result of the agreement is to promote a tobacco product in the United Kingdom."

It is impossible to get round that by using the name rather than the product. I understand that there is concern about one of the comments in the explanatory notes, for which there may be reasons that arise from the European convention on human rights.

On brand sharing, we recognise that the legislation needs to be as tight as possible to ensure that tobacco companies do not merely transfer advertising expenditure to that type of promotion. There is no doubt that brand sharing is the most complex area on which we must legislate, both from a technical and a legal standpoint. The businesses operate on a UK-wide basis and any regulation might overlap with trading law, which is a reserved matter. Clearly, it would be ridiculous to have different brand-sharing regulations in Scotland and in England and we shall have input in that area.

Keith Raffan asked about broadcasting. Clause 11 excludes from the scope of the bill the BBC and all broadcasting media that are covered by codes of practice issued by the Independent Television Commission and the Radio Authority under the Broadcasting Act 1990. The advertising and promotion of tobacco products is well controlled by those bodies. Other broadcasting media will be subject to the provisions of the bill.

Advertising is only one of a number of factors that induce people to smoke. However, international evidence indicates clearly a link between tobacco advertising and consumption. I urge Parliament to support the motion.

Committee Convenership

The Deputy Presiding Officer (Mr George Reid): The next item of business is a debate on motion S1M-1555, in the name of Tom McCabe, on convenership of committees, and one amendment to that motion.

16:59

The Minister for Parliament (Mr Tom McCabe): As members will see, the motion proposes the parties that will fill the convenership and deputy convenership of the Justice 2 Committee, which was created following the restructuring of committees that we concluded prior to the Christmas recess. That restructuring took place after prolonged discussion among the major parties in the Scottish Parliament. Throughout those discussions, the Labour party made it clear that it would expect to chair the Justice 2 Committee. It made that clear on the straightforward principle that the then Justice and Home Affairs Committee was chaired by the largest Opposition party in the Scottish Parliament, and that the largest party in the Parliament should take the chair of the Justice 2 Committee on its creation.

It is worth remembering that, throughout the long negotiations, the Scottish National Party constantly changed its position on the restructuring of the committees of the Parliament. It did not support that restructuring. After the Parliament had accepted the restructuring, members of that party continued to speak against it in the press whenever they had an opportunity.

Tricia Marwick (Mid Scotland and Fife) (SNP): Will the minister give way?

Mr McCabe: No.

It is also worth remembering that, since the start of the Parliament, we have done our best to achieve a fair balance and distribution across the parties. We have done our best to ensure that the parties are as fairly represented as possible. I think that all parties have been happy to be guided by the d'Hondt principles, but I underline the word "guided".

Michael Russell (South of Scotland) (SNP): Can the Minister for Parliament outline those principles? The key principle of d'Hondt—this is the reason why we have the system—is to allocate places fairly, so that no party has a major advantage according to its proportion. Does the minister accept that his proposal will give 53 per cent of the convenerships to a party with 43 per cent of members? That is contrary to the principles of d'Hondt.

Mr McCabe: D'Hondt has never been applied in its purest form—and not applying d'Hondt in its purest form has always been to the disadvantage of Labour. Mr Russell fails to mention that the d'Hondt formula, applied in its purest form on an 11-member committee, would give Labour six members on that committee. That was immediately recognised as unfair. Labour immediately conceded that it would accept having five members on an 11-member committee, and would depend on its coalition partners to form a majority on committees.

That underlines the point that we have never applied purely the principles of d'Hondt. Furthermore, in ensuring that d'Hondt was not purely applied, in the interests of fairness, Labour again sacrificed its pick of convenerships in order to move other parties further up that pick.

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): There is a bit of amnesia in the chamber. Does the minister agree that, when Mike Russell was the SNP business manager, he accepted that the convenership of the Justice 2 Committee would not go to the SNP as it had the convenership of the Justice 1 Committee? Is not that the case?

Mr McCabe: I think that Mr Russell accepted the fairness of the situation whereby, given that the major Opposition party was to chair the Justice 1 Committee, the largest party in the Parliament would chair the Justice 2 Committee.

Michael Russell: Will the minister give way?

Mr McCabe: I will give way on one more occasion.

Michael Russell: Jamie Stone's point was interesting. An offer was made to the Minister for Parliament to discuss the allocation of convenerships so that exactly what he wished would take place—however, there would be an application of d'Hondt, in fairness.

Can I make this point to the minister—

The Deputy Presiding Officer: Briefly.

Michael Russell: My point would be to swap. In other words, can I make the point to the minister that, in—

The Deputy Presiding Officer: To the point, Mr Russell.

Michael Russell: I pay tribute to the minister for accepting two years ago the fairness of the system whereby the Labour party would not have a majority in every committee. That was a creditable action; what the minister is doing today is a discreditable action.

Mr McCabe: What we are doing today is recognising that such proposals need to be

examined in the round. We cannot be selective, deciding that principles must be applied on one issue when it has been accepted previously that to apply those principles in their purest form would in fact be unfair on other parties in the Parliament.

If d'Hondt were to be applied in its purest form, Labour would have an in-built majority on committees. If it were applied in its purest form, we would have a more advantageous pick of committee convenerships.

It has been suggested that a negotiation should have taken place between the Labour party and the largest Opposition party about the convenership of the new committee, the Justice 2 Committee. That would have been unfair on the other two parties. I give the commitment that if the four parties in the Parliament are prepared to go back to first principles and initiate again the picking of convenerships, we will seriously consider doing that. That commitment shows the fairness that we are prepared to apply to the convenership of committees.

I move,

That the Parliament agrees that the Convener of the Justice 2 Committee be appointed from the Labour Party and that the Deputy Convener of the Justice 2 Committee be appointed from the Scottish Conservative and Unionist Party.

17:05

Tricia Marwick (Mid Scotland and Fife) (SNP): Well, well, well, here we are. Today, just 18 months into the lifetime of the Scottish Parliament, the recommendations of the consultative steering group—the touchstone of the Parliament—have been torn up to facilitate a grubby little backstairs deal between the Labour, Tory and Liberal Democrat business managers. To remind them of the CSG report, I have brought a copy for them to look at before they finally bin it.

The debate is not about which party should hold the convenership of the Justice 2 Committee, but about which party should hold the convenership of the 17th committee of the Parliament, and whether the convener of that committee should be selected in exactly the same way as the previous 16 were selected. As Tom McCabe well knows, I was prepared to negotiate on the SNP convenership of the Justice 1 Committee and the Justice 2 Committee—I offered yesterday to do so. I would also have agreed to go back to first principles and have a complete pick of all conveners, if the other parties, too, had agreed.

Johann Lamont (Glasgow Pollok) (Lab) *rose—*

Mr McCabe: Does the member accept that although the SNP may be prepared to negotiate on the membership of the Justice 2 Committee or to go back to first principles, that is a decision not for the SNP and Labour, but for every party in the Parliament?

Tricia Marwick: If Mr McCabe will withdraw his motion, the SNP is prepared to negotiate the convenerships of all the committees. I hope that the Liberal Democrats and the Tories will give a similar undertaking.

Johann Lamont: Will the member give way?

Tricia Marwick: No. I will continue, as there are things that I want to say about this grubby little deal, in which Johann Lamont has had a part.

The Scotland Act 1998, the CSG report and the standing orders state clearly that in appointing conveners, the Parliamentary Bureau should have regard to the balance of political parties in the Parliament. That statement was included deliberately.

Mr Duncan McNeil (Greenock and Inverclyde) (Lab) *rose—*

Tricia Marwick: Sit down, Duncan.

That was intended to avoid the worst excesses of the one-party state that Labour operates in councils the length and breadth of Scotland. The d'Hondt system, which was used to elect the previous 16 conveners, should be used to select the 17th convener. Instead, Labour wants the convenership for itself and, because it can get it, is determined to have it.

What we have seen is reminiscent of the worst excesses of the Labour one-party state in councils the length and breadth of Scotland. The carve-up by Tory, Labour and Liberal Democrat business managers could hardly have been bettered by the inhabitants of Tammany Hall.

The mechanism that was agreed at the beginning of the Parliament should be applied now. No matter what method of proportionality is applied, the 17th committee of the Parliament should have an SNP convener. Tom McCabe does not agree with that.

As Mike Russell said, Labour has 43 per cent of the members in the Parliament, yet currently holds 50 per cent of the conveners. If the motion is passed, with 43 per cent of the members, Labour will have 53 per cent of the conveners. The SNP has 27 per cent of the members and 25 per cent of the conveners, but after today will have 23 per cent of the conveners. The appointment of a Labour convener is not maintaining the political balance; it is making the situation worse. This is about principle. If we choose to break the principle that conveners should be appointed with due regard to the political balance of the Parliament, there is no going back.

I will talk briefly about the Tories and the Liberal

Democrats.

The Deputy Presiding Officer: You have a maximum of 30 seconds.

Tricia Marwick: I will be brief.

The Tories have been bought and sold for a deputy convenership. How cheap their price, but the Tories and Scottish democracy have never gone hand in hand anyway. I understand that Tavish Scott's Liberal Democrat colleagues are outraged by his conduct. No wonder—this shabby little deal goes right to the heart of the Liberal Democrats' commitment to proportional representation and what they fought for in the Scottish Constitutional Convention.

Last week, Henry McLeish said:

"we are a Government."—[*Official Report*, 11 January 2001; Vol 10, c 165.]

It is not enough to mouth those words—you have to act as if you are fit to govern. After today, it is clear that Labour is not.

I move amendment S1M-1555.1, to leave out from "the Convener" to end and insert:

"the founding principles of the Parliament as established by the Consultative Steering Group must not be undermined; that those principles have as their bedrock the fair representation of the parties in the Parliament, on parliamentary committees and in the role of Convener and Deputy Convener of those committees; and therefore instructs the Parliamentary Bureau to bring forward a proposal to allocate the Convenership and Deputy Convenership of the Justice 2 Committee according to the system that has been successfully applied since the establishment of the Parliament and which has to date commanded all party support."

17:10

Lord James Douglas-Hamilton (Lothians) (Con): This Parliament has 129 MSPs of which the Conservative and Unionist Party has, since the Ayr by-election, 19 MSPs, or 14.7 per cent of the total.

The wholly democratic principle that we supported and which we continue to support is that the composition of committees should reflect the composition of the Parliament. According to strict proportionality, our entitlement to convener and deputy convener positions amounted to five in total out of 34, or 14.7 per cent. That is what we are offered and it reflects the percentage of Conservative MSPs. We strongly support that wholly democratic outcome.

Michael Russell: Many people would be prepared to accept that position. However, does Lord James support the proposal that the Labour party, with 43 per cent of the members of this Parliament, should have 53 per cent of the convenerships? The Labour party would be prepared to accept that proposal, but would the Conservatives? That is the question for Lord James, and I hope that he will answer it. If he supports that proposal, he will have gone against his own argument in the first minute of his speech.

Lord James Douglas-Hamilton: I regret that there has been no meeting of minds between Mike Russell's party and the Labour party on this subject.

Michael Russell: Does Lord James support the proposal?

Lord James Douglas-Hamilton: It must be remembered that the SNP has three members on committees of nine, which is one more than its allocation. On each of those committees, Mike Russell's party has one more member than it should on the basis of strict proportionality. It gains in one respect, as it has three more committee places than it should have on the basis of proportionality, but it loses in another.

Tricia Marwick *rose*—

Lord James Douglas-Hamilton: On the basis of swings and roundabouts, the SNP gains in one respect and loses in another. For our part, the Conservatives have been given strict proportionality, and we are content. [*Interruption.*]

The Presiding Officer (Sir David Steel): Order.

I watched the opening part of the debate on the screen in my room. Members who intervene are not heard if they do not wait until their microphone is switched on.

17:13

Donald Gorrie (Central Scotland) (LD): Ehud Barak and Yasser Arafat could have learned from some of the goings-on here. In my opinion, it is pathetic to say, "I would love to negotiate, but".

Tom McCabe argues that various things would happen if we applied a strict d'Hondt formula. However, we have never gone in for strict d'Hondt—we have gone in for what one might call modified d'Hondt. I am open to correction, but as I understand the position, under a modified d'Hondt formula—that is, if we stick to our present rules—an additional committee convenership would go to the SNP.

I see the problem: some convenerships are considered to be more important than others and the parties might have to do some rejigging. However, on a basic issue of principle, the SNP should end up with an additional committee convenership for the additional committee. We should pursue that point.

Mr McCabe suggested that he would negotiate, but his motion does not allow for negotiation. At

least the amendment, however presented—members must bear it in mind that they are voting not on speeches but on the wording of the amendment—gives the parties the opportunity to negotiate a better outcome. For God's sake, we can do that. The Israelites and the Arabs have a serious problem, but our problem is much simpler. If we cannot agree, God help us.

17:14

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): The problem is that the system that we have been using has suddenly been changed. We have a duty to explain why we have suddenly changed the system rather than going back to scratch.

Mr McCabe said that we did not use pure d'Hondt, which is correct. The reason we did not use it was that doing so would have been unfair to the minority parties—to the three smaller parties. We certainly would not apply d'Hondt in order to be even fairer, or to give an even greater advantage, to the biggest party. That is the point. For the life of me, I cannot see why the party with 43 per cent of the vote and 50 per cent of the conveners should suddenly, as a result of an extra convenership, go up to having 53 per cent of the conveners. The whole principle of this Parliament is to aim for proportionality.

In the paragraphs that deal with appointment of conveners and deputy conveners, our standing orders state that

"the Parliamentary Bureau shall have regard to the balance of political parties".

The phrase

"have regard to the balance"

may be slightly vague, but the one thing that it does not mean is that, if there is an imbalance, our decisions should make that imbalance worse.

I would like a member who speaks after me to try and justify how it can possibly be proper, in the light of our standing orders, to give the extra convenership to the Labour party. We could justify giving it to the Conservatives; we could even justify giving it to the Liberal Democrats, for God's sake; but we cannot justify giving it to the Government party.

If we set this precedent, it will bode very ill for the future of the Parliament. If, on this issue, we are prepared to run roughshod over our rules at such an early stage in our proceedings; if we are prepared to set aside some of the basic principles to which everyone on the consultative steering group signed up, and to which I think everyone who stood for election to the Parliament signed up; and if we are prepared to throw proportionality and fairness out the window, God help us in the future. I urge members to reconsider. Let us go back and start all over again, and see whether we cannot arrive at a sensible compromise that everyone is prepared to work with.

17:17

Mr Frank McAveety (Glasgow Shettleston) (Lab): The speeches by the SNP, including an allegation about one-party states, remind me of the great line in John Galt's novel, "The Provost", which I will paraphrase: it is often useful to hide the cloven foot of self-interest under the ermine robe of respectability. I should have thought that a good pretend Irvine politician such as Mike Russell would at least have understood that line from the great novelist from Irvine town.

We have heard many cries about principles, but the Minister for Parliament has given a clear and accurate analysis, with specific details of percentages, to show that things do not necessarily work out as might have been expected. We have heard cries about proportionality from members of the Opposition; I did not hear those cries from those people when we, the Liberal Democrats and others were involved in the Scottish Constitutional Convention, working towards the proportional system for the Parliament. At that time, just like today, they wanted to walk away, take their ball with them, and try to renegotiate the contract. It strikes me that we are again having a request for renegotiation from the SNP.

If we were to apply the d'Hondt principles in the technical way that SNP members have described, the great misfortune for many MSPs—never mind committees—would be that one of our members might not still be here. If we had applied the d'Hondt principles at the time of the Ayr by-election, when Labour lost the seat to the Conservatives, David Mundell would have had to lose his list seat and be replaced by a Labour politician. However, we did not apply the principles. [*Interruption*.] I can predict what Mike Russell is about to say, so I ask him to stop calling out.

We are dealing with a unique circumstance. Unfortunately, we have had a pretend debate from the SNP, which is trying to claim that what has happened will set the pattern for the future. SNP members have reacted with hilarity to our comments from the start, largely because they have failed to reconcile this issue among themselves. The other groups in the Parliament—those who aspire to government and those of us who are in government—have at least had the maturity to try and arrive at a conclusion.

I will end with a quotation from Macbeth that has just occurred to me—I will cut it in case I am out of

order otherwise.

> "it is a tale . . . full of sound and fury,
> Signifying nothing."

That is what we have heard from the SNP.

17:20

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I would like to point out that despite what has been said in some speeches this afternoon, all the parties in the Parliament are minority parties. The business managers' logic rides roughshod over that. We operate in the Parliament on a clear principle: currently our situation is that no minority party has a majority share of any structure of the Parliament. If we go down the road that is proposed, we ignore that principle. Tricia Marwick's amendment states that

> "the founding principles of the Parliament as established by the Consultative Steering Group must not be undermined".

I believe that we are now starting to undermine those principles.

There have been a number of comments about self-interest. Lord James Douglas-Hamilton's speeches are usually impeccable, but I have never heard a speech that was more about self-interest. If the motion is accepted, a majority of the conveners group will come from one party. That will be a nail in the coffin of any chance of the committees being given more decision-making powers by the Parliamentary Bureau. The Parliament has a structural problem: too much power is in the hands of the bureau and the party managers. Back benchers and committee conveners do not have enough say in how the Parliament is run.

This is an important debate in which many members want to speak, but we have half an hour for it. The fundamental principles of proportional representation in the Parliament are being changed. That is wrong and we should not proceed on that path.

I do want to take all of my three minutes, as I know that many other members want to speak. Tom McCabe said that he was willing to take the issue further; I commend him for that. As my colleague Donald Gorrie pointed out, if we pass the motion, we cannot undo that.

I call on Tom McCabe to withdraw the motion, so that we can rethink. Please do that—before the end of the debate.

The Presiding Officer: I am happy to say that we have called everybody who wanted to speak. I call Michael Russell to wind up.

17:23

Michael Russell (South of Scotland) (SNP): I will react very briefly to a point just made by Mr Rumbles. I have never signed up, as a business manager or an ex-business manager, to the paranoia that those in the Parliament sometimes feel about the business managers. If Mr McCabe's motion is passed today, I might take up that point of view, because it will be passed by brute strength. It will be passed not by argument or negotiation or according to the founding principles of the Parliament, but because Mr McCabe wants it to pass and is strong-arming his party and, unfortunately, sections of the Liberal Democrats, into passing it.

I am glad that Mr McLeish has now arrived because I was about to quote him, and it is better to do that to his face. The foreword to the consultative steering group report, in his name as the chair of the CSG, states that

> "the establishment of the Scottish Parliament offers the opportunity to put in place a new sort of democracy in Scotland, closer to the Scottish people and more in tune with Scottish needs."

According to Mr McCabe, that is done; the job is over. No, Mr McCabe, the job is still under way—as he himself has said, devolution is a process. If his motion is passed today, it will breach that promise and the detail of the CSG, and it will even breach the Scotland Act 1998—schedule 6 refers to the need to represent the balance of parties in the Parliament in the committee structure.

I remind members that the Labour party has 43 per cent of the seats. It will end up with 53 per cent of the convenerships. That is unfair. Mr McCabe can express it in any way he wishes. Mr Scott can make his usual elegant justifications, no doubt making angels dance on the head of a pin. I am sorry about his involvement, and I am doubly sorry about Lord James Douglas-Hamilton's involvement. However, I have to say that they are not the villains of the piece. Indeed, even Mr McCabe is not the villain of the piece—although perhaps I am being too kind. Last week, Mr McCabe was not a conspicuous success in his role as the thinker of the Scottish Government; he has now returned to the role of the hired muscle of the Scottish Government.

In reality, it is the First Minister who can stop this; it is the organ grinder who can say that enough is enough. If Mr McLeish insists on this course of action—if he allows it to happen—he will be walking away directly from the work that he did as chair of the CSG. That would be a great pity.

Let me make Mr McCabe an offer. At the end of his speech, he offered what I hope was an olive branch of reconciliation. He said that if the SNP were prepared to accept a renegotiation of the

pick of the committees, we would be able to preserve the balance. I hope that that offer was genuine. I ask Mr McCabe to withdraw the motion on the basis that that was acceptable. Will he allow us to go and discuss the matter, or will he force the motion through the Parliament—as he can—with the help of the Tories and some of the Liberal Democrats? In so doing, Mr McCabe will get what he wants, but will destroy the principles of the Scottish Parliament.

17:26

The Deputy Minister for Parliament (Tavish Scott): So much for new politics and for the thought that we would be able to develop the Scottish Parliament in a decent and honourable manner.

Michael Russell: The minister should be ashamed.

Tavish Scott: Some of the language that has been used by the SNP has been pretty shameful. [*Interruption.*]

Tricia Marwick used the phrase:

"act as if you are fit to govern."

So much for a parliamentary debate and discussing issues about Parliament in a mature and reasoned way. Such phrases are used because an election is on the horizon. An awful lot of what the SNP members are doing today is just the way in which they behave. It is all about electioneering—that is what is happening day in, day out.

Let us deal with the arguments of principle. I should be happy to negotiate with Mr Russell. At least Mr Russell can negotiate and one feels that one is making some progress when talking to him. The truth is that when we had the discussions on committee restructuring, every time there was a decent attempt to advance involving all parties and parliamentary groups, progress came to a grinding halt when matters went back to the SNP group. Let us not hear any more about the principle.

It is interesting to read the SNP amendment, because there were two amendments. The first SNP amendment said that the SNP wanted both the convenership and the deputy convenership of the committee. Where does d'Hondt fit into that? I do not see much sign of a principle there.

Lord James Douglas-Hamilton established what was important—

Mr John Swinney (North Tayside) (SNP): On a point of order. [*Interruption.*]

The Presiding Officer: Let me hear the point of order.

Mr Swinney: Presiding Officer, could you explain to Parliament how Mr Scott is able to claim that two SNP amendments were submitted to the parliamentary authorities—over which you have jurisdiction?

The Presiding Officer: I have no knowledge of any such thing.

Mr Swinney: It is a very serious issue for a Government minister to make such allegations about information that is passed to your office, Presiding Officer.

The Presiding Officer: I have never seen a second amendment.

Mr McCabe: Further to the point of order, Presiding Officer. Will you take it upon yourself to establish whether the SNP submitted more than one amendment?

The Presiding Officer: I can look into the matter afterwards, but I cannot give a ruling now. I have seen only the amendment that is in the business bulletin. [*Interruption.*] Order.

Mr Swinney: Further to the point of order, Presiding Officer. In the light of the fact that such details cannot be substantiated, will you invite Mr Scott to withdraw the ridiculous remark that he has just made to Parliament?

The Presiding Officer: No. It is up to Mr Scott to justify his comments.

Tavish Scott: I should be happy to give way to the leader of the Scottish National Party, if he can confirm that this is his amendment:

"to allocate the Convenership and Vice Convenership of the Justice 2 Committee to the Scottish National Party".

Mr Swinney: The amendment that is included in today's business bulletin is the amendment that was lodged by the Scottish National Party.

Tavish Scott: We have the amendment.

Brian Adam (North-East Scotland) (SNP): Will the minister give way?

Tavish Scott: No, I will not.

Lord James Douglas-Hamilton made—

Tricia Marwick: On a point of order, Presiding Officer. Will you confirm that when you were selecting amendments for the debate, you saw one SNP amendment?

The Presiding Officer: I have already said that. Mr Scott, can you wind up?

Tavish Scott: This is a debate about the structure and membership of committees that should be taken in the round. If, as the Minister for Parliament has stated, all the business managers—and not, as Tricia Marwick wanted, just the SNP and Labour business managers—can negotiate over committee convenerships, there

can be negotiations if members of the Parliament so desire.

Parliament has always sought to refine d'Hondt to ensure, for example, that Labour would not have six members on 11-person committees. Similarly, refining d'Hondt ensures that there are places for Tommy Sheridan, Robin Harper and Dennis Canavan on committees. Apparently, the SNP would go back on that, because if the pure d'Hondt argument—

Michael Russell: No.

Tavish Scott: Mr Russell says no from a sedentary position. Heaven knows what we are to believe after today.

Michael Russell: The place that is occupied on one of the committees by, I think, Robin Harper was an SNP place that we gave up to him, so Tavish Scott's remark was ungracious.

While I am on my feet, will Tavish Scott withdraw the motion, to allow negotiations to continue? He has not yet answered that question. It is the key point.

The Presiding Officer: We must now conclude. I ask Mr Scott to wind up.

Tavish Scott: I accept Mr Russell's remark about the SNP giving up a place. All parties had to give and take in the process. Those should be the terms of the negotiations. It is a point that Lord James Douglas-Hamilton also made. [*Interruption.*]

The Presiding Officer: Order.

Tommy Sheridan (Glasgow) (SSP) *rose—*

The Presiding Officer: Mr Sheridan, I have asked Tavish Scott to wind up. We must finish the debate.

Tavish Scott: I encourage Parliament to endorse the Parliamentary Bureau motion on the basis that that would be consistent with the interpretation of the bureau's handling of these matters. I reiterate that, as the Minister for Parliament set out, if negotiations can take place among all the business managers, negotiations can happen.

Decision Time

17:32

The Presiding Officer (Sir David Steel): I have seven questions to put to the chamber tonight.

The first question is, that motion S1M-1553, 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 Health and Community Care Committee is designated as Lead Committee in consideration of the Regulation of Care (Scotland) Bill and that the Bill should also be considered by the Local Government Committee and by the Education, Culture and Sport Committee; and

the Justice 1 Committee is designated as Lead Committee in consideration of the Convention Rights (Compliance) (Scotland) Bill.

The Presiding Officer: The second question is, that motion S1M-1554, in the name of Mr Tom McCabe, on the designation of lead committees, be agreed to.

Motion agreed to.

That the Parliament agrees the following designation of Lead Committee—

The Health and Community Care Committee to consider the Specified Risk Material Amendment (Scotland) Regulations 2001 (SSI 2001/3) and the Specified Risk Material Order Amendment (Scotland) Regulations 2001 (SSI 2001/4).

The Presiding Officer: The third question is, that motion S1M-1534, in the name of Cathie Craigie, on the general principles of the Mortgage Rights (Scotland) Bill, be agreed to.

Motion agreed to.

That the Parliament agrees to the general principles of the Mortgage Rights (Scotland) Bill.

The Presiding Officer: The fourth question is, that motion S1M-1529, in the name of Malcolm Chisholm, on the UK Health and Social Care Bill, be agreed to.

Motion agreed to.

That the Parliament endorses the principle of transferring to local authorities in Scotland the responsibility for the funding and care management of people in residential care and nursing homes with preserved rights to higher levels of income support as set out in the Health and Social Care Bill; also endorses the principle of introducing enabling powers to extend recognition to specific groups of healthcare professionals for the purposes of dispensing NHS prescriptions written by them and of determining the list of medicines and appliances which they may prescribe and which NHS community pharmacists may be paid for dispensing, and agrees that the relevant provisions to achieve these ends in the Bill should be considered by the

UK Parliament.

The Presiding Officer: The fifth question is, that motion S1M-1527, in the name of Malcolm Chisholm, on the UK Tobacco Advertising and Promotion Bill, be agreed to.

Motion agreed to.

That the Parliament endorses the need to ban tobacco advertising and promotion in Scotland as set out in the Tobacco Advertising and Promotion Bill and agrees that the relevant provisions in the Bill should be considered by the UK Parliament.

The Presiding Officer: The sixth question is, that amendment S1M-1555.1, in the name of Tricia Marwick, which seeks to amend motion S1M-1555, in the name of Mr Tom McCabe, on the convenership of committees, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
Campbell, Colin (West of Scotland) (SNP)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
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)
Gorrie, Donald (Central Scotland) (LD)
Grahame, Christine (South of Scotland) (SNP)
Hamilton, Mr Duncan (Highlands and Islands) (SNP)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
Lochhead, Richard (North-East Scotland) (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)
Munro, Mr John (Ross, Skye and Inverness West) (LD)
Neil, Alex (Central Scotland) (SNP)
Paterson, Mr Gil (Central Scotland) (SNP)
Reid, Mr George (Mid Scotland and Fife) (SNP)
Robison, Shona (North-East Scotland) (SNP)
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
Russell, Michael (South of Scotland) (SNP)
Salmond, Mr Alex (Banff and Buchan) (SNP)
Sheridan, Tommy (Glasgow) (SSP)
Smith, Iain (North-East Fife) (LD)
Sturgeon, Nicola (Glasgow) (SNP)
Swinney, Mr John (North Tayside) (SNP)
Tosh, Mr Murray (South of Scotland) (Con)
Ullrich, Kay (West of Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)
Wilson, Andrew (Central Scotland) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
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)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Davidson, Mr David (North-East Scotland) (Con)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Douglas-Hamilton, Lord James (Lothians) (Con)
Eadie, Helen (Dunfermline East) (Lab)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Fergusson, Alex (South of Scotland) (Con)
Finnie, Ross (West of Scotland) (LD)
Galbraith, Mr Sam (Strathkelvin and Bearsden) (Lab)
Gallie, Phil (South of Scotland) (Con)
Goldie, Miss Annabel (West of Scotland) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
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)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Lyon, George (Argyll and Bute) (LD)
Macdonald, Lewis (Aberdeen Central) (Lab)
Macintosh, Mr Kenneth (Eastwood) (Lab)
MacKay, Angus (Edinburgh South) (Lab)
MacLean, Kate (Dundee West) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
McAllion, Mr John (Dundee East) (Lab)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
McCabe, Mr Tom (Hamilton South) (Lab)
McGrigor, Mr Jamie (Highlands and Islands) (Con)
McIntosh, Mrs Lyndsay (Central Scotland) (Con)
McLeish, Henry (Central Fife) (Lab)
McLetchie, David (Lothians) (Con)
McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)
McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
McNeill, Pauline (Glasgow Kelvin) (Lab)
McNulty, Des (Clydebank and Milngavie) (Lab)
Monteith, Mr Brian (Mid Scotland and Fife) (Con)
Morrison, Mr Alasdair (Western Isles) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Mulligan, Mrs Mary (Linlithgow) (Lab)
Mundell, David (South of Scotland) (Con)
Murray, Dr Elaine (Dumfries) (Lab)
Oldfather, Irene (Cunninghame South) (Lab)
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)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, Tavish (Shetland) (LD)
Simpson, Dr Richard (Ochil) (Lab)
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, Ben (North-East Scotland) (Con)
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 37, Against 75, Abstentions 0.

Amendment disagreed to.

The Presiding Officer: The seventh question is, that motion S1M-1555, in the name of Mr Tom McCabe, on the convenership of committees, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
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)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Davidson, Mr David (North-East Scotland) (Con)
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)
Galbraith, Mr Sam (Strathkelvin and Bearsden) (Lab)
Gallie, Phil (South of Scotland) (Con)
Goldie, Miss Annabel (West of Scotland) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
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)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Lyon, George (Argyll and Bute) (LD)
Macdonald, Lewis (Aberdeen Central) (Lab)
Macintosh, Mr Kenneth (Eastwood) (Lab)
MacKay, Angus (Edinburgh South) (Lab)
MacLean, Kate (Dundee West) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
McAllion, Mr John (Dundee East) (Lab)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
McCabe, Mr Tom (Hamilton South) (Lab)
McGrigor, Mr Jamie (Highlands and Islands) (Con)
McIntosh, Mrs Lyndsay (Central Scotland) (Con)
McLeish, Henry (Central Fife) (Lab)
McLetchie, David (Lothians) (Con)
McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)
McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
McNeill, Pauline (Glasgow Kelvin) (Lab)
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)
Murray, Dr Elaine (Dumfries) (Lab)
Oldfather, Irene (Cunninghame South) (Lab)
Peacock, Peter (Highlands and Islands) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Raffan, Mr Keith (Mid Scotland and Fife) (LD)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (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)
Wallace, Ben (North-East Scotland) (Con)
Watson, Mike (Glasgow Cathcart) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)
Wilson, Allan (Cunninghame North) (Lab)
Young, John (West of Scotland) (Con)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
Campbell, Colin (West of Scotland) (SNP)
Crawford, Bruce (Mid Scotland and Fife) (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)
Gorrie, Donald (Central Scotland) (LD)
Grahame, Christine (South of Scotland) (SNP)
Hamilton, Mr Duncan (Highlands and Islands) (SNP)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
Lochhead, Richard (North-East Scotland) (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)
Munro, Mr John (Ross, Skye and Inverness West) (LD)
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)
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
Russell, Michael (South of 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)
White, Ms Sandra (Glasgow) (SNP)
Wilson, Andrew (Central Scotland) (SNP)

The Presiding Officer: The result of the division is: For 73, Against 36, Abstentions 0.

Motion agreed to.

That the Parliament agrees that the Convener of the Justice 2 Committee be appointed from the Labour Party and that the Deputy Convener of the Justice 2 Committee be appointed from the Scottish Conservative and Unionist Party.

Acute Services Review (South Glasgow)

The Presiding Officer (Sir David Steel): We come now to members' business, on motion S1M-1474, in the name of Janis Hughes, on the acute services review in south Glasgow. I ask Janis Hughes to wait until the chamber clears and I ask those who are leaving to do so quietly.

Motion debated,

That the Parliament notes the current review of acute hospital services in the south of Glasgow and believes that there should be an option appraisal of all the sites considered by Greater Glasgow Health Board as part of their consultation process.

17:36

Janis Hughes (Glasgow Rutherglen) (Lab): Greater Glasgow Health Board first produced its consultation document on the future of acute hospital services in Glasgow in April 2000. The central thrust of the proposals was rationalisation of services throughout the city; the redesigning of health provision while maintaining local access for as many patients as possible. The consultation process ended in September 2000 and much has happened along the way.

It is inevitable that any talk of rationalisation in the health service will lead one to think about bed numbers. In 1990, 11,918 beds were available in the greater Glasgow catchment area. The latest figures from the "Scottish Health Statistics" report reveal a reduction to 7,564. Greater Glasgow Health Board's own figures, as set out in the consultation paper, identify a reduction by 389 beds in the first five years of its plan. That must be considered in the context of continuing pressures on acute medical and surgical beds and the winter pressures that often extend much further into the year.

However, it must be borne in mind that rationalisation can lead to improved patient care. I stress that those of us who represent south Glasgow constituencies are fully aware of that. Nevertheless, the current hospital provision in the area is Victorian—both the Victoria infirmary and the Southern general hospital celebrated their centenaries long ago. In the opinion of many people in the south of the city, the hospitals are unsuitable for modern acute health care that befits the 21st century.

I worked in the health service in Glasgow for 20 years, so I am acutely aware that one of the main problems that we face is that a strategic view has never been taken of how to provide acute services in the city.

The issue that causes most concern in the current review is accident and emergency provision. A couple of years ago—long before the consultation process was considered—a decision was taken to reduce that service to two trauma centres in the city. There would be one centre at either end of the motorway network—at the royal infirmary and at the Southern general hospital. The trauma centre at the royal infirmary is being built and will soon open. That decision was taken prior to the acute services review, but it has a huge and important impact on how services are now built.

It has been recognised for many years that Glasgow has suffered underfunding in health provision. That is all the more poignant when one considers that the city has the worst heart disease rate in Europe. The Arbuthnott report sought to rectify that, but the legacy of previous years will take a long time to remedy. In recent years, many hospitals in the south of the city have closed, including the Samaritan, Mearnskirk, Philipshill and Rutherglen maternity. We may appreciate some of the reasons for those closures, but the fact remains that we in the south of the city are now left with hospitals that are well past their sell-by dates and which were built long before some of those that are closed.

It is no secret that Greater Glasgow Health Board strongly favours the Southern general hospital site for the main acute centre in Glasgow. There are many reasons for that, not least the one that I mentioned—accident and emergency provision. However, it is not just about what Greater Glasgow Health Board wants, but about what the people of south Glasgow deserve and what will best meet their health care needs.

The recent consultation process demonstrated that residents in south-east Glasgow in particular favour a more centrally located hospital that offers them the facilities that they expect from a modern health service. The arguments about closing the Victoria infirmary because it is not suitable for such provision might be understandable, but they are hard to swallow when we consider that the Southern general is even older, not to mention the fact that it is surrounded on most sides by a sewage processing plant.

However, the most important issue is provision of the very best health care that is available and how and where that can best be provided. We all agree that much more locally provided health care should be available. Much has been said in Glasgow about the provision of ambulatory care services. In the context of south Glasgow, there is a proposal to site an ambulatory care and diagnostic centre—or ACAD—adjacent to the current Victoria infirmary site. Under the preferred option of the health board, we are told that that

would serve 80 per cent to 85 per cent of the population, who could attend for out-patient, diagnostic and minor injury services. Visits to the acute site would be necessary only for in-patient requirements.

However, concerns have been raised—not only by the public, but by senior medical colleagues—on the potential risks of ambulatory care facilities that are remote from their parent site. Indeed, Sir David Carter, in his 1999 review of acute services, said that the success of ACAD units

"depends on the willingness of clinicians to espouse new ways of working and set aside traditional boundaries between disciplines."

I take from that that he meant that the concept can only work if there is willingness on the part of the consultants who are involved.

The main issue is that if Greater Glasgow Health Board is serious about the extensive consultation process that concluded recently, the views of the public must be taken into account. Given the clear expression by so many of their wish for a new, purpose-built hospital in the south of Glasgow, the board must demonstrate willingness to go further in examination of that option. On behalf of my constituents in Glasgow Rutherglen, as well as those in many other south Glasgow constituencies, I ask that a full option appraisal be carried out of all the possibilities that were raised during the consultation process. The people of Glasgow deserve no less. On behalf of the people of south Glasgow, I urge the health board to ensure that the outcome of the process is in the best interests of all. I know that those views are shared by colleagues who have spoken to me on the matter.

The number of members who want to contribute to the debate is welcome. In that regard, I ask that the Presiding Officer consider extending the time that is available for the debate so that all members who want to show their concerns about the process can do so.

The Deputy Presiding Officer (Patricia Ferguson): If the number of members who have indicated that they wish to speak remains about the same, it is likely that the debate can be contained within the allocated time of 45 minutes. If, however, it looks as though that will not be possible, I will indicate that I might be able to accept a motion to extend the debate.

17:43

Mr Kenneth Gibson (Glasgow) (SNP): I wish to be the first to congratulate Janis Hughes whole-heartedly on securing this welcome debate.

About 20 months ago, Janis Hughes, Ken Macintosh, Mike Watson, John Young, Robert Brown and I met a delegation from the Victoria infirmary and we agreed to form an informal cross-party group to consider the issues that are addressed in the motion. Since then, we have had 35 to 40 meetings with a variety of organisations, ranging from trade unions and the ambulance service to clinicians and—on two separate occasions—the Minister for Health and Community Care. I am pleased that the motion is, in many ways, a result of the work that has been done by that group.

Time is short and a number of areas of concern that Janis Hughes touched on will be dealt with in greater detail by Ken Macintosh, John Young, Mike Watson and Robert Brown, so I wish to comment specifically on some of the issues that were discussed with Greater Glasgow Health Board and South Glasgow University Hospitals NHS Trust. When colleagues and I met the board and trust in September 1999, we were presented with what was virtually a fait accompli in their proposals for south Glasgow hospital provision—I see that John Young is nodding vigorously.

We were presented with an open-and-shut case for why acute services for all south Glasgow should be concentrated on one site—the Southern general hospital—which is at the outer edge of the catchment area. The main reason for that was cost. We were advised that a new hospital on another site, such as Cowglen or Pollok, would cost £90 million more in capital cost and £7.3 million more in revenue than it would cost to refurbish the Southern general hospital.

In the 18 months since then, despite repeated questions about how such figures were arrived at, we are still no further forward. We have had merely to take the health board's and the trust's word for it. That would be fair enough if there were a wee bit of consistency from the trust and the board. However, as colleagues across the party divide will attest, we might be presented with one set of figures at a board meeting on Monday, and we could meet the trust on Friday of the same week, only to be presented with a completely different set of figures.

From the outset, we have met shifting sand. From £267 million, excluding an ambulatory care and diagnostic centre, the cost of a new hospital apparently ballooned first to £350 million, then to £440 million and now—this might give the minister a heart attack if it is true—to some £550 million. That increase has happened with no apparent significant change to the proposed hospital's size, specialty profile or patient services. Indeed, we were presented with completely different figures on different days and in successive weeks. We ended up in a very confusing situation in which nobody seemed to know where they were. Only the revenue costs—for some bizarre reason—

appear to have stayed the same throughout the negotiations. That has caused concern to those of us who have been involved in discussions during recent months.

The sand also appears to have shifted when it comes to the time scale for construction. We were told that a new hospital would take five years to build and that refurbishment of a hospital would take 10 years. That seems to me to be an argument for a brand-new, all-singing, all-dancing hospital on a new site. However, miraculously—after a couple of further meetings with the board and trust—we were told that it might take seven or eight years to build a new hospital but only five or six to refurbish one. Perhaps we are being cynical, but we are concerned that the wool is being pulled over our eyes by Greater Glasgow Health Board and by the trust. I say that with great regret.

What is the trust offering us? First, we were offered a refurbished hospital, but people did not really like the sound of that, so the proposal has somehow been developed into a plan for a brand-new hospital. However, at a public meeting in Cambuslang last year—which was also attended by Robert Brown and Janis Hughes—I asked Bob Calderwood what his choice would be if a new hospital would cost exactly the same as a refurbishment on the Southern general site. What did he say? He said his choice would be a brand-new hospital.

The issue is cost, but we do not think that cost should be the overriding factor. That hospital might have to last 50, 60 or 70 years. We want a high standard of care for patients and the best possible working conditions for staff. The public demand a new hospital. We need an independent option appraisal to ensure that people in south Glasgow get the best.

17:48

John Young (West of Scotland) (Con): I congratulate Janis Hughes on her excellent presentation of the case. I also congratulate my colleagues of all parties; we work well together and we have one aim.

The most recent report by Greater Glasgow Health Board has a total of about 200 pages. It relates to Glasgow's acute hospital services and draft health improvement programmes for 2001-05. Among the aims that are mentioned are the provision of modern facilities for a better patient experience, maintenance of local access as far as possible and the creation of a pattern of hospital services that makes sense throughout Glasgow. Nowhere in the report have I been able to find mention of population projections.

Let us examine those aims for a moment in the context of the Southern general hospital's finally being chosen. The report mentioned modern facilities. The proposal for catchment areas in south Glasgow and east Renfrewshire centralises virtually everything in the Southern general hospital, most of whose buildings predate 1890, as Janis Hughes said. That hospital is on a cramped site next to a sewage works and is prone to flooding from the Clyde.

The report also mentions maintaining local access. Public transport from Castlemilk and Rutherglen takes roughly two hours there and two hours back, because people have to take more than one bus.

From Muirend and Cathcart, the journey takes roughly one and a half hours. The taxi fare for the round trip is approximately £20. How many families can afford £20 in taxi fares? Traffic congestion is considerable, a bit like at the Glasgow royal infirmary on the other side of the river.

The health board said that another of its aims was to create a pattern of hospital services that made sense across Glasgow as a whole. Whatever decision is arrived at, the hospital will be with us for the next two generations—into the 22nd century. It will be with us for not only 10 or 20 years, but for 90 or 100 years. Population increases will be largely in the south-east and Eastwood areas. In south side areas such as Cathcart and Castlemilk—Europe's largest housing scheme—population projections show increases in the 0-4 years and over-65 age groups, which are the two age groups that require most hospital attention.

South-east Glasgow is the most deprived area in the UK in one major respect: excluding the smallish Rutherglen maternity hospital—which was closed after 20 years—no new hospital has been built there since 1890 when Queen Victoria was on the throne, Lord Salisbury was Prime Minister and William Gladstone was leader of the Opposition. A person would have to be 111 years of age to have been alive when the last major hospital was opened in south-east Glasgow.

No cognisance has been taken of population growth, modern facilities, easy access or adaptability to changing medical techniques—we must consider the modern techniques that might be developed in future. Annexe 2 of the report shows that some 97 per cent of respondents were against the board's views and that 95 per cent strongly support a centrally positioned, brand-new hospital. Page 2 states that Strathclyde Passenger Transport Authority has indicated that retaining work loads on Greater Glasgow Health Board's existing sites will do nothing to improve public transport access.

The accident and emergency sub-committee

has stated that it is inappropriate to have two fully equipped accident and emergency centres in close proximity and that therefore, in its opinion, they should not be located at Gartnavel and Glasgow royal hospital. A postcode analysis of accident and emergency attendance in the 1998 one-week survey suggests that the majority of the additional work load would come from south-east Glasgow, when the Victoria loses its accident and emergency service. Paragraph 1.4 states that Greater Glasgow Health Board's proposals for change are not finance-driven, but must be financially realistic. Another point that is strongly made throughout the report is about under-investment.

Finally, the report states that any change should relate as far possible to modern treatment techniques. The board's current proposals point to the 19th century rather than to the 21st or 22nd century.

17:52

Robert Brown (Glasgow) (LD): I do not want to go over the ground that has already so professionally been covered in my colleagues' excellent speeches. The central contentions of the all-party group of MSPs are that greater Glasgow has a legacy of clapped-out, Victorian hospitals, that the current review is many years overdue, that there is one chance and one chance only to get it right, that the Greater Glasgow Health Board's proposals are flawed because of the approach to change that has been taken and that the GGHB and the trust have failed to persuade the population of the south side of their case. I will concentrate on the consultation process.

There are two kinds of consultation: the kind in which the people affected are involved in ownership of the project and have effective choices between options and the outcome responds to concerns and accommodates them—the GGHB, not for the first time, has not engaged in that kind of consultation—and the other kind, in which the powers that be decide on a proposal, go through a procedure to ask people for their views, ignore them and then confirm the proposal that they wanted in the first place. That is what has happened in this instance.

Mary Scanlon (Highlands and Islands) (Con): Greater Glasgow is not within the area that I represent, but the Health and Community Care Committee has just considered Greater Glasgow Health Board's lack of consultation on Stobhill. Is the member saying that the board has not taken on board any of the recommendations of Richard Simpson's report, nor taken any cognisance of that report or of the humiliation that it suffered as a result of its lack of consultation on Stobhill? Has the board learned nothing?

Robert Brown: I think that it has learned quite a bit; it has learned how to present itself more effectively. The consultation has been, in large measure, a public relations exercise. To address Mary Scanlon's point, the board, in fairness, has gone to some effort—it has produced wads of paper. In fact, it has probably produced too much—so much as to confuse the issue, as Kenny Gibson suggested.

My personal file on this matter is about 26in high. The board has made significant presentational concessions, possibly mindful of the report to which Mary Scanlon refers. The essence of the proposal for a reconstructed hospital at the far extreme of the south side, rather than a long-overdue new hospital in a more central location, remains intact—notwithstanding the volume of objection to it across the area. The public has made good-quality contributions on this matter.

Dr Richard Simpson (Ochil) (Lab): Glasgow is not my area either, although it became so briefly during the Stobhill events. I want to be clear about this for the record. Was a single option presented to the people of the south side of Glasgow, or were they offered several specific options, including a new-build option—even if it was rejected?

Robert Brown: When it began, it was a single option. During the consultation, it became—on paper—a double option: between the Southern general hospital and Cowglen hospital on a new-build site. As far as I understand it, Cowglen has never been in the frame—I am sure that my colleagues share this view—as anything other than a paper exercise. It has never been seriously studied by the GGHB.

I will give two examples of how matters have developed. The first concerns travel times to the hospital and paramedic procedures, which members will realise is crucial to where the hospital is sited. The MSP group discovered at an early stage that there had been no discussion with the ambulance service by the board, or the trust, prior to formulation of the proposals.

The second example is even more astonishing. In a letter to me of 9 January 2001, the chief executive of the board stated that my information that neither the GGHB nor the trust had had a meeting with senior officials of Glasgow City Council about the availability of sites on the south side was incorrect: they had in fact had such a meeting, but only on 7 November last year—long after the proposals were formulated, after the main consultation and a mere six weeks before the board considered the outcome of the statutory consultation.

That is why I am saying that this does not

represent a genuine consultation. If we, as lay people, can identify this kind of difficulty, what is in the evidence base on which the medical aspects of the proposals were built? That too should be examined. It is proposed that a reference group should now be established to examine only the sites. It is not the option appraisal that we have been seeking, but at least it indicates some movement.

The position of the minister is important, because I assume that she liaises with board officials. She has to approve the funding of a business case; she must be satisfied that the proposal is acceptable, transparent and genuine. She could help a lot by considering—without prejudice to the alternative of an independent external review—how the rigour of the option appraisal and the outline business case procedure might be tested by, for example, an independent facilitator or independent technical adviser.

We must consider those issues. That is why I support the motion.

17:58

Mr Kenneth Macintosh (Eastwood) (Lab): I thank Janis Hughes for securing this debate. I echo the comments made by all my colleagues in the cross-party group. I am sure that the minister is aware that it is not difficult to maintain cross-party consensus, even in this Parliament.

Location, location, location sounds as though it should be a new Labour slogan, but it is the mantra of estate agents. Location matters, but that lesson has not been learned by the Greater Glasgow Health Board. Despite the fact that it is considering the hospital services that will be required to cover south Glasgow, parts of East Renfrewshire and South Lanarkshire for the next century probably, the location of the hospital seems to have been the least important of all the factors that were taken into account.

Location is crucial because a hospital is a vital and intrinsic part of the community that it serves. Ideally, it should be sited at the heart of that community. The trend is for many workplaces to become generic or depersonalised. There is a desk, a phone and a computer—frankly it could be anywhere. Businesses can move out of expensive city-centre locations to a functional business park on the edge of town. That is fine for places of employment, but it does not work for a hospital. The people who are most likely to use a hospital are the vulnerable: the elderly, the young and the poor. Those are exactly the sort of people who do not have a car to get around in, and who have to rely on public transport.

I do not have to tell any member exactly how difficult it is to get to the Southern general from almost anywhere on the south side. Perhaps an out-of-town shopping centre is a better comparison, because I think that the same thinking has gone into the plans before the GGHB. I am willing to bet that the people initially responsible for the plans have not been on a bus in the past 10 years.

That is not a personal attack, but a criticism of the board's approach and its lack of consideration for the people who will end up using the hospital. The plan has been drawn up by doctors and administrators for doctors and administrators; although it might look good on paper to some, this is—as Robert Brown pointed out—not a paper exercise. How on earth someone will be able to get to hospital or how long it will take them—either to receive treatment or to visit relatives—has not troubled the minds of planners.

Those who have made known their objections about the removal of services to the Southern general have sometimes been dismissed as parochial; I am sure that the board would argue that we need to consider the bigger picture. Although I agree with that to some extent, the board has distanced itself so much from the different communities across the south side that it has lost touch with the problem it is trying to solve. The board is so busy considering the bigger picture that it cannot see the needs of the people it is supposed to serve.

There are further concerns about the location of the big hospital—perhaps many people's biggest worry is access to accident and emergency and how long it will take to get to casualty in an emergency. Although there might be an intention to make a paramedic available in every ambulance, we know that that does not happen in practice and the issue needs to be examined very closely by the Scottish Executive and the ambulance service. Indeed, it is very worrying that it was not until the cross-party group raised the issue that the Scottish Ambulance Service was consulted, which is evidence that the process in which we are engaged is not a real consultation.

We must also consider where ambulances will take people in an emergency. It is good medical practice to take people to the nearest hospital. For the people who live in my area, that means Hairmyres hospital, which certainly raises the question of what will happen to their medical records.

Although I have many more points to make, I will end by telling the minister that he should not get the impression from my or my colleagues' objections that we are luddites. I am not interested in obstructing what might be described as progress, but we need a level playing field and access to all information so that we can make a fair judgment. Although there are many costs to

consider—I have emphasised the social as well as the financial cost—it is only through a full option appraisal that we will be able to address people's many concerns fairly and justly.

18:02

Dorothy-Grace Elder (Glasgow) (SNP): I thank Janis Hughes for securing this debate. I remember that, at one of the meetings the two of us attended at the sick kids hospital—I think it was last May—our jaws began to drop when we found out that the ambulance service had not been consulted before these plans were drawn up.

We know the problems that are associated with basing everything on the idea that a monstrously large hospital must be created on the Southern general site. For the benefit of members who do not know Glasgow, ambulances would have to go through the tunnel, parts of which can be closed for repairs for weeks at a time. Furthermore, they would have to thread through the crowds going to football matches on the south side, putting health—and, on occasion, lives—at risk.

I am reminded of the title that a friend of mine used for his column about the bizarre things that happen in life: "You Couldn't Make It Up, Could You?" Well, no one could possibly make up a health authority in Britain—or, perhaps, no health authority other than Greater Glasgow Health Board—being determined to create a huge new hospital next to a sewage works. Janis Hughes, who has hands-on experience of the health service, knows how nauseous it can get down at the Southern general, yet the board will add child patients, pregnant women and mothers with newly delivered babies to the sufferers already down there if it goes ahead with its plans to remove the two major hospitals from the Yorkhill site.

John Young: We should be aware of the fact that some of the buildings in the Southern general were constructed in the 1880s, before the Victoria infirmary was built. Furthermore, it is one of the most cramped sites anyone could visit. Thank you very much.

Dorothy-Grace Elder: John Young is right. Let us face it, the land around there would be cheaper for the board than in other areas. There are other options, but once again the Hobson's choice form of consultation has been offered to the public, MSPs and all other interested parties—it is take it or leave it. No other options have been explored fully, not even the preferred options of umpteen people on the south and north sides of Glasgow: the creation of a brand-new hospital at Cowglen or—the preferred option of the friends of the Victoria—the rebuilding of the Victoria hospital on its present site, plus an extension of land.

I have nothing against ambulatory care and diagnostic units in principle. It seems a good idea to have a hospital for so-called minor problems—such problems being minor only to those who are not suffering them—but there is only one ACAD in the whole of Britain and it is next to a major general hospital. I urge the board to show a bit of sense, as it could be pursued by ambulance-chasing lawyers if people are assigned to the wrong hospital. Seriously, that is the sort of thing that will worry them. The board should think again and it should consult properly.

18:06

Bill Aitken (Glasgow) (Con): I congratulate Janis Hughes on securing this debate and on the way in which she presented the case.

There is immense cynicism in Glasgow about how this consultation process has been carried out. How could it be otherwise? In all the meetings, the correspondence that I have seen and the opinions that have been expressed, no one has endorsed the proposed site as a sensible solution for the future of health services in the south side of Glasgow. Clinical opinions and the opinions of potential patients are against it. How could they be otherwise?

Let us consider the logistics. An emergency case coming from Ken Macintosh's constituency would have to thread their way by ambulance—possibly at rush hour in the morning, which I understand is a favoured time for coronaries—through the traffic in the south-west of Glasgow, which could easily take 15 to 20 minutes. A similar situation could arise on a Saturday afternoon, if there was a football match at Ibrox. The logistics of the proposition are crazy.

Dorothy-Grace Elder was correct to say that adopting the ACAD system is a fairly sensible approach, but everyone else who has adopted that approach has done so on the basis of the ACAD being beside a major hospital. Many of the routine operations and procedures that are carried out at ACADs could not possibly, of themselves, result in fatalities, but someone who is having an endoscopy may begin to bleed—that can happen. If there is neither resuscitation equipment on the spot nor someone with a specialist ability to deal with matters of haemorrhage, a fatality could occur. Clearly, the siting of ACADs must be taken into consideration as well.

The sewage argument may sound quite amusing but, when I was a councillor—I represented Jordanhill, which is a mile from the Southern general, on the other side of the river—I constantly received complaints about the smell from the sewage works. Obviously, that is another argument against that site.

The only argument in favour of the Southern

general solution is the financial argument, which may be factually correct—that site may be the cheapest option. In many respects, and on many occasions, we have to consider the cheapest option. We are talking about public money and substantial investment, but in this instance there must be a better solution. As John Young said, the Southern general already looks like a building site, with bits having been added on, from Victorian buildings to portakabins. It could not be regarded as a solution.

Furthermore, the cynicism that has resulted from the health board's approach to the matter can hardly be underestimated. When the people are saying one thing and the doctors are saying the same thing, how can it be that the health board ends up with exactly what it wanted to begin with? The simple answer is that the Southern general solution was pencilled in in biro at the start.

18:10

Mike Watson (Glasgow Cathcart) (Lab): Janis Hughes has done well to secure the debate and I congratulate her on the content of her speech. When talking about accident and emergency units, she mentioned the fact that not only what Greater Glasgow Health Board wants but what the people of south and particularly south-east Glasgow want should be taken into account. That is what the cross-party group has been arguing for. That group has been cohesive.

Kenny Gibson mentioned what he called the shifting sands—maybe that should have been the shifty sands—of the inconsistent figures and the unrealistically increasing costs of the building. John Young talked about the fact that there has been no new build of an acute hospital facility in the south-east of Glasgow for longer than anywhere else in Scotland. What he did not tell us about the 1880 buildings at the Southern general hospital is that, as a small boy, he was shooed off the site by the clerk of works. He has personal experience of the buildings.

Robert Brown said that the Southern general is the only site that was seriously considered by the health board. That is absolutely right. I like Kenneth Macintosh's analogy about location. In fact, however, it is dislocation, dislocation, dislocation that will affect the people of the south-east of the city if the plan goes ahead.

I do not want to repeat the arguments, as they have been well made, but one issue has not been touched on at all, although accessibility has been dealt with in general terms. Two groups deserve credit for the work that they have done as part of the campaign that has been going on for the best part of two years—ever since the Scottish Parliament was formed: the Glasgow health forum south-east and the friends of the Victoria infirmary.

In the middle of last year, the health forum commissioned an eminent chartered civil engineer and transport expert to carry out a travel-time study into south-side hospitals. It showed some startling facts, one of which was that almost 100 per cent of the population of the south-side catchment area reside within a 15-minute car journey or a 50-minute bus journey of the Victoria. For the Cowglen site, 80 per cent of the population are within 15 minutes by car and 65 per cent are within 50 minutes by public transport. For the Southern general site—the option that is being pushed hardest of all—only 30 per cent of the population live within a 15-minute car journey or a 50-minute bus journey.

I should say that this argument is not only about the south-east of Glasgow: residents in the Southern general catchment area would get to the Cowglen site more quickly than they would get to the Southern general site. Such considerations must be taken into account, but there is no evidence that the health board has done so. There are also environmental considerations. The additional transport, time, vehicle hours and pollution must be borne in mind.

In the same survey, environmental factors were costed as adding an extra £85 million to the cost of choosing the Southern general site. Such arguments must be given weight before the final decision is reached. That is why we want an option appraisal that considers all the sites. The option appraisal that was offered to MSPs from the south side of Glasgow includes, bizarrely, the do-nothing option. Nobody is advocating that option, so why bother costing it? Another option is the Cowglen site, with or without the ACAD unit. We do not know exactly what is being said.

There seems to be smoke and mirrors, which is not helpful for we politicians or for those who are likely to use the health care facilities in the south-east of the city for many years. Not only do we MSPs for the south side of Glasgow represent the area, we live in the area and have a direct personal interest.

There must be a proper option appraisal and it must include the Victoria site. We do not know whether new build on the Victoria site is feasible. It is fair to say that most of us in the group have been advocating Cowglen as the best site. Although there is a great deal of argument in favour of the Victoria site, we do not know whether it is possible. That is why we must have a proper option appraisal. We will push until we get one because, although this debate has been running for a long time, it is about health care for many years into the future.

If there has to be a slight delay for us to get this

right, that would be a small price to pay for the people of south-east Glasgow.

The Deputy Presiding Officer: I would now be prepared to entertain a motion that we should extend the meeting by up to 10 minutes.

Motion moved,

That the debate be extended for up to 10 minutes.—[*Mr Kenneth Macintosh*.]

Motion agreed to.

18:15

Fiona McLeod (West of Scotland) (SNP): I have constituents in the west of Scotland who use every hospital in the Greater Glasgow Health Board area. Ken Macintosh has already made many of the comments that I was going to make about the constituents whom we share in East Renfrewshire, so I will confine my remarks to my experience of an option appraisal by Greater Glasgow Health Board for the siting of the secure care centre at Stobhill hospital. I want to bring that experience to the minister's attention in particular.

Mary Scanlon and Richard Simpson have mentioned their concern about what they have been hearing. Their concerns are well founded. I was at the Health and Community Care Committee when it inquired into the effectiveness of Greater Glasgow Health Board's consultation on the secure care centre. Robert Brown is right. The lesson that the health board learned from that grilling by the Health and Community Care Committee was to do more by way of smoke and mirrors.

I will supply some examples, which I hope the minister will take to heart. Twenty-eight meetings were planned to discuss the acute services review. That sounds wonderful, but only 17 of them actually took place. That was because 10 of them were cancelled through lack of attendees, which in turn was because the health board did not properly publicise the meetings. It did not let folk know and it did not hold the meetings in the right places. That is what I mean by smoke and mirrors.

Pauline McNeill (Glasgow Kelvin) (Lab): Several members have mentioned consultation. As Fiona McLeod said, the way in which the health board undertook its consultation looks correct on paper. Does she share my concern that the public are being asked about so many issues in the review? One issue is whether a new hospital should be built; another is whether there should be two or three accident and emergency services; and a third is whether there should be children's services at the Southern general—and I have not even mentioned maternity services. All that is contained in the document that Greater Glasgow Health Board is asking the public to think about. That may be the reason why the health board is not getting enough responses—the review lacks focus and people are being asked to consider too much at once.

Fiona McLeod: Pauline McNeill has a point, although the health board has in fact had plenty of responses. According to its own documentation, it has received more than 500 written responses, which is an exceptional number from the public.

Consultation is about presenting the information in a way that people can understand. It was not exactly helpful to the public for 22 different leaflets to be circulated. Furthermore, the content of the 22 leaflets needs to be considered. We have already heard about the innumeracy of Greater Glasgow Health Board's case, which someone described as an option for doctors and administrators. None of the medical associations in greater Glasgow's hospitals likes the process that has been conducted and none of them likes the options that have been presented. Most important, the associations do not like the fact that the evidence is not being presented to them in a way that allows rational decisions to be made.

Mr Gibson: Does Fiona McLeod agree that the consultation process appears to be more about selling the ideas that had already been decided on by trusts and by the health board than about a genuine attempt to consult and to address the issues that the public raised?

Fiona McLeod: I am glad that we are labouring the point. I hope that the minister is picking it up, because it is what this is all about. There has not been a consultation process—there has been a public relations process for the minister's consumption and nobody else's.

Greater Glasgow Health Board did not learn the lessons of the secure care centre at Stobhill; we in the Parliament have to ensure that we represent the opinions of the patients and of the health professionals throughout greater Glasgow. I hope that the minister will ensure that there is an inquiry into the whole process that Greater Glasgow Health Board has gone through.

18:20

Mr Duncan McNeil (Greenock and Inverclyde) (Lab): If my voice holds out, I will extend my congratulations to Janis Hughes and all those who helped to secure this debate.

I acknowledge that the focus of the debate is on Glasgow, but we all know that acute service reviews are generating great concern across Scotland. For example, there is concern about services at the Rankin maternity unit at Inverclyde royal hospital.

The review has a direct impact on my constituency, Greenock and Inverclyde. We spend £35 million of our health board budget in the Greater Glasgow Health Board area and 24 per cent of our in-patient day care activity takes place in Glasgow hospitals. However, we have no real say in the Glasgow review. It seems that it is okay for money and patients to cross health board boundaries, but not for consultation or a real say to do so.

Surely there must be greater co-operation across artificial health board boundaries. That would prevent us from being presented with proposals that mean that maternity services in Glasgow will be delivered in the south side and that, although Argyll and Clyde Health Board's specialist maternity unit will be four miles away, there will be nothing between Paisley and Crosshouse in Kilmarnock. That is complete nonsense and it is unacceptable to the people whom I represent.

The lack of consultation and co-ordination, and the duplication that is required because of artificial boundaries, need to be addressed seriously. I call on the health board bosses to put their reviews on hold until we can be assured that the boards and trusts will work together effectively and in the interests of the people of the west of Scotland, who demand access to quality services.

18:22

The Deputy Minister for Health and Community Care (Malcolm Chisholm): I congratulate Janis Hughes on securing this debate and on all the work that she has done on this issue, along with her colleagues who have spoken today.

The Glasgow acute services review is taking place in the context of a national review of acute services, which provides the framework within which local acute services reviews are taking place. The purpose of the reviews is to ensure that people across Scotland have access to modern, high-quality services and that there is the correct balance between hospital and community services. The reviews offer an opportunity to assess strategically and objectively how the location of services balances local access with the scope and delivery of specialist services

Inevitably, there are difficult choices and decisions to be made in the Glasgow acute services review, as in most other reviews. Where real benefits and quality improvements are clearly demonstrated, the Executive is prepared to back them. Ultimately, the outcome of an acute services review must be investment, quality and the development of excellence.

However, as we have said on numerous occasions, decisions affecting local communities are best taken by those who provide the services locally in partnership with those who use the services. Therefore, it would be inappropriate for me to become too embroiled in the details of the Glasgow situation.

Mary Scanlon: Malcolm Chisholm was a member of the Health and Community Care Committee when it dealt with the petition on Stobhill to which Paul Martin spoke, so he will know that one of the conclusions of Richard Simpson's report was that, although MSPs and others were not satisfied with Greater Glasgow Health Board's consultation, the health board was obeying all the guidelines for consultation. Given that a national acute services review is taking place, is a national set of guidelines necessary to ensure that health boards and trusts keep in touch with the people and do not just inundate MSPs with their proposals?

Malcolm Chisholm: I will come to that point shortly. The principles that I am following are consistent with the principles outlined by the Health and Community Care Committee, whose members made it clear that they were interested in the processes rather than in the detailed proposals that were being made.

The role of the Executive is to ensure that national frameworks are in place to encourage the development of modern NHS services. The document, "Our National Health: A plan for action, a plan for change" sets out our clear determination to ensure universally high national standards in Scotland. To that end, we will establish an expert group to support and advise health boards in managing changes in the configuration of services and to advise the Scottish Executive health department on the appropriateness of local reconfiguration.

Hugh Henry (Paisley South) (Lab): Will the minister give way?

Malcolm Chisholm: I do not mind giving way, although the Presiding Officer will remind me if my time is running out.

Hugh Henry: Will the minister reflect on Duncan McNeil's point that health services on the south side of Glasgow are provided for a much wider geographic area? We are suffering from a lack of strategic vision and co-ordination in the planning of health services. The reviews do not fit into the minister's aspirations because they examine health in a narrow, parochial way. We need a more strategic approach to the planning and delivery of health in Scotland.

Malcolm Chisholm: I have acknowledged that there is a problem, which is one reason why we are setting up the expert group.

Mary Scanlon and other members mentioned consultation. Concerns have been expressed about the consultation process in this and in other acute services reviews. Improvement brings change, but the idea that it can be imposed without the support and involvement of the many different stakeholders is unsustainable. It is vital that the public and interested organisations are genuinely involved, which is why we made several proposals in "Our National Health: A plan for action, a plan for change" to address that issue. In particular, and to answer directly the point raised by Mary Scanlon, one of the plan's proposals is to

"review statutory guidance on formal consultation to ensure that it meets the needs of modern healthcare systems and takes into account the changes to NHS planning announced elsewhere in this Plan."

I remind members of a second proposal, which is to

"provide guidance, training and support to local NHS leaders to enable them to involve the public effectively in the management of changes to local services".

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): Will the minister give way?

Malcolm Chisholm: How am I doing for time, Presiding Officer?

The Deputy Presiding Officer: You have spoken for five minutes.

Malcolm Chisholm: Does that mean that I have two minutes left?

The Deputy Presiding Officer: Yes.

Malcolm Chisholm: I will have to move on. If I am quick, I will take an intervention from Margaret Jamieson at the end.

Janis Hughes reminded us that clinicians and patients in Glasgow have to make do with buildings that are coming towards the end of their usefulness and that are often difficult to negotiate. In five to 10 years' time, we want state-of-the-art health services that provide the people of Glasgow with the services that they need and deserve. It is important that the health board and its planning partners make progress on the acute services review within a reasonable time scale.

I have some information on funding in Glasgow but, in view of the Presiding Officer's comments on the time, I will simply remind members of the fact that the GGHB's allocation is increasing by 7.7 per cent, on top of the extra £73 million that it has received this year.

Mr Gibson: Will the minister give way?

Malcolm Chisholm: As I have not taken an intervention from Margaret Jamieson, I will certainly not take one from Kenny Gibson.

I must move on. Janis Hughes called for an option appraisal of all the sites considered by GGHB as part of its consultation exercise. An option appraisal of some kind is always required to support the eventual proposal that the health board will make to the Executive. I understand that the health board decided at its meeting on 19 December that detailed option appraisals would be carried out on three possible options for acute services south of the river. I am also told that the board is proposing that a reference group—including MSPs, a local health council representative, NHS staff, and board and trust senior managers—will oversee that work.

Robert Brown asked how robust the option appraisals would be. There may be a role in that for the reference group, but it will clearly be for MSPs to decide whether they want to be involved in it. There will certainly be a role for the Executive, because the outline business case must demonstrate robust option appraisals.

I am pleased that we have had the opportunity to have this debate. I am sure that the health board will have listened carefully to the views that have been expressed.

Meeting closed at 18:30.

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