

MEETING OF THE PARLIAMENT

Wednesday 7 November 2001
(*Afternoon*)

Session 1

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Scottish Parliament

Wednesday 7 November 2001

(Afternoon)

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

Time for Reflection

The Presiding Officer (Sir David Steel): The first item of business is time for reflection, which is led today by the Very Reverend Dr Hugh Wyllie from Hamilton.

The Very Reverend Dr Hugh Wyllie (lately Minister at the Old Parish Church of Hamilton):

You all came here, rightly, with high hopes and expectations and with a dream of creating a better Scotland. Now that you are here, however, how do you cope with the day-to-day pressures of the business of the Parliament, the endless details of committee work and the letters from members of your constituencies? How do you cope with the temporary accommodation and with the vast numbers of media correspondents? How do you fit in the needs of your family and friends with the entries in the diary on your desk?

Let me tell you about two desks. On the corner of the managing director's desk lay a scrubbing brush. He had it there on purpose: a reminder of how his widowed mother scrubbed tenement stairs in Glasgow to see him through university. When he was under pressure, he looked at the scrubbing brush and knew that he could not let her down. That helped him to keep his priorities right and his problems in perspective.

As Isaiah puts it:

"Remember the rock from whence you were hewn and the pit from which you were dug."

On the second desk—mine—there is a drawing of an operational Shackleton called Charlie King, the plane that I flew with during my national service. I was demobbed two days before my full two years were completed. On that second day, Charlie King was called out to rescue a trawler in the North sea. When she could not get radio contact, she dropped height to read the name on the hull. That was when she caught a high wave and went under. All members of the crew were lost. They were all married—I had been the only one who was not. The drawing reminds me that I have today and that they do not. I have to use today well.

None of us can bring back yesterday. It is gone. None of us can take tomorrow for granted. Next

Sunday's war memorials and the events of 11 September are reminders of that. All that we are sure of is today.

Jesus said:

"Do not be worried about tomorrow; tomorrow will look after itself. Each day has troubles enough of its own."

That is to say, take one day at a time and use it well. These, I believe, are ways to keep the pressures in perspective and one's priorities clear.

Let us pray.

Lord, help us to make good use of this day that we have. For this day well spent will mean that tomorrow's memories of yesterday are good ones.

Amen.

Chhokar Inquiries

The Presiding Officer (Sir David Steel): Our main item of business today is a debate on motion S1M-2406, in the name of Jim Wallace, on the report into the investigation, legal proceedings and family liaison arrangements in the case of the murder of Surjit Singh Chhokar, and two amendments to that motion.

14:35

The Lord Advocate (Colin Boyd): The two inquiry reports were laid before Parliament on 24 October. Since that time, they have been subject to scrutiny and comment in the press and elsewhere. It is right that Parliament should now debate them.

I say again what I said in my statement: I believe both reports to be of profound significance for all who are involved in the criminal justice system and for all Scotland's communities. Most important of all is the significance for our prosecution service. I say that for several reasons. First, the reports are unprecedented. Never before has an individual prosecution decision been opened up to such scrutiny. Secondly, the reports have shown systems failures in the service. Those were found not only at the heart of the decision making, but in our dealings with the family. Those failures must be addressed. Thirdly, I believe that the reports give us a unique opportunity to address some of the underlying issues, not only by implementing the reports' recommendations, but by responding to some of the deeper criticisms. I am determined not to miss that opportunity.

I commend the reports to Parliament. They are robust, comprehensive and authoritative. In both inquiries, all the relevant witnesses were interviewed, including police officers, fiscal staff, Crown counsel and judges. In both inquiries, unrestricted access was given to papers. Witnesses gave evidence to the inquiries at length and in an extremely open and candid manner. That is remarked upon by the writers of the reports.

I will deal with some of the criticisms of the reports. To those who say that Dr Jandoo should not have made comments about certain individuals, I say that we cannot set up an inquiry and say to those conducting it that they cannot criticise X or Y. The inquiry will follow the evidence, no matter how uncomfortable or politically inconvenient that may be. I have already acknowledged the positive role that Mr Anwar has played as friend and counsellor to, and campaigner for, the Chhokar family and I am happy to do so again today. I also know, because it was reported to me at the time, the frustration

that members of my staff felt in dealing with Mr Anwar during the second trial. It does not surprise me that that frustration was communicated in evidence to the inquiry.

I remind those who say that Sir Anthony Campbell has not dealt adequately with racism that I specifically asked him to bring out any evidence of racist behaviour of an individual or institutional kind. He finds no evidence of such behaviour. If there is no evidence, it is difficult to see what else there is to say on the matter. Some people argue for some further process on the back of that alleged failure. The charge of racism is extremely serious. Racism is repugnant to most right-thinking people. Even the charge of institutional racism tars not only an organisation, but those individuals who work in it. As Lord Advocate, I am not prepared to see a witch hunt against members of the Crown Office and Procurator Fiscal Service on an allegation—unsupported by any evidence—that there was racism in a decision-making process.

To those who argue now for a public inquiry, I say that I do not believe that a public inquiry could be any more robust than the inquiries by Dr Jandoo and Sir Anthony Campbell. One of the features of such inquiries, in which evidence is given in private, is the candour with which people are prepared to speak. That candour shines through in the reports. It is also difficult to know what aspect of the case has not been covered, what stone has been left unturned or what vital piece of evidence remains unexamined. It is also now three years, almost to the day, since the murder of Mr Chhokar. The Lawrence inquiry took 19 months from announcement to report. I, for one, am not prepared to wait until late 2003 before we can start to absorb the lessons of the case. It is time to move on.

I will deal with some of the key findings. Members are aware that Dr Jandoo found evidence of institutional racism in the Crown Office and Procurator Fiscal Service and the police. However, he makes the point that the same could probably be said about any organisation in Scotland.

Phil Gallie (South of Scotland) (Con): Will the Lord Advocate give way for a brief moment?

I can identify with his opening remarks, but there is one thing he has not mentioned. He might do so later but, if not, perhaps he could comment on the leaking of the report. While it is right not to criticise individuals with respect to racist attitudes, it is also right to criticise someone if they have been identified as having leaked that report.

The Lord Advocate: I have made clear my position on the leak of the report. I deplore it and do not believe that it was ethical or took into

account the sensitivities of the Chhokar family. It was certainly against all the instructions that Jim Wallace and I had given to our officials. As Mr Gallie knows, there is an inquiry into that leak.

Dr Jandoo adopts the criterion that

"Institutional racism occurs wherever the service provided by an organisation fails—whether deliberately or not—to meet equally the needs of all the people whom it serves, having regard to their racial, ethnic or cultural background."

In his report, Dr Jandoo states that the working criteria of institutional racism were adopted for the purposes of the report and that those criteria were essentially practical. In reaching his definition, Dr Jandoo was assisted by the definition in the Macpherson report into the Stephen Lawrence murder. He was also guided by the submissions made by the Commission for Racial Equality to the Stephen Lawrence inquiry and to Dr Jandoo's inquiry.

The CRE told Dr Jandoo:

"We were not keen to have an endless debate on definitions. We are principally interested in what organisations need to do to assess policies and how they impact on people. The emphasis of Macpherson seemed to be on unwitting actions. In some ways that was unhelpful because it was shifting the focus away from how the organisation operated to the individual."

Like the CRE, we are not keen to have endless debates on definitions. Also like the CRE and Dr Jandoo, however, we want to focus on policies and service delivery to ensure that the service given by the organisations and the criminal justice system meets equally the needs of all the people whom they serve. Dr Jandoo's report recognises the breadth of the action taken by the police and the prosecution service and concludes that, since 1998, both have taken systematic action to eradicate institutional racism.

The evidence of institutional racism focuses—as far as the Crown Office and Procurator Fiscal Service is concerned—on the failure to be well informed on Sikh custom and belief on cremation. The service presupposed a command of written English that Mr Chhokar might not have possessed and was slow to discover what interpreters would be required.

Those issues have been addressed through the continuing programme of anti-racist training. Between September 1999 and midsummer 2000, anti-racist training was made available to all staff. We have in place systems to facilitate the translation of correspondence. We have reviewed our systems for engaging interpreters. We have issued appropriate guidance and instructions to staff.

Dr Jandoo's report also draws attention to the insensitive way in which bereaved relatives and

victims generally—of all backgrounds—have been treated in the past in the criminal justice system. That will change. We have identified the need for victim liaison offices—VLOs—in all regions in Scotland, a service that will be in place by the summer of 2002. That will allow us to deal with bereaved relatives effectively, appropriately and in a consistent way that meets their needs.

Mr John Swinney (North Tayside) (SNP): I am grateful to the Lord Advocate for giving way on the point about support to relatives bereaved by all the different tragedies that happen in our society.

From correspondence that I have exchanged with him about several cases in my constituency, the Lord Advocate will know that I have been concerned that that support has not been in place in the past. I welcome what the Lord Advocate has said. Is he in a position to comment on the following two issues? First, would he undertake to look again, or to look favourably, at cases in which bereaved relatives have been handled very badly in the past, which may have affected the Crown Office's handling of cases? Secondly, is he prepared to have published a continuing report on the effectiveness of the bereavement liaison service, and on the difference that it is making to the way in which cases are handled?

The Lord Advocate: On the latter point, we are certainly committed to examining the work of the victim liaison office in the light of Raj Jandoo's recommendations. I think that we can encompass all aspects of that. That will happen once the VLO is up and running and has had time to establish itself. On the first point, if cases are brought to my attention, we will consider them in the light of any further information that comes to hand. We are working to strengthen the VLO to deal with Dr Jandoo's recommendations.

I have accepted all the recommendations in both reports. In particular, I accept and welcome Dr Jandoo's principal recommendation, that

"An Inspectorate of the Crown Office and Procurator Fiscal Service should be established",

and that

"The Inspectorate's reports ... should be made public."

That inspectorate will be a priority; it will introduce unprecedented accountability to the prosecution service in Scotland and will strengthen public confidence in our department.

Mr Kenneth Macintosh (Eastwood) (Lab): The Lord Advocate is aware of the case of the murder of Christopher Cawley in September last year. His department is dealing with the family and is engaged in continuing discussions. Would an independent inspectorate be able to deal with any of the family's concerns from this point onwards?

The Lord Advocate: It will not deal with individual cases, but will address some of the broader issues that the case that Mr Macintosh mentioned and others have highlighted.

I know that the Scottish police service was second to none in the vigour and commitment of its response to the Stephen Lawrence inquiry. By April 1999, the Association of Chief Police Officers in Scotland had produced a comprehensive analysis of Sir William Macpherson's report and its implications for the service. The police have since played a crucial role in the implementation of the Lawrence inquiry recommendations in Scotland, and have met members of the Deputy First Minister's steering group, which has overseen progress on the recommendations.

Let us consider what has been done. In March 2000, ACPOS published its racial diversity strategy, which was quoted with approval by Dr Jandoo in his report. That indicated the full commitment of the Scottish police service at the highest level to fight against racism, and was followed, in July 2000, by a guidance manual, which gave detailed, practical advice to forces in taking forward the strategy. More recently, in July 2001, ACPOS published national guidance on recruitment from and retention among ethnic minorities. National anti-racism training is now under way at the Scottish Police College as part of the national equal opportunities training strategy, and ACPOS has reviewed the interpreting and translation support available to the police.

That has been mirrored by individual forces. For example, Lothian and Borders police have pioneered aides-mémoire on racist incidents in the form of credit-style cards, which have now been adopted by other forces. Effective multi-agency work to record and tackle racist incidents was already happening in a number of forces, and that is being reinforced.

In addition, HM inspectorate of constabulary for Scotland carried out a full-scale thematic inspection of the Scottish police and race issues. Its report, "Without Prejudice?", was published in January this year, and contained 18 recommendations and 15 suggestions. The inspectorate will be carrying out a follow-up inspection, starting in spring next year, to check on progress against those targets. That inspection will also take a thematic look at family liaison, as was recommended by Dr Jandoo. ACPOS plans to follow up its racial diversity strategy early next year to see what progress has been made in meeting its objectives.

The progress made by the police is recognised in the first annual review of the Executive's progress on the Stephen Lawrence inquiry, which was published by the Deputy First Minister's steering group on 7 February this year. The

steering group also mapped out the steps that the Executive, the police and others should take over the next few months to ensure that further progress is made. Those include a national code of practice for recording racist incidents, which is now being finalised, a policy on recruitment and retention in the police, which has now been published, and research on stop-and-search practices, which is also being finalised. In my statement last November, I said that the steering group would oversee the implementation of Dr Jandoo's recommendations.

ACPOS has also given an initial positive reaction to the Jandoo report's recommendations. In his closing speech the Deputy First Minister will say a little more about that.

In his report dealing with prosecution decision making in the case, Sir Anthony Campbell made nine recommendations. On 24 October I indicated my acceptance of those and set out the action that I have commissioned as a result. As members are aware, I have commissioned a significant review of the way in which we process, prepare and prosecute High Court cases. That review will be taken forward principally by the quality and practice review unit. However, it will be overseen by a steering group that will be chaired by the Solicitor General and that will include representatives of outside bodies, the police and trade unions, together with Crown counsel and senior fiscal staff.

Sir Anthony also recommends setting up a satellite Crown Office High Court unit near the High Court in Glasgow, to service cases there. We are proceeding with that recommendation as a matter of priority.

I can advise Parliament that, as a result of our general concern about the pressure on the High Court and the need to review the management of High Court business generally—I am talking about management of the High Court, as opposed to prosecution—Jim Wallace has decided to set up a separate review of High Court management. The review will be conducted by Lord Bonomy, a High Court judge, who will direct the work of a review team of officials from the Scottish Court Service, the Crown Office and the justice department. There will also be a reference group to which Lord Bonomy will be able to refer when setting the agenda for the review and as a sounding board for emerging ideas. The reference group will include representatives of the Law Society of Scotland, the Faculty of Advocates, the police and Victim Support Scotland, as well as of the Crown Office and the Scottish Court Service. It is hoped that Lord Bonomy will be in a position to report with recommendations in the summer of 2002.

I accept that both the Jandoo and Campbell reports express concern about resources. From

my visits to regional and district fiscal offices, I am conscious that staff in the front line of the Crown Office and Procurator Fiscal Service feel acutely pressured. That is borne out by feedback from our internal staff survey.

We have recognised the need to strengthen resources. In the previous comprehensive spending review, the service received £22.5 million over three years. In the budget consequential that was strengthened by a further £6 million over three years, in recognition of the increasing burden of drugs prosecutions. Our baseline has gone up from just over £47 million in 1997 to £61 million in 2001.

We have been recruiting additional staff, particularly legal staff and precognition officers, to cope with the pressures to which I referred. For example, the number of legal staff employed by the Crown Office and Procurator Fiscal Service has increased by 22 per cent since the death of Surjit Singh Chhokar in November 1998. We have invested heavily in new technology. As that becomes available, it will help us to strengthen delivery of front-line services. However, I accept that the reports identify the need further to strengthen resources to deal with core work, as well as to implement their recommendations in full.

Work has commenced on ascertaining the additional cost to the service of implementing the reports' recommendations. It will be informed by the review of resource planning and management that is currently being undertaken in the Crown Office. The Justice 2 Committee's inquiry, which is considering the broader issue of resources in the Crown Office and Procurator Fiscal Service, is an important part of that process and its findings will be taken into account.

We now have two reports on the Chhokar affair. The Justice 2 Committee will produce a report on its inquiry. Reviews of the management and prosecution of High Court cases and a review of summary court business have also been announced. I hope that Bill Aitken will accept that we recognise the spirit in which he lodged his amendment. We are rapidly becoming the most reviewed body in the Scottish Executive. We recognise the dangers of not placing responsibility for the reviews in the hands of an overarching body, but I am convinced that those are outweighed by the need to make swift progress on a programme of modernisation and reform. I hope that, on the basis of the assurances that I have given, Bill Aitken will consider not moving his amendment.

Finally, I wish to pay tribute to the members of staff of the Crown Office and Procurator Fiscal Service. Day in, day out, they demonstrate their commitment to fairness and justice in the prosecution of crime in Scotland. The service is

respected and admired worldwide. Many features of our system, such as precognition, are envied abroad. The professionalism of the service in the handling of the Lockerbie case was recognised through awards from the International Association of Prosecutors and I believe that the Parliament owes a significant debt of gratitude to the staff of the service.

I am committed to a continuing process of modernisation and reform of the Crown Office and Procurator Fiscal Service. That process includes investment in new technology, review of the management and allocation of resources and the strengthening of resources to meet both present and new commitments. Our aim is to have a modern, efficient service that is well resourced and in which staff are appropriately rewarded. The service must retain at its heart the principles of professionalism, independence and integrity for which it is rightly admired. However, it must also be open and sensitive to the needs of the public that it serves. I firmly believe that that ambition is well within our reach.

I move,

That the Parliament welcomes the commitment of the Scottish Executive to take forward the recommendations of Sir Anthony Campbell and Dr Raj Jandoo in connection with the murder of Surjit Singh Chhokar; recognises the significance of these issues to Scottish society as a whole, and the Scottish criminal justice system in particular, and notes the progress that has already been made on race, family liaison and victims issues by the Scottish Police Service and the Crown Office and Procurator Fiscal Service.

The Presiding Officer: I remind members who wish to take part in the debate to press their request-to-speak buttons now, so that I can work out a speaking order. I call Roseanna Cunningham to move amendment S1M-2406.2.

14:56

Roseanna Cunningham (Perth) (SNP): On Sunday, the Chhokar family were trying to commemorate their son's life when they were abused by a racist oaf who appears to have had some connection with those alleged to have been the murderers of their son, Surjit. It is worth all of us remembering that the family's pain has not ended but continues. Throughout their campaign, all that they have tried to do is get an answer to a straightforward question: why did there seem to be no justice for either their son or for themselves? Three men were charged and two trials were held, but because the accused in the trials blamed one another, no convictions were achieved.

It is only because of the family's determination to find out the truth that we are here today. We must remember that this debate is about one family's pain and loss. Their campaign has forced us to re-

examine our whole system of justice. Although the family will not yet be satisfied by the results of their labours, I believe that we have reached a significant turning point in our nation's justice system.

When the reports were published, I described them as

"a signpost to the future".—[*Official Report*, 24 October 2001; c 3238.]

If we follow correctly the route that is marked out, there will be a fitting memorial to the Chhokar family's love for their son.

I appreciate that the Lord Advocate acknowledged that debt when he presented the reports to Parliament some time ago. However, the unfortunate leaking of the reports some four days prior to the date of his statement gave the press the opportunity to spend several days focusing on a series of unfair and, I believe, untrue statements about individuals—both family members and advisers—who were connected to the campaign.

How much progress has been made in identifying the source of and motivation for those leaks? I hope that the Minister for Justice—I take it that he will reply to the debate—will not treat that question as rhetorical. It is not a rhetorical question; I want a response to it.

The statements that Dr Jandoo made were hurtful and damaging. I do not know why Dr Jandoo chose to adopt such a tone in his report. In my opinion, the fact that he did so justifies the family's concerns about the inquiry in the first place. It also reinforces in their minds their decision not to participate in anything short of a full public inquiry. There is an even more serious aspect to the inclusion of those comments. After all, on one view, they can be seen as a not very subtle message to anyone else who challenges the vested interests of the criminal justice system. They say, "If you come after us, we will come after you." That is a bad message for our system to send out.

Members will know that the Scottish Trades Union Congress has launched a campaign to raise £40,000 to set up the full public inquiry that the Scottish Executive has refused the Chhokar family. I understand that the Commission for Racial Equality has demanded such an inquiry from the outset. I urge the Minister for Justice to declare that campaign unnecessary by announcing that a properly constituted, Executive-sponsored, open inquiry will be held. The two reports that we have had were quite specifically not such an inquiry. Noticeably, Dr Jandoo did not look for guidance from other public inquiries when he set about his work.

I emphasise the need for just one inquiry. There was always a danger of contradictions in having two reports—and that is precisely what has happened in respect of institutional racism. When I asked the Lord Advocate on 24 October about the contradictions, it was noticeable that he studiously ignored that part of my question. However, whether he likes it or not, there is a discrepancy between the two reports in respect of institutional racism. That discrepancy is very unsatisfactory indeed. The Campbell report did not find evidence of institutional racism in the Crown Office, but the Jandoo report implies quite strongly that it does exist and questions previously accepted definitions of the phenomenon. It is absolutely imperative that we are sure of what we are talking about when we discuss institutional racism. We must be absolutely clear about what it means and what it does not mean.

Most members are aware that the system has been and continues to be insensitive towards victims and their families. There is still an attitude that victims who want to be kept aware of how their cases are being handled are little more than a nuisance to busy professionals. As a case in point, at a surgery in my constituency in the week when the two reports were published, I was informed by a constituent who had been the victim of an assault in February that his telephone call to the fiscal's office in that same week—I repeat, the week in which the Chhokar reports were published—was met by the question, "What do you want to know for?" He had been the victim of an assault. It is astonishing that anyone should still wonder why victims would want to be kept informed. It is against that background that we have to assess whether the Chhokar family's problems were compounded by their experience of living as a black family in Scotland, by an ignorance of cultural differences and by a failure to appreciate the extent of linguistic barriers. There is no doubt that that was the case.

I am concerned that we should learn the right lessons from the experiences of the Chhokar family and from the failings of the system in dealing both with them and with the prosecution of those charged with their son's murder. It is therefore important that we acknowledge where things went well and who got things right. Strathclyde police should be singled out for particular mention. The experience of the Lawrence family continues to loom large when such questions come to the fore. Although some deficiencies were identified in the Jandoo report, the family's experience of their dealings with the police was clearly good throughout. It has been generally agreed that problems began only when the case was no longer in police hands. Indeed, since the publication of the Jandoo report, representatives of the Chhokar family justice

campaign have sprung to the defence of the police.

The police are undoubtedly an easier scapegoat than the more entrenched establishment attitudes that exist in the Crown Office and Procurator Fiscal Service. A bias towards fellow professionals could be read into Dr Jandoo's report: the language that is used to explain their failings is very different indeed from the language used to talk about the failings of the police, even though the failings of the latter were much more minor. The root of the problem lies within the Crown Office and Procurator Fiscal Service. The Campbell report was a damning indictment of the system's failure, despite changing pressures, to change over the years. The recommendations of the Campbell report have been accepted, but the report also made it quite clear that the Crown Office does not have sufficient resources. That is at the heart of the problem.

This is the point at which we look for more than warm words from the Executive—and, not surprisingly, it is the point at which the Executive is found wanting. The Executive continues to insist that the Crown Office has sufficient resources. Let us be clear. The two reports may have been about the murder of Surjit Chhokar but, with the exception of the issue of institutional racism, they could have been about any number of other families and other cases. The Cawley family, who have been mentioned already and about whom many members will have received letters, are a case in point. However, it is all too easy for criticisms of the system to become criticisms of the people within it. There is an important distinction to be drawn between, on the one hand, the overworked individuals who are labouring under a great deal of stress and, on the other, a process that is under-resourced. That distinction needs to be recognised and the problem needs to be addressed.

The people who work in the system know that it is creaking and they are starting to speak out. I could find any number of examples—I have at least a page and a half with me. I will take two examples from *The Scotsman* of 30 October 2001. They highlight the stresses on the system and underline the pressure being put on those on whom the system depends.

Jim Keegan, who is described as

"a respected lawyer with more than 20 years' experience",
has this to say:

"It's an absolute shambles. Fiscals are responsible for three or four courts at a time. They are placed under unbearable pressure, taking work home with them and working late into the night. After three years at the Crown Office, they are completely burnt out."

No doubt he was picking up on the comments

made in chapter 15 of the Campbell report that principal deputes in the High Court are regarded as having a shelf life of three years because of the pace at which they were having to work to have any chance of keeping their heads above water. Will the Minister for Justice or the Lord Advocate advise members whether they think that that assessment is accurate? If it is accurate, what do they think that it says about how our prosecution system is being run? Mr Keegan goes on to say:

"we are getting justice on the cheap in Scotland and it results in miscarriages of justice."

Also in *The Scotsman* was an article about David Hingston, who resigned from his post as a prominent procurator fiscal in the Highlands as a result of stress. He warns that there will be more prosecution blunders because of pressure on the legal service. He makes it quite clear that he believes that fiscals have come under increasing pressure because of a lack of investment by successive Governments at a time of rising crime. He says:

"What is the point of throwing money at the police so that more criminals can be caught, if there is not an adequately funded and staffed service to bring them to court?"

What indeed? That is not the first time that that question has been asked, and in almost the same fashion.

The article cites the stresses faced by Mr Hingston before he resigned.

"Mr Hingston was in an office on his own, on call 24 hours a day, seven days a week, covering an area stretching from Dingwall in the east to the Summer Isles in the north-west and down as far as the Skye bridge.

Dingwall, Tain and Dornoch was once handled by four fiscals, but now there are just two.

As well as dealing with cases in court, his day would be filled with discussions on forthcoming cases, as well as dealing with arrest warrants and sudden deaths.

Typically, he left his office at 6 pm, but worked for a further three hours when he got home and, even on leave, he had to carry a mobile phone or check in with police at regular intervals.

He says pleas for help were made directly to the Lord Advocate, but nothing was done."

Let us be very clear about what the two reports together disclose about what was going on in the handling of this particular case. The Chhokar case was allocated for precognition—assembling of Crown evidence—to a relatively junior fiscal depute who had never even sat through a High Court case before. To get the precognosing done, he had to get up at 5 am to work on it before attending court all day. Because of time constraints, his line manager did not have time to read through everything to check the recommendation made. The advocate depute who prosecuted the case against Ronnie Coulter had nine other cases allocated to her for prosecution

during the two weeks of the trial, six of which would be time-barred if they were not started. If that is an example of a system that the Minister for Justice thinks is well resourced—and I have heard the Lord Advocate defend the resourcing—I shudder to think what they imagine under-resourcing would lead to.

One view might be that we ought not to be surprised that things go wrong; rather we should be surprised that they do not go wrong more often. How on earth has the situation been allowed to develop? Unless the resourcing crisis in the Crown Office and Procurator Fiscal Service is addressed—it is not even mentioned in the Executive motion—the dire warnings of people such as Mr Keegan and Mr Hingston will come to pass. I noticed that the Lord Advocate was 15 minutes into his speech before he addressed the issue of the Crown Office and Procurator Fiscal Service and it was 17 minutes before he uttered the word “resourcing”.

The Lord Advocate announces various reviews and steering groups. However, so far, all that we have to look forward to is the Solicitor General's view, which has been widely quoted, that the fault lies with our 110-day rule, which prevents an untried prisoner being held in custody without trial for more than 110 days. Frankly, that is one of the jewels in Scotland's criminal justice system, and any attempt to ditch it will be opposed vigorously by the SNP. It causes me some concern that an individual who will chair one of the steering groups appears to be already writing the conclusion. I worry about the conclusions that will be reached by other reviews.

The failure is a failure of resourcing, which includes a failure to resource professional training programmes to deal effectively with the problem of institutional racism. The people of Scotland—all of them—deserve a first-class prosecution system. The experience of one Scottish family, the Chhokars, tells us that the people of Scotland are not getting that. That is an appalling indictment of the Scottish Executive and of the Scottish Office, which was its predecessor.

I move amendment S1M-2406.2, to insert at end:

“; but further notes the serious concerns raised by both reports about the lack of resourcing of both the Crown Office and the Procurator Fiscal Service and the effect that has had on their ability to operate effectively; is concerned at the apparent confusion regarding the definition and existence of institutional racism emerging from the different conclusions of the two reports; deplores the personal attacks on named individuals contained within the Jandoo Report which seriously detracted from the important issues being investigated, and calls upon the Scottish Executive to establish a full public inquiry into the handling of the case, in order to restore public confidence in our prosecution services.”

15:11

Bill Aitken (Glasgow) (Con): This is a debate of vital importance but, at the same time, it is a debate for which all of us might wish there was no need. A young man has been brutally murdered. His family have been left in grief and with a feeling of deep disillusionment with the Scottish justice system. We must confront the serious concerns about that system.

At the same time, we have been extremely fortunate in the quality of the reports that have been prepared by Sir Anthony Campbell and Dr Raj Jandoo. The Conservative party does not fully agree with their recommendations and feels that in some respects they have not gone far enough. We question the evidence for one of the findings of Dr Jandoo's report. Nevertheless, we are firmly of the view that the reports are thorough, fair, well-presented and of enormous value in our consideration of the way forward. The reports asked many questions; now we must ask some hard questions of our own.

First, was the prosecution handled competently by the Crown? The answer is no, and the evidence for that is all too apparent. Mistakes were made. Time and time again, the reports screamed out that our prosecution service is totally under-resourced, and has been for some time. Three years and three months ago, long before the death of Surjit Singh Chhokar, in a highly intemperate attack on a former Solicitor General, Lord Hardie, when he was Lord Advocate, highlighted the underfunding difficulty. Three years and three months on, we are little further forward, although I acknowledge the points that the Lord Advocate made today.

On the handling of the case, as Roseanna Cunningham said, at Hamilton the matter was passed to an inexperienced fiscal to precognosce. He had 18 working days to complete matters and was working under intense pressure. Indeed, while criticism surrounds that individual, it speaks volumes for him that he worked on the case at home during the Christmas holiday. The principal depute did not carry out proper supervision and countersigned the precognition document after reading the papers in a piecemeal fashion. Because of time constraints on her, it was impossible for her to devote the time that was necessary. The evidence is loud and clear that Scotland's Procurator Fiscal Service is in a state of meltdown.

Sir Anthony Campbell's report raises a number of concerns about the operation of the Crown Office. Having looked at the documentation of the case, in particular the types of notes that were passed between the High Court unit and Crown counsel, I am concerned that they are not on a much more formal basis. Indeed, I am not

convinced that the nature of the notes does not impede proper communication. Once again, we have a clear indication of pressure. The advocate depute who picked up the papers at the Crown Office admitted that he had speed-read part of the statements, although it is clear that he read the summary conclusions and recommendations.

Clearly, anyone who at that stage had dealt with the case was aware that there were serious evidential difficulties. It is disturbing that apparently at that stage there was a breakdown in communication, when the papers went back to the High Court unit and the fiscal dealing with the matter was not aware that the advocate depute had been influenced by the fact that some inquiries remained outstanding. It should have been made clear by means of note that that was the case, and that it was necessary to pursue all those inquiries before the final decision was taken on the terms of the indictment and those who were to be indicted.

I am concerned that there appeared to be a breakdown in communication when the fiscal discussed the matter with another advocate depute. It is apparent—and a matter of the gravest concern—that the fiscal and the advocate depute were at cross-purposes during the discussion. The advocate depute did not appreciate that he was being asked for an instruction. The type of procedures that would normally be found in an office are not in place at the Crown Office.

The crux of the matter is that in the first trial the failure to indict Andrew Coulter and David Montgomery happened more or less by default. Nobody sat down in the cool light of day to read the papers in their entirety and nobody discussed calmly and rationally with those who might have had a contrary view about the appropriate moves. Surely that must concern us all.

Although we do not know whether there would have been a conviction if all three, or at least two, of the initial suspects had been indicted, the chances of a conviction would have been much better. That said, the case was always going to be difficult. It is all very well to have the 20:20 vision of hindsight, but we must recognise that although there was a sufficiency against Ronnie and Andrew Coulter, it was thin. If Montgomery had been included in the frame, the Crown would have been reliant on the law of concert. The only eye witness evidence was that of Ms Bryce, the forensic evidence was unsatisfactory and the verbal evidence from the two young girls who had been party to discussions with the Coulters about what they proposed to do to Mr Chhokar was vague.

There were serious problems with sufficiency and, particularly in the second trial, the quality of the evidence was poor. The initial decision to

indict only Ronnie Coulter was wrong, as was well articulated in Colin Boyd's note to the Lord Advocate of 18 March 1999.

Gordon Jackson (Glasgow Govan) (Lab): Sir Anthony Campbell stated in his report that, although with the benefit of hindsight that decision was wrong, he cannot say that it was the wrong decision at the time.

Bill Aitken: I said that with the benefit of 20:20 hindsight matters could have been seen differently. Sir Anthony was not in possession of the original papers at that stage, as they had been changed. That is also in his report.

At the second trial, the Crown was confronted with serious difficulties that arose out of the initial failure to prosecute properly. Doubts about the competency of amending the indictment, which followed on the recently decided case of Howat, also had an inhibiting effect. The reliability of Ms Bryce's evidence was damaged by the fact that she initially identified only Andrew Coulter and implicated the other two only after being interviewed on four other occasions. Secondly, her evidence about the accused being in the vicinity of her house earlier in the evening was contradicted by closed-circuit television evidence. There were serious procedural failures, but we must recognise that it was a difficult case. We can only guess about what would have happened had those failures not occurred.

The most important question to address is whether the prosecuting authorities would have dealt with the matter differently if Surjit Singh Chhokar had been white. Both reports emphatically answer no. The case of Christopher Cawley was referred to twice, earlier. He was an innocent man who was brutally murdered while going about his duties in a Glasgow bar. Many of the errors made in the Chhokar case appear to have been made in the Cawley case also. However, that case has not assumed the celebrity that the Chhokar case has.

In that respect, it is unfortunate that on 28 November 2000 the spokesperson for the Chhokar family justice campaign stated:

"There are two systems of justice ... one for whites, and a very different one for minorities."

That is an irresponsible statement and borders on the outrageous. The comments about that in Dr Jandoo's report were justified. I do not seek to minimise mistakes that have been made, but to suggest that those were other than honest mistakes is appalling. Did the Crown and the police deal with matters sensitively and considerately? The police largely did, but up to the aftermath of the first trial the Crown manifestly did not.

Tommy Sheridan (Glasgow) (SSP): Will the member give way?

Bill Aitken: Yes.

Tommy Sheridan: Does the member agree that the specific comment made was that there are two systems of justice in place in Scotland: one for the wealthy and one for ethnic minorities and the poor? The statement did not only refer to ethnic minorities, but to the poor.

Bill Aitken: I quoted accurately from appendix 5 to Dr Jandoo's report.

Like Roseanna Cunningham, I think that the police come out of the matter with considerable credit. Their investigation was effective and efficient, and their dealings with the Chhokar family were totally sympathetic. They deserve criticism for failing to recognise the special considerations that might be necessary in such a case for the disposal of remains, but I do not accept the criticism in Dr Jandoo's report that the police should have investigated further a racial motive. From the start, the motive behind the crime was clear from the evidence of Ms Bryce and others. It would have been inappropriate to investigate further.

The Crown and court authorities come out of the matter badly. Although both reports make it clear that no individual racism was involved, we are presented with an appalling image of the events at Glasgow High Court when the first trial concluded. I ask members to put themselves in the position of the Chhokar family, who were sitting in the court. The jury entered, and the family heard the word "guilty". The advocate depute muttered, then the judge said something and left the bench. The family was then confronted with the man who was accused of murdering their son behaving in a triumphalist fashion. Is it any wonder that such disillusionment and upset was felt?

Someone, somewhere is responsible for the murder. We have been unable to prove who. That is a failure of the Scottish justice system. However, we must consider how the system can be improved.

Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab): Will the member give way?

Bill Aitken: No, I must continue, as I am running out of time. I am sorry.

For too long, the Crown Office has largely been run on a grace-and-favour system. Advocates have been enticed from sometimes fairly lucrative practices to perform in the service for three years. All do so from a sense of duty, but I wonder whether it is now time for full-time prosecutors. Elitism is another issue that comes to mind. Why are fiscals, who are solicitor advocates, not used more prominently in prosecution roles?

A wider lesson must be learned from this unhappy affair. We are in serious danger of upsetting the always uneasy balance in race relations. We must have a society in which the law treats everyone equally. The one hopeful aspect to emerge from the reports is the absence of individual racist attitudes.

The debate on what constitutes institutional racism is important and must be considered in relation to every aspect of our society. At the same time, the basis of that debate must be equal rights for all. Any positive discrimination will result in considerable resentment. In that respect, the comment attributed to the Solicitor General that the Crown Office is too white is profoundly unhelpful. I hope that the number of ethnic personnel in the Crown Office increases, but it must do that on the basis of merit, rather than as some form of social engineering. We must also recognise that forces are at work in our society that play the race card indiscriminately. We must not pander to them.

At this of all times, we all have a duty to recognise that although there are many wrongs in our society, when they involve a non-white person, racism is not always responsible. Some people are depressingly irresponsible, to the point of being harmful to cohesive race relations, in making that out to be the case.

Two respected figures have conducted a deep and detailed examination of the case under discussion. No individual has been found to be racist and a worthwhile argument about what constitutes institutional racism has been opened. Against that background, and ever mindful of the injustice that has been done, it is time, as the Lord Advocate said, to move forward.

The Deputy Presiding Officer (Mr George Reid): The Lord Advocate invited you to withdraw your amendment. If you wish to press the amendment, I ask you to move it, please.

Bill Aitken: I am not persuaded by the Lord Advocate and I will press my amendment.

I move amendment S1M-2406.1, to insert at end:

"but recognises also that a full review of the running of the prosecution service in Scotland is necessary."

15:24

George Lyon (Argyll and Bute) (LD): I extend my sympathies once again to the Chhokar family, who have been badly let down by the justice system's failure to communicate with them, its failure to recognise their needs and the ultimate failure—its inability to bring to justice the perpetrator of Surjit Singh Chhokar's murder.

The two reports demonstrate that serious

failures by the Crown Office and the police led to Mr Chhokar's family being badly let down by the Scottish justice system. The reports are robust and leave no stone unturned, and I firmly agree with Roseanna Cunningham's hope that they are a signpost to a better future.

Sir Anthony Campbell's report on the Crown's decision-making process highlights a number of failures in the system. The report makes it clear that the problem was that the system failed, not that individuals in the system were negligent. Both reports point out that one of the areas of failure was the appointment of an inexperienced fiscal depute to the task of precognosing the case. That failure was compounded by the principal procurator fiscal's failure to provide proper support, back-up and help when supervising the depute, which led to wrong decisions on how to proceed with the case.

It is interesting to note that although, in Sir Anthony Campbell's report, the principal procurator fiscal states that she was unable to supervise properly because of a heavy work load, the Jandoo report indicates that there were resources to help with supervision, but that they were not used.

Other key issues highlighted in Sir Anthony Campbell's report are the failure in communication between the three advocate deputies and the five members of the fiscal service, and the lack of continuity among those who were involved in the decision-making process, which led to the decision to prosecute Ronnie Coulter on his own. Sir Anthony Campbell argues that the correct decision would have been to indict all three people at the same time, although, as Bill Aitken has rightly stated, there is no guarantee that that would have ensured successful prosecution and conviction.

The Jandoo report specifically examines the liaison arrangements between the authorities and the Chhokar family, and is extremely detailed in its account of how the authorities failed time after time to provide the family with proper information. However, I agree with the remarks made by Roseanna Cunningham and Bill Aitken that, of all the services involved, the police appeared to do a much better job of liaising with the family and of carrying out the proper work of identifying the perpetrators of the crime. Although the police made mistakes, they come out of the situation much better than the Crown Office.

The Procurator Fiscal Service completely failed to provide proper information and liaison with the family before, during and after the trial. It seems that the liaison process was improved only after the deceased's wife learned from a television report of the Crown Office's decision to prosecute Andrew Coulter and David Montgomery. As the Jandoo report states, the fact that the victim's wife

found out from the media about the Crown's intention to proceed with a second trial against the two men makes for a sorry tale indeed.

The Jandoo report catalogues a series of mistakes. First, the police failed to explore the question whether the crime had a racial motive, despite the fact that the family raised the matter. If we examine the report in detail, it is clear that if the question had been explored a little more it would have given the family more reassurance. Secondly, Strathclyde police issued a press release that seemed designed to close down the issue of a racial motive, even though senior police officers on the ground objected to the press release on the day that it came out.

We move on to the catalogue of confusion surrounding the release of the dead man for cremation and the almost total unpreparedness of all the police officers involved for the essential requirements of a Sikh funeral. That fundamental mistake alienated the Chhokar family at a time when the police were trying to establish good relations with them.

Dr Jandoo's next criticism—which I have already mentioned and which Sir Anthony Campbell also highlights—concerns the appointment of an inexperienced fiscal depute and the failure of the principal procurator fiscal, Mrs Sinclair, to supervise the depute's work. The Procurator Fiscal Service completely failed to liaise with the family in the months up to the first trial, during the trial and at the trial's end.

As the report states, after the first trial closed and the accused was set free, nobody thought to give the family any explanation of what had taken place and what might happen next. The report makes it clear that the situation was utterly unsatisfactory and calls it a disgrace to the Scottish criminal justice system. I think that everyone here would agree.

Between the end of the first trial and the serving of an indictment against Andrew Coulter and David Montgomery, there was fragmented contact between the family and the authorities, especially the Procurator Fiscal Service. As I pointed out earlier, the liaison service between the procurator fiscal's office and the family appeared to improve only after the incident when Sanhedeep Chhokar learned of the indictment via the television and the media. It is a total indictment of the system that that was the only incident that triggered an improvement to the liaison service. It seems, from the evidence that was submitted for the Jandoo report, that there was a distinct improvement in the liaison between the Procurator Fiscal Service and the Chhokar family after that incident took place.

Dr Jandoo defines institutional racism as occurring

"wherever the service provided by an organisation fails—whether deliberately or not—to meet equally the needs of all the people whom it serves, having regard to their racial, ethnic or cultural background."

Judged against those criteria, the Crown authorities and the police are certainly guilty. I welcome the acceptance of that charge by both Jim Wallace and Colin Boyd.

Both reports highlight systematic failures in a wide range of areas, which led to the Crown possibly taking the wrong decision on how to proceed with the prosecution. They also highlight a system under severe pressure, struggling to cope with the work load. That comes out in Sir Anthony Campbell's report. The staff appeared to be doing a good job under difficult circumstances, but there are many mentions of 5 o'clock starts and staff having to take work home at weekends. That was an unsatisfactory situation, which I hope will be addressed; indeed, it is starting to be addressed.

The Lord Advocate and the Minister for Justice have held up their hands, apologised and recognised the failures in the Scottish justice system. They have taken measures to tackle and rectify the problems that are highlighted in the reports. They deserve our applause for that.

I believe that there is no need for a further inquiry. What is needed is for action to be taken to ensure that this never happens again, that no family experience what the Chhokar family have endured and that we can guarantee that this particular set of circumstances will never be repeated.

15:33

Gordon Jackson (Glasgow Govan) (Lab): At the risk of boring the chamber to death, I wish to say something about the legal aspect. Roseanna Cunningham is yawning already.

Sir Anthony Campbell makes it clear that more than one person should have been prosecuted at the original trial. I fully accept that analysis; however, such a decision is extremely difficult to make. No one should be under any illusions about that—for tactical and legal reasons, such a decision is far from easy. The Lord Advocate would accept that very experienced practitioners can often disagree on that.

On Bill Aitken's point, it is clear to me that, at the time the original indictment was drawn up and the decision was made to prosecute Ronnie Coulter only, no real thought was given to whether more than one person should be prosecuted for murder. It is important to go back to Sir Anthony Campbell, because he explains the reason for that. It was because, months earlier, there was a decision to release two of the three potential accused from

custody. That established a momentum. The momentum was then to prosecute only one. I do not fault that early decision, but Sir Anthony Campbell recommends that, at the time the indictment was being drawn up, there should have been a procedure to ensure that the question of indicting all three potential accused was considered in the same way that it would have been considered had all three remained in custody. I am sure that the Lord Advocate will agree that that is a valuable recommendation.

Last, and most important, we come to the real problem. I do not accept Roseanna Cunningham's point about the advocate depute having nine cases; that is fairly routine. When the advocate depute was given the papers to prosecute, it was clear to her that more than one person should have been indicted for murder. I spoke to her about it this week. However, as Campbell makes clear, what we cannot know is whether that would have been an easy, clear decision a few weeks earlier. The information changed markedly and materially between those two dates. By the time that a decision was made to prosecute only Ronnie Coulter, only a certain amount of preparation had been done. Thereafter, on the instructions of a very competent procurator fiscal and Crown Office, a great deal more preparation was done. By the time of the trial, the evidence that was available to the prosecutor had probably changed markedly.

Put simply, that means that a key decision to prosecute Ronnie Coulter—a decision that, for a whole host of reasons, was never likely to change—was made on the basis of incomplete information. That might sound horrifying to some members, but to me it is normal and routine. In the day-to-day business of the High Court, there are lots of cases where the preparation is being done and important information being obtained during that final period. Thankfully, that often makes no difference, but I have to agree with Roseanna Cunningham that there will have been many cases in which that sort of thing has happened and has had the sort of consequences that we have seen in this case. I do not want to take away from the individual grief of this case, but the problem of the preparation having reached only a certain stage by the time that important decisions are being made is not unique to this case.

Bill Aitken: Will Gordon Jackson give way?

Gordon Jackson: I cannot give way. I have only four minutes.

So, what do we do to improve the situation? It was suggested that we could extend the 110-day rule. I do not think that Neil Davidson actually said that we should do that, but he said, quite properly, that we should discuss it. However, I do not think that that is the way forward. Should we make it

150 days? I shall tell members what would happen. Decisions that are now made on day 105 would be made on day 145, and we would simply spend more money on a longer process.

We need to front-load the process with more resources. I am sorry to talk about resources, but we need to front-load the system and ensure not that we spend money over a longer period, but that resources are available in so far as is possible. It is not an exact science and we will never get it entirely right but, as far as is possible, the preparation should be done by the time that important decisions are made.

As the Lord Advocate knows, the Justice 1 Committee has taken evidence about resources. It has not always been a matter of agreement, even between members of the Procurator Fiscal Service, but the committee was clear that more resources are needed. The Crown Office is full of exceptionally talented people. We cannot afford that they should become demoralised. We must motivate and support them in every way possible. I do not think that money is the only answer. Nor do I think that talk of meltdown, such as we heard from Bill Aitken, is appropriate. That is over the top. However, I agree with Roseanna Cunningham that, if we are to avoid such situations, we must think carefully about putting more resources into the system—not just with a scatter-gun effect, but at the start of the process—so that we can make decisions when the preparation has been done.

15:39

Shona Robison (North-East Scotland) (SNP):

I pay tribute to the Chhokar family. We should all remember that it is due to their tenacity that we are having this debate today. The family have been through so much. Last Sunday was the third anniversary of Surjit Singh's death. I attended a moving memorial service at the spot where Surjit died. Even in the face of intimidation by what can only be described as a low-life associate of the Coulter family, the Chhokar family retained their dignity and proceeded with a fitting tribute to their son. That has been the hallmark of the family, despite the many setbacks and disappointments that they have had to endure. From the debacle of the trials to the refusal to hold a public inquiry, it has been one long nightmare for the family.

The Lord Advocate talked about the internal reports receiving a high level of scrutiny in the press. However, that applies only to the content of the reports; the actual evidence has not been subject to such public scrutiny. That is not good enough. The arguments for a public inquiry now are the same as the arguments at the start of the process. Only a public inquiry would provide the public scrutiny and accountability that is required.

I want to focus on institutional racism. I say to

Bill Aitken that I thought that we had gone beyond debates on whether institutional racism existed. It is unfortunate that Bill Aitken questioned its existence. He should remember that the Campbell inquiry's terms of reference should have included examination of whether racism played a part in the legal decision-making process. Unfortunately, they did not. If institutional racism was part of the reason for the mishandling of the Chhokar family—as the Jandoo report concluded—it could also have played a part in the prosecution of the case.

Many people and organisations have expressed concerns about the internal reports.

Bill Aitken: Will the member give way?

Shona Robison: I am sorry, but I do not have much time.

The Deputy Presiding Officer: In view of what you said, giving way might be helpful. I will give you more time.

Bill Aitken: Will Shona Robison elucidate how institutional racism could have played a part in the prosecution decisions that were taken? It is beyond me to imagine the circumstances in which it could have. The matter was simple and straightforward.

Shona Robison: I do not want to imagine—I want to hear. We need a public inquiry so that we can hear the evidence and get to the bottom of the matter. At the moment, we simply do not know whether to rule it in or out. That is part of the problem.

The CRE highlighted the Campbell report's failure to show how racism was eliminated as a factor in the legal decision-making process. How was racism eliminated as a factor? The report does not tell us Campbell's method of identifying and eliminating racism as a factor. It is therefore difficult to have confidence in the conclusions.

There is a discrepancy between the two reports in respect of institutional racism. The Jandoo report finds evidence of institutional racism. I ask Bill Aitken: if institutional racism was a factor in the handling of the family, is not it a possibility that it was a factor in the prosecution of the case? Does not that lend weight to the discussion being part of a public inquiry?

Jandoo fails to define or demonstrate an understanding of institutional racism.

Brian Fitzpatrick: Will the member give way?

Shona Robison: I am sorry, but I do not have enough time.

Jandoo's definition is a weakening of the respected definition that was provided by Macpherson. That is unfortunate.

I listened carefully to what the Lord Advocate said about the rather personal attacks in the Jandoo report. The Lord Advocate should explain the possible relevance of the comments about the family to an inquiry into how the family was treated by the justice system. I cannot understand the relevance and I hope that he will explain it to us.

Given that the process involved in the reports was flawed, the fundamental question is, how can the reports result in adequate reform? The only way forward is an independent public inquiry. Such an inquiry should have been held. It would be good if the Scottish Executive were to sponsor the inquiry, but if it does not, I pay tribute to the STUC's willingness to sponsor it. The bottom line is that the Chhokar family must have a chance to tell their story and finally get the justice that they deserve.

15:45

Mrs Lyndsay McIntosh (Central Scotland)
(Con): There is no pleasure in debating this motion today. Without the murder of Surjit Singh Chhokar on 4 November 1998, we would not be discussing these issues. The trauma and grief that the Chhokar family have suffered have undoubtedly been prolonged by the controversy and media attention that have followed them throughout the past three years.

The reports and recommendations of both Sir Anthony Campbell and Dr Raj Jandoo must be welcomed and acted upon if we are to move forward.

As a member of the Equal Opportunities Committee, I particularly welcome the opportunity to further probe the findings of the report at a public meeting that will be held in Lanarkshire for the convenience of the Chhokar family. That is the very least that we can do, in the light of Mr Chhokar's health.

I want to touch on several strands from each of the reports, but time dictates that I must be brief. I turn first to Dr Jandoo's report. One of his cardinal principles, which are certainly worth consideration, is that:

"Public confidence in the police and prosecution authorities is an essential feature of a criminal justice system that values justice and liberty in a democratic society."

The report also states:

"The processes of the criminal justice system should treat all victims and witnesses with courtesy, compassion and respect for their personal dignity; and should be responsive to their needs."

Those recommendations should apply to all members of the community; their race, culture or background should be an irrelevance.

However, Dr Jandoo's report finds that the Chhokar family did not always receive the treatment and the sensitivity that they might have. I welcome the report's finding that the police investigation was "efficient and effective" in tracing and arresting suspects and gathering evidence. That is the very least that we can expect from our policing services.

The Jandoo report states that the criminal justice system should treat victims with

"compassion and respect for their personal dignity".

Those aspects were found to be lacking in this case.

The police failed to liaise with the family as well as we would have liked them to during the investigation, at the end of the first investigation and at the first trial. That culture of poor communication continued throughout the second trial. Police ignorance of Sikh funeral customs and confusion over the release of the body for cremation contributed towards increasing the distress that was felt by the family.

The lack of communication went even further. I recall the distress and heartache that the family displayed when they and their representative came to the Parliament on 16 June 1999. They were looking for guidance and a decision on whether they could reasonably travel to India with Surjit's ashes. The then Lord Advocate, Lord Hardie, was swift to point out in a reply to me that the procurator fiscal in Hamilton had taken steps in the previous November to ensure that the family's wishes for a cremation were granted, but that was little comfort to the family.

Despite the failings that the report has uncovered, it is vital that we look to the future to determine how we can improve the Procurator Fiscal Service in a manner that will ensure that such failures do not occur again. Money will undoubtedly be a consideration, despite recent assurances from the Crown Agent about the adequacy of funding, during an evidence-taking session on the budget. We also heard from the Solicitor General about the normality of the pressure of the working conditions at the Crown Office. That must change.

I welcome the recommendations that a victim liaison office should be set up within the next four or five years and that there should be better communication between the Crown Office and police at the most senior levels. My former committee convener, Pauline McNeill, made plain the concerns that a number of us shared regarding recent interactions.

The Conservative amendment to today's motion, which states that there should be a full review of the Crown Office and Procurator Fiscal Service, is

a vital step in taking forward the recommendations of the Campbell report. The prosecution was not handled competently by the Crown and the system is obviously under immense stress. Full-time prosecutors are required, who can dedicate all their time and energy to cases as required. If such a review fails to go ahead, there will be little hope that we can glean anything from the death of Surjit Singh Chhokar or from our debate today.

15:50

Kate MacLean (Dundee West) (Lab): It is intolerable that, after three years, we are still discussing this issue, wondering what we should do and agonising about it. It is intolerable because the Chhokar family are having to endure constant reminders of their terrible loss and are having to publicly parade their grief to get some kind of justice for their family. It is also intolerable because the black and minority ethnic community in Scotland is left wondering whether we have a two-tier system of justice in this country. Bill Aitken criticised Aamer Anwar for suggesting that we have a two-tier system of justice in Scotland but, if we accept the fact that institutional racism exists in the justice system, we must accept the fact that there is a two-tier system of justice.

Bill Aitken said that he hoped that more black and ethnic minority people could enter the Crown Office. On that subject, it is also intolerable that, despite the evidence of institutional racism in the wider justice system, some individuals seem unable to admit that it exists, let alone to take responsibility for dealing with it. In *The Scotsman* yesterday, it was stated that only five of the 428 members of the Faculty of Advocates are from ethnic minorities. A spokesman from the Faculty of Advocates said:

"Ethnicity is not something that is recorded. We are not a public body, advocates are self-employed. If there is a disproportionately low number of ethnic minorities at the faculty, that is because low numbers apply for membership. There is nothing we can do about that."

That says a lot about institutional racism.

Yesterday, I was at the Northern Ireland Assembly to meet people who were involved in what was happening in the chamber. I was in the public gallery and was also witness to the impromptu punch-up outside. It was interesting to look down on the debating chamber at the levels of intolerance and bigotry that were quite openly on display and which were worn by some people on the extremes as some sort of badge of honour. We think that we are better than that in Scotland, but the fact that bigotry and intolerance are not on show all the time and are not admitted to by people does not mean that they do not exist here, or make them less damaging or dangerous.

Having read the two reports, I have quite strong

opinions about both of them. I do not feel able to discuss the contents of the reports today because, as Lyndsay McIntosh said, the Equal Opportunities Committee has decided to hold a special meeting to take evidence on them. That meeting will be held at the location that is most convenient to Mr and Mrs Chhokar. Before the meeting, the deputy convener of the Equal Opportunities Committee, the reporter on race issues, Michael McMahon, and I hope to discuss with the family and their representatives any arrangements that we can put in place to make the day less traumatic.

I welcome the announcements that were made by the Lord Advocate this afternoon. In no way do I dispute the commitment of Colin Boyd, the Lord Advocate, and Neil Davidson, the Solicitor General, to dealing with institutional racism and setting in place procedures that will ensure that no family ever has to suffer in the way that the Chhokar family have suffered since 4 November 1998. However, there is still a great deal of unhappiness about the process and the content of the inquiries. Until that is addressed, we will not have closure.

I hope that the Equal Opportunities Committee can be open-minded and contribute to the debate in a way that is positive and sensitive to the feelings and needs of Surjit Singh Chhokar's parents and family.

The Deputy Presiding Officer: As time is short, I must ask that members keep speeches to four minutes.

15:54

Linda Fabiani (Central Scotland) (SNP): This case has wide implications for the Scottish legal system. It clearly demonstrates the gulf between that legal system and Scotland's ethnic minority communities. It also shows that many people in our communities feel distanced by our legal system. On page 199 of the Jandoo report, Assistant Chief Constable Pearson of Strathclyde police makes a statement that sums that up. I will summarise it. He says that the perception is that there are

"an absence of care ... no explanations of what is going to happen ... a lack of feedback and explanation".

We often hear complaints about communities failing to come forward with evidence of crimes in their areas. We also often hear that the communities are fully aware of who has perpetrated the crimes, as are the police. Often, the communities and the community police work together closely. Such cases fall for reasons that are never relayed back to the victims, their families or those who have come forward with information. Even well before the Chhokar case, there have

been many instances of co-accused appearing separately and blaming each other, which leads to no conviction being secured. I am not a lawyer; perhaps one of the many lawyers in the Parliament can explain that seeming absurdity at some time.

Dr Winnie Ewing (Highlands and Islands) (SNP): I will try.

Linda Fabiani: I thank Winnie Ewing.

In the Chhokar case, witnesses came forward and people were charged, but there was a systematic failure to detect and punish the guilty and to protect the innocent—whether victim, witness, or the people who loved and cared about the victim. Sadly, as Roseanna Cunningham and others said, that failure does not seem rare.

The legal procedure is daunting—any legal system would be daunting—and many people feel intimidated, alienated or disadvantaged by it. Sometimes, the cases of such people are taken up by other caring individuals who articulate the case and proceed with tenacity against all the odds. They sometimes articulate the case because the people who are victims or are traumatised feel that it is too painful to do so themselves. Sometimes the establishment turns on such people and demonises them. I believe that that has happened in the Chhokar case, but I thank goodness for Aamer Anwar and his like in communities and constituencies all over Scotland. More power to their collective elbow.

Individuals and communities are sometimes the victims of people on both sides of the fence in the legal system—prosecution and defence—who are too concerned with procedural gamesmanship. That procedural game is reported regularly in the press. Its functioning in the Chhokar case is detailed in the Campbell report.

Our legal system, in the guise of judges, is extremely keen to command respect and to punish anyone who demonstrates contempt for the system. However, respect must be earned, not commanded. Lord Hardie, the former Lord Advocate who presided over the initial debacle in the Chhokar case is now a self-appointed judge. How does he command the respect of those who appear before him in court?

Our legal system clearly needs root-and-branch investigation and reform. The Chhokar case clearly requires a public inquiry. I ask members to support the SNP's amendment.

15:58

Donald Gorrie (Central Scotland) (LD): The best way to make the Chhokar family feel that their son has not died in vain is to make radical reforms—based on the two reports and others that

flow from them—to put the Scottish justice system right and ensure that nothing similar happens ever again. There may have been an argument for having a public inquiry to start with. The Executive instead chose to have the two inquiries in private. They seem to have explored the case thoroughly and raised many important issues. I cannot think how another inquiry would be helpful.

I welcome the fact that, as its convener said, the Equal Opportunities Committee is considering the reports. The Justice 2 Committee is also considering them. Those committees can draw out some of the lessons that some interested bodies claim have not been addressed fully in the two reports, but we should get on with improving things. It is clear that there is a shortage of resources in the Crown Office and the legal system as a whole. As Gordon Jackson said, we must direct the money in the right way, not just pour money into the system.

I welcome the fact that Dr Jandoo says that there have been considerable improvements since the matter first arose. I also welcome the fact that, on a previous occasion, the Lord Advocate said that there had been a considerable increase in money for the Crown Office. However, we have to do more.

I know that there is a lot of competition for our limited resources, but a fair justice system is at the heart of any democracy, even if the odd road is not repaired in the meantime. The Crown Office and the legal system should take priority in the allocation of our resources.

My final point might reveal more of my prejudices than be a fact about the world. We have to consider the structure of our legal system as a whole. In particular, we need to work out our court system. The court system is run for the benefit of the lawyers and that is wrong. It is wrong that politics should be run for the benefit of the politicians or hospitals for the benefit of the doctors. The Chhokar case is a stunning example of the way in which our legal system operates, but many of us have come across smaller examples, such as the long delay before a case comes to court, the waste of police time—although that has been addressed a little—and plea bargaining. To the intelligent layman, much of that appears unacceptable.

We have to consider our legal system and build on the lessons learned from this unfortunate event and the inquiries arising from the murder in order to make a change. There are various individual cases in British and Scottish history that have produced change. I hope that this case can be one of those and that it will go down in the history books in the future.

We have to get a grip on the lawyers.

16:02

Karen Gillon (Clydesdale) (Lab): It is with no pleasure that I speak in the debate. It is a damning indictment of our justice system and of the handling of the prosecution of those responsible for the murder of Surjit Singh Chhokar that either of the reports should be required or that the debate should be necessary.

The impact of the case has been felt throughout Scotland, particularly in communities throughout Lanarkshire—communities that know the Chhokar family or knew Surjit Singh Chhokar. There was obvious concern that such a terrible, violent murder should have taken place and an equal concern that those believed to have been responsible for Mr Chhokar's death were not brought to justice.

The impact of Surjit's death has been felt hardest by and caused most pain to Mr and Mrs Chhokar and their family. We must pay tribute to them and to the work that they have done to bring us this far. We can only imagine what it must feel like to have a child taken away in such horrible circumstances. The Chhokar family live with that every day. Their pain must be compounded when justice is not even seen to have been done. Mr Chhokar said recently that the children in the street knew who killed his son. The system has failed him, his family and the community in which those responsible still have their freedom.

I have always had two main concerns about the case. First, the treatment of the family has been ineffective, inappropriate, insensitive and—at times—downright offensive. In a multicultural society such as ours, it is unacceptable that staff in key positions are not aware of Sikh customs. It is equally unacceptable that no translation was available to the family initially at the trial and that letters were sent to the family in a language that was not their own and in which legal terms that many members of the Parliament would find difficult to understand were used.

Our justice system must become more accessible to victims of crime and to their families. Improvements must be made—we cannot allow other families to be treated as the Chhokars have been. I welcome the role that the Parliament's Equal Opportunities Committee can play in advancing those matters. I welcome the fact that it will come to Lanarkshire and that the Chhokars will be able to put to it their side of the story.

The second aspect of the case that most concerns me is the prosecution. Perhaps others cannot say that all three men should have been tried in the same way at the same time, but I can and I will. It was clear from the outset that all three men were involved. Throughout both trials it has been clear that all three men were involved and

that one or more of them murdered Surjit Singh Chhokar. They should have been brought to trial together. No one can say how such a trial would have ended, but if all three accused had been in the dock together, that would have avoided the farce that unravelled during the two trials and the obvious contempt that they showed for our justice system. I believe that justice would have had a much better chance of being done if all three men had come to trial together.

Those facts have been noted, but we must move on. The Lord Advocate and the Minister for Justice are aware of my concerns about the working of the procurator fiscal's office in Hamilton, in relation not only to this case but to others. There are clearly issues surrounding the work load at the fiscal's office, as the reports have highlighted. Those issues played a major part in its failure.

I say to the minister that we need to re-examine the situation. It may be that additional resources are required. If not, we must examine the workings of the Hamilton office and how it handles its work load. We must also consider more closely the liaison between the local fiscal's office and the Crown Office, which has clearly failed the bereaved family in this case. Mistakes cannot be allowed to happen again. I welcome the fact that the Justice 2 Committee is taking those matters on board.

This morning, the Commission for Racial Equality gave a briefing. It made a number of valuable points and identified two potential ways forward. The first is to hold a public inquiry. The CRE has contended from the outset that there should be one. However, it says in its briefing that it would need to assess carefully the benefits of undertaking a full public inquiry. I share that view.

The second option is to form a review forum to allow people with expertise in race matters to scrutinise the reports and their recommendations. I would welcome ministers' and the Lord Advocate's comments on that proposal. I believe that the involvement of lay advisers with experience in race matters would have helped build the family's confidence in the inquiries from the outset and I think that that is worthy of further consideration.

It is clear that justice has not been done either to the Chhokar family or to Surjit Singh Chhokar himself. Whatever happens from here on in, no other family should suffer in the way that the Chhokar family have. The Parliament has the responsibility to ensure that that is the case

16:07

Mr Kenneth Gibson (Glasgow) (SNP): On 25 October, *The Scotsman* had four separate articles relating to the murder of Surjit Singh Chhokar,

following the Lord Advocate's statement in Parliament the previous day. One of the headlines was:

"Catalogue of incompetence and failure".

Another was:

"Chhokar family broken-hearted by verdict".

Like so many families who have come to Scotland in search of a better life, the Chhokars would have had faith in their new country, in its institutions and in its sense of justice and fair play. That faith has been sadly betrayed.

Surjit Singh Chhokar was a victim not just of those who dealt the fatal blow, but of a system that failed to provide justice for the family by ensuring that the perpetrators of this heinous crime were punished. Indeed, Mr Darshan Singh Chhokar said of the reports by Dr Raj Jandoo and Sir Anthony Campbell QC:

"They offer me and my family nothing whatsoever. I do not understand how they can say these things about us when my son is dead".

The family has waited years for justice, yet insult has been added to injury in the reports.

The Lord Advocate stated today that the reports are "robust, comprehensive and authoritative". However, there have been concerns throughout that the inquiries were carried out in private, and that Surjit's sister and parents did not give evidence to Dr Jandoo.

Individuals who were criticised in the Jandoo report have not been given an appropriate opportunity to put forward their views. Given the controversy surrounding the appalling way in which the Crown Office handled the Chhokar case, surely the only way to ensure the best possible resolution and the clearest way forward is to hold a public inquiry, as demanded not only by the CRE and the STUC but—significantly—by the Chhokar family themselves. As Shona Robison said, public scrutiny is vital.

The Lawrence inquiry was an important catalyst in creating a real climate for change and for society to face up to racism in its midst.

The issue of resources has been raised—rightly—by a number of members. Although additional moneys will be invested by the Crown Office, it is important that resources keep up with demands on the service. As has been said by Jim Keegan and today by Roseanna Cunningham, if fiscals are not to be placed under unbearable pressure, and if there are not to be year-on-year increases in cases marked "No proceedings", resources must not simply be increased above the rate of inflation, but increased so that the system works well and not just adequately. Victims and witnesses must be able to see that justice is being

done and the system must have time to treat people with sensitivity, humanity and justice.

16:10

John Young (West of Scotland) (Con): I extend my sympathies to Mr and Mrs Chhokar and their family.

Some years ago, I entered a large hotel in the Soviet Union and was astonished to see that staff were still using an abacus to calculate guests' bills and exchange rates. I wonder whether today the Scottish legal system is still in the abacus age.

There are three Queen's counsels and half a dozen solicitors in the Parliament. Some of them, such as Gordon Jackson, have appeared in high-profile cases. Almost all the MSPs who are members of the legal profession have had long experience of it. Do they detect that the amount of paperwork involved has drastically increased? Do they find that the added burden of conventions such as the European convention on human rights and other aspects of court procedure are clogging up the system to such an extent that it is failing? Added to that, there has been an increase in crime.

Mr and Mrs Chhokar have every right to feel aggrieved. Their son is murdered in the street, but no one appears to be responsible. A huge report of several hundred pages is produced, which, apart from the English language version, includes translated sections and photographic reproductions.

Parts of the Jandoo report discuss whether this was a racist attack. If several white men attack a coloured man, that is the obvious conclusion to draw. However, if several coloured men attacked a white man, the word "racist" would hardly ever be used. Assuming that the parts of the report to which I refer are correct, this was not a racist attack. However, we cannot be certain of that because no one has been convicted of Surjit Singh Chhokar's murder.

Some sections of our population deal with the legal profession only to make wills or to buy and sell property. Others are constantly in and out of court on criminal charges; in some cases, they have acquired almost as much legal knowledge as their defence team. However, the great mass of people never appear in court, if we exclude jury service and appearing as witnesses, and their knowledge of the legal system is derived from newspapers, television and radio. As a result, they become cynical about what they see as an old boy network—a cumbersome body suffocated in paper that is very secretive. This Parliament has always spoken about transparency and openness. The legal fraternity should take note.

If my son had been lost in the way that Mr Chhokar junior was and no one had been brought to book, it would be almost impossible for me to come to terms with my grief and anger. Let us invest extra resources in the Crown Office and Procurator Fiscal Service, by all means. However, there must be results. Never again should essential members of the Crown Office and Procurator Fiscal Service be unable to carry out their functions in a proper and effective manner.

It may be that in the past insufficient attention was paid to the inner workings of the legal system in Scotland. Rightly or wrongly, I have heard about key individuals having only a few minutes to absorb weighty problems in detail. That is like a surgeon having virtually no information before a major operation. It is not fair to the victim, to the victim's family or to the forces of law and order.

The term "institutional racism" should have been clearly defined from the outset, as the lack of such a definition has led to too much conjecture.

In the eyes of many, justice has not been done in a number of areas. The Lord Advocate's speech had encouraging features, but we should never lose sight of the words "justice" and "humanity". One of Churchill's many utterances—"action this day"—is most appropriate at this time.

16:14

Stewart Stevenson (Banff and Buchan) (SNP): Today's debate has focused on resources—on their quantity and quality and how we deploy them. Value for money is the Government watchword these days. That means balancing efficiency against effectiveness.

In this sorry tale we have seen neither efficiency nor effectiveness. The Chhokar family's loss remains unrequited. It is not for nothing that members of the Sikh religion proudly carry the name Singh, meaning lion-hearted. This family has indeed had to have a lion heart.

Some good things are going on, but—alas—only for criminals. Kenny Gibson raised the issue of the number of cases that are marked for no proceedings. I have examined the numbers. I am sorry that Jack McConnell is not in the chamber to verify my figures, as he is the only Labour member who can count. I will pass them across if the minister wishes to see them.

Can members believe that, if current trends are maintained, in 15 years' time—although I suggest it is unlikely—100 per cent of cases that are referred to the Crown Office will be dealt with either by non-court disposals or by no proceedings? Is that good for justice or for families such as the Chhokars, who have been let down by justice? No. Given Labour's stewardship of the

legal system in the past four years, however, that is the stark reality.

If my numbers are projected, by 2016, 72 per cent of cases will receive a non-court disposal and 28 per cent will be subject to no proceedings. Furthermore, by 2011, the district courts will receive no referrals at all. Those are the trends against which we are dealing with these problems.

We hear that there is more money; perhaps that is true. Let me strip back new Labour's clothes. By coincidence, on 17 July 1998, Jim Wallace asked Donald Dewar for information about Scottish Office expenditure. In 1993, the Crown Office received £50 million, an amount that descended gently on a real-terms basis to a projected £46 million in 2001-02.

In evidence to a meeting of the Justice 1 Committee and the Justice 2 Committee, the Lord Advocate said that he wants a service that is

"professional, independent, efficient, well resourced, well managed and has the confidence of the community."—*[Official Report, Justice 1 Committee and Justice 2 Committee, 19 September 2001, c 104.]*

In a thoughtful and well-informed speech, Gordon Jackson said that we should front-load the system. However, the numbers suggest that the service is not yet well resourced and that we do not have a grip on it.

In light of the events surrounding the Chhokar case, we can be sure that some important segments of our community have little confidence in our justice system. The irony of Jim Wallace's question to Donald Dewar was that it was asked in the context of the document "Serving Scotland's Needs". In the context of the Chhokar case, we have not served Scotland's needs well or the needs of the Sikh community and our other minority communities.

We have talked about the 110-day rule, which is a genuine metric target against which our justice system should be measured. We have heard about the pressures that exist in the justice system and that are created by that target. We should use it positively to ensure that the system gets resources. Today, the Executive should tell us that the 110-day rule is not under threat and that there are no plans to change it.

When our legal system is good, it is very good. When it is bad, it is very bad. In this case, it has been very bad.

16:18

Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab): On Sunday, I visited the East Pollokshields Multi Cultural Community Centre with the local MP and MSP. I heard the Solicitor General for Scotland speak to an audience that comprised

representatives of Scotland's ethnic and cultural minority groups: Jewish, Chinese, Hindu, Muslim, Sikh and Buddhist. Another speaker highlighted the fact that, although we had been brought together on a wet Sunday night by the sad circumstances of Surjit Singh Chhokar, the extent to which Scotland was changing was demonstrated by the fact that a Scottish law officer had come to discuss the Jandoo and Campbell reports. The speaker doubted that that would have happened 10 years ago.

My next-door neighbour, Judith Tankel, of Jewish Concern, made a telling point. She cautioned against smugness on the part of those who looked at what had taken place around the inquiries and said that she had been impressed by the positive tone and by the information about the steps that were being taken in the Crown Office and Procurator Fiscal Service to ensure that lessons were learned. She wondered what prospect there was of the full anger and upset of minority communities being reflected in an all-white Parliament and asked whether we were staffed by an all-white staff. I did not know that answer to her questions, but I think that I can guess that the representation of ethnic minorities in the Parliament is no more impressive than it is in the Procurator Fiscal Service or the Crown Office.

I told her that I hoped that many MSPs were keenly interested in working together to ensure that we take serious crime seriously and that our public institutions properly reflect Scotland. That would include ensuring that our judiciary, our police, our prosecutors and, indeed, this Parliament look more like Scotland. I hope that that will be true.

As Kate MacLean said, some myths about Scotland have been punctured since devolution—myths that suggest that sectarianism affects only football fans, that refugees receive a universally warm welcome and that institutional racism is an English thing. Those myths needed puncturing. We know that tolerant, decent and civilised societies in which all our people are valued do not just happen; they are built by people working together. I hope that, working together, we can build one.

I had hoped that, even at this late stage, David McLetchie might be prepared to reconsider the highly ill-advised words that he made in the chamber on this subject. In the main, Bill Aitken's contribution was measured, but I had hoped that, before he sat down, he would attempt to rectify the serious damage that David McLetchie did to the Tories' stance and to cross-party co-operation on this issue by his intemperate remarks on institutional racism. Will any Tory members at some stage try to reclaim some respectability for

that increasingly small band of moderate Tories, or are we to accept that the Falange has now triumphed and is fully ascendant in the Tory party? We all detected a stunned silence from the more moderate back benchers, even from some who are not yet prepared to depart. We still have an opportunity to take a purposeful and determined cross-party approach on the issue.

I say to Bill Aitken that anyone in the Faculty of Advocates or the Crown Office who is prepared to be even mildly self-reflective knows that both institutions—like others, including this Parliament—are just too white. However, many are drawn into public service in the Crown Office by their commitment to having a modern, efficient and effective prosecution service.

I welcome the call in paragraph 24.20 of Dr Jandoo's report for better systematic research into the incidence of racism. I would like to hear what ministers plan. I accept what has already been done, but will the Lord Advocate also look into the case management issues that Sir Anthony Campbell's report highlighted? Can Sir Anthony be assured that, if additional resources are needed, ministers will support such demands? Can the Lord Advocate confirm that any reference group will have links to the Glasgow High Court users groups and to the victim liaison service? Will the Lord Advocate and the Minister for Justice work with the Home Secretary in relation to incitement to religious hatred? It is intolerable that the Chhokar family were attacked in the manner that Roseanna Cunningham described. We cannot say that we can prevent that from happening again, but we can say that we will try.

16:23

Dr Winnie Ewing (Highlands and Islands) (SNP): I was glad that I was one of the many who corresponded with the Chhokar family. I am proud of that and I am proud that I continue to support them through their various ordeals. I admire, as others do, their tenacity and dignity.

As a lawyer who practised in the criminal courts, mostly in Glasgow, and in the High Court during the 1960s and 1970s in many prominent cases, I feel sad about this blot on the judicial system of Scotland of which I am very proud and in which I was proud to serve. I was a defence lawyer, and we regarded ourselves as officers of the court who were there to do a public service in supporting our clients, who were often on the poor roll or on legal aid. I was very proud of the Procurator Fiscal Service. I still am. That service has shown enormous honesty and integrity. I do not know of one corruption case against the Procurator Fiscal Service in its whole history. I know about other systems of prosecution in Europe and I can say that our system is unique in that respect.

As we attack this case and all that went wrong, we should not fail to realise how dedicated the procurators fiscal are. We do not need to look further than the procurator fiscal who was so courageous in his frank assessment of the stresses that made him resign and in his appraisal of the shortcomings due to the overburdening of the service.

In my time—and that is going back a bit—we had seven or eight trials set down every day. The judge expected it that way. Mr Gorrie said that that was for the benefit of the lawyers, about whom he made some rather cheap jibes. I suggest to him that it was probably for the benefit of the sheriffs who disliked wasting a minute of their time. As a result, far too many trials were set down and only one or two were taken. All the police and witnesses waiting in uncomfortable waiting rooms were sent away and brought back again. That was then. How much worse must it be today when the burden is even greater?

One of the reasons for all that was the fact that there was no time for pre-meetings. In my time, in the run-up to a trial, the fiscals tried hard to give defence lawyers an opportunity to plea bargain—something that Mr Gorrie seemed to feel was disgraceful. The chance to talk to the fiscal in advance often meant that the trial could be eliminated altogether, without anyone losing their rights. That is what things should be like.

What is happening today? Apparently the fiscals do not have time to give pre-meetings; they have too many trials to deal with. Even when there is time for a meeting, they do not have the statements ready that they need for a meaningful discussion. I am sure that all the lawyers in the chamber would agree that that is one of the problems that the Procurator Fiscal Service faces.

There are too few fiscals and there are too many cases. There are too few administrative assistants and the fiscals often cannot get their statements typed out. The problems are elementary but have a bearing on achieving justice. The pressure on the Procurator Fiscal Service is enormous.

I do not find the Procurator Fiscal Service or the police to be racist, but I think that the Chhokar family is the victim of an enormous series of injustices. This is of no comfort to the Chhokar family but, this week, the Public Petitions Committee heard about a case almost equal to that of the Chhokars—the case of Marilyn McKenna, who was murdered by a stalker. The man was convicted, but there was a retrial because of a misdirection; the case has been postponed 12 times and each time the witnesses—some of them young—had to attend one of the five different venues. I say to the Chhokar family that sometimes the blot extends beyond a black family to a white family and that it

is no better in one case than in the other.

I support the call for a public inquiry. What is against it? Is it the expense? Is it possible to get justice on the cheap? In my experience, the demands for a public inquiry do not go away, they just get stronger. I do not know what is wrong with the Executive: it professes openness yet refuses to have a public inquiry into foot-and-mouth or salmon farming, just as it refuses to have a public inquiry into the Chhokar case, when that is what all sensible voices in society are calling for. In a public inquiry we can assess what the other evidence is. That is what is lacking in private inquiries, good as they may be. I support the STUC and others who call for a public inquiry.

The Deputy Presiding Officer: We now move to the closing speeches.

16:29

Pauline McNeill (Glasgow Kelvin) (Lab): I sat in the public gallery at the second trial of David Montgomery and Andrew Coulter—a trial that seemed doomed from the outset. I supported the Chhokar family and their campaign then and I support them now. I support them for their courage, because that courage has given the Parliament the opportunity to examine the failings of the process and to expose the Crown Office's appalling treatment of families. That gives other families hope that things might change. Above all, the campaign has made us question how we deal with black and ethnic minorities. If it were not for the campaign, the pressure would not have been sufficient for a proper examination of what has happened.

I believe that publicly attacking the campaign spokesperson detracts from the real issue. However, I do not support the demand for a public inquiry, because some of the recommendations have to be acted on now. It is for Parliament to examine the reports, which are far-reaching in their criticisms of the justice system.

The SNP amendment does not say what more could come out of a public inquiry than has already come out. It is Parliament's job to demand action on the recommendations in both reports and for those recommendations to be properly integrated with the recommendations of the Macpherson report on the Stephen Lawrence case. The police service has already begun to implement some of the recommendations about training on race awareness. It is Parliament's job to go further than the recommendations if necessary, as ultimately politicians have the responsibility for eradicating all types of racism and for overseeing the quality of our justice.

Tommy Sheridan: I acknowledge that Pauline McNeill has been one of the forthright supporters

of the family's campaign from day one. Does she accept that the issue of the public inquiry will not go away? A public inquiry is still the desire of the family and of the STUC. Does she still believe that the Scottish Executive should not close its mind to a public inquiry?

Pauline McNeill: I am expressing my opinion, which is that I do not believe that the objectives have been set for a public inquiry. Of course, I have accepted all along that a public inquiry has been the family's wish. I was simply expressing my own opinion. I do not know what the argument for a public inquiry is, but I do not want that to detract from the overall support that I give to the family's campaign and to what it has achieved.

I am not surprised to read about the heavy pressures on and the under-resourcing of the prosecution service. The Justice 2 Committee will add its voice to those issues in the coming months. However, it is missing the point to suggest that only the allocation of resources will address the weaknesses in the system. There has to be a change in the culture of the Crown Office, which operated behind closed doors in the days before devolution. We will not go back to those days. We have the opportunity to have a Crown Office that is open and transparent.

The SNP amendment refers to the need to restore public confidence. That is an important point, but we will restore public confidence by the eradication of institutionalised racism and racism of any sort when we address the urgent need to recruit more black and ethnic minority people. When the public can see that there is an open, transparent and independent prosecution service that is adequately resourced and that has experienced fiscals and advocate deputes, public confidence will be restored.

For the sake of the wider public interest, many other families have recounted shocking stories about their experiences as next of kin in murder trials. We must examine the bigger picture.

I wish to say a few words on the Campbell report. The legal principle of acting in concert, or art and part, is complex, as Gordon Jackson said. He is right to point out that it is easy in hindsight to say that the three accused should have been indicted together, but what is clear from the Campbell report is that there is a stunning lack of clarity in the decision-making process. The allocation of the precognition to a fiscal who had no training as a precognoscer raises serious concerns. Many key decision makers did not complete all the reading that was required to take a proper decision, and the fiscal who cross-checked the precognition before it went to the Crown Office did not have the opportunity to read all the papers. The evidence itself was not thoroughly investigated and, according to

Campbell, the law officers in a complex case were not asked to give their opinion.

Whatever has happened—regardless of whether one feels that the three accused should have been tried together—under no circumstances can that quality of decision making serve to give the public confidence. For that reason, I accept the nine recommendations in the Campbell report. However, we should go further, because we have to recognise that fiscals have serious powers and that every day they make important decisions about people's lives—they have those lives in their hands. I say to the Lord Advocate and the Solicitor General that we have to address the issue of fiscals having sufficient time to make quality decisions and to do their jobs.

Finally, I wish to talk about racism. Work has already started, but it cannot progress quickly enough for the vast majority of members. The problem cannot simply be a question of resources, because we all know that it is about fundamental attitudes—attitudes that we need to change.

The Solicitor General and Brian Fitzpatrick are correct to say that there are too few non-white faces in the prosecution service. As a feminist, I argue that women do not have equality because they are absent from levels of power and decision making in society. I would be inconsistent if I did not argue the same for race.

I have to confess that institutionalised racism is a new concept to me, but it is something about which I am beginning to learn. I believe that we must get the concept of institutionalised racism across to people. The concept is fairly new, but it is important and we must give people a common understanding of what it means. However, I do not want to indulge in a debate about which definition is important. The important point is that racism is not always direct—sometimes it is indirect and subtle. That is the message that we must get across. We know that racism exists in Scotland and that Scotland is not a safe haven. Racism can come about in subtle ways.

The reports are far-reaching. We have an unprecedented opportunity to examine the Crown Office and Procurator Fiscal Service and our general attitudes to the race question. The case provides a greater platform to examine the way in which other families have been treated. We must thank the Chhokar campaign for that.

16:36

Phil Gallie (South of Scotland) (Con): When I look back at the failures of the second trial in the Chhokar case and at the Lord Advocate's comments, I acknowledge that I felt at the time that we would have benefited from a public inquiry. However, the fact is that we set up two inquiries—

Sir Anthony Campbell's and Dr Raj Jandoo's. Now we have two reports. As Kate MacLean suggested, we must move on. We must not just recognise that the reports are significant, as the Lord Advocate said, but ensure that they have an impact throughout the justice system. It seems to me that that is the intent of Mr Wallace's motion, which shows good will and the intention to go forward positively. Bill Aitken's amendment adds something to that and I am a bit sad that the Lord Advocate did not accept it, although it is not too late for him to do so.

Many aspects of the Campbell report give cause for great concern. The Lord Advocate made the point that, with respect to recruitment in the prosecution service, there has been a 22 per cent increase in staffing. I am not sure whether he said how many additional people have been recruited, but I would like to know how many individuals left the Crown Office and Procurator Fiscal Service over the period of the percentage increase in staff. The problem of retention of staff is a serious one that must be addressed. I will come back to that subject later.

What stands out in the Campbell report is the haphazard way in which the Chhokar case was prepared. The problems that that indicates are the fundamental issue that we must address above all others. We are told that it is not possible to alleviate completely the work load pressures, but we are also assured time and again by the Lord Advocate and the Solicitor General that all is well in the Crown Office and Procurator Fiscal Service. At meetings of the Justice 1 Committee held in May 2001, we received assurances that budget provision was sufficient, that recruitment numbers were well up and that there would be no problems in the future. I would like to think that that is the case, but if we are to get the kind of prosecution service that we require, a heck of a lot of training has to be done. I just wonder where that massive amount of training is recognised in the budget figures.

I have some sympathy with the Lord Advocate. He picked up the Chhokar case at a difficult time, when Lord Hardie stepped out of it, and when he also had the difficulty of inheriting the Lockerbie case. I congratulate him on handling both situations well.

The Campbell report, the lack of continuity and the pledge that the Lord Advocate has given show that other aspects are involved. The victims felt cheated by the results of the trials. If the accused had been considered to have suffered technical difficulties, the appeal process would have been available to him. If those technical difficulties were accepted on appeal, it is more than likely that the accused would be acquitted.

The scenario for the victims is different. When

something goes wrong technically for victims, and the accused people are, if not vindicated, released by the courts, questions remain in the victims' mind about who was responsible and why individuals who were perceived to be guilty were allowed to go free. Perhaps the controversial argument for double jeopardy should be considered in future. I know that the Lord Advocate does not go along with that, but perhaps we should consider it, in the interests of justice.

I go along with Winnie Ewing's comments on institutional racism. As she said, people in the services involved have no deliberate racist feelings. I recognise that misunderstanding is often at the centre of such matters, and we must address that.

Gordon Jackson's comments terrified me. He described the law as I perceive it—a just law that can solve the problems of those who feel victimised by others or by the system—as a system that is not working. Gordon Jackson's words must be analysed.

If all the troubles and adversity that the Chhokar family have faced result in a good outcome from the two reports that we are discussing, the Chhokar family will be able to take a little comfort and we will owe them a great debt.

16:43

Michael Matheson (Central Scotland) (SNP): I am sure that no one in the chamber fully appreciates the pain and anguish that the Chhokar family have suffered because of the loss of their son. Some three years on from the date of their son's murder, two court cases and two reports later, the family continue to feel a great sense of injustice. It is understandable that they feel that our criminal justice system has let them down.

As several members did, I pay tribute to the family for the determination that they have shown in the pursuit of justice for the death of their son and for the dignified manner in which they have conducted themselves throughout this difficult period.

I agree with the Lord Advocate that the reports are significant, because they catalogue serious failings in our prosecution service. Insufficient resources are the root of several of those failings. No family that has lost a loved one, as the Chhokar family has, should experience the systematic failure of the prosecution service in dealing with their case.

Several members asked why our prosecution services failed a family so dramatically. The strains have been on our justice system for some time. Several members referred to specific signals, and the evidence is clear for all to see. For example, the number of cases marked "No

proceedings" has risen by 19 per cent over the past four years. More casual staff are working in the service to deal with the additional work load. The number of cases sent to the district courts has fallen by 30 per cent in the past four years. Regulatory cases on health and safety and environment matters very often have a low priority or go unprosecuted. Furthermore, there are delays in court because of the Procurator Fiscal Service's difficulties in making suitable arrangements.

All those factors point to a service that is under ever-increasing pressure and that is struggling to cope with the demands that are being placed on it. If we are to ensure that the service has adequate resources, we must tackle the problems that have been highlighted.

In his evidence to the Justice 1 Committee and the Justice 2 Committee in September—and again in today's speech—the Lord Advocate admitted that the Crown Office's own staff survey found that there was low morale among staff; that they were finding it difficult to cope with the heavy work load; and that they felt that they were undervalued. As Gordon Jackson pointed out, we cannot afford to place the staff in our Crown Office services in such a position. If we expect to get the best from the many dedicated staff in the prosecution service, we must ensure that they have the resources to do the job properly. Although the two reports will not solve the problems that have been highlighted, they detail the ways in which the system has failed and point out that the staff are doing their best to cope. If the system is ill, there is no point in merely treating the symptoms with new initiatives; instead, we must deal with the root causes of the problems and ensure that we have the resources to do so.

Like the Chhokar family, the CRE and the STUC, I do not believe that the reports carry the confidence that is necessary to create the climate of change needed in Scotland. Kenny Gibson referred to the Home Secretary's decision to establish a public inquiry into the Stephen Lawrence case, which was based on the need to create such a climate of change. I believe that the same kind of inquiry was needed in Scotland.

The Lord Advocate stated that one of the reasons why he chose not to have a public inquiry was that it took 18 months to complete the Stephen Lawrence inquiry. I would be more inclined to have a public inquiry, to ensure that we get things right from the very start instead of moving along quickly and then finding out that only half the job has been done. Furthermore, given the serious allegations that have been made in the Jandoo report against certain individuals in the Chhokar family and involved in the Chhokar family justice campaign, a public inquiry would have at least afforded those individuals the opportunity to defend themselves.

I hope that, at this point in the whole affair, ministers will take the opportunity to listen to those who have expressed serious concerns about the way in which the inquiries were conducted in private. I also hope that, when the Minister for Justice winds up, he will detail the additional resources that will be provided to our prosecution service to address the failings that have arisen in the system because of a lack of resources.

Although I welcome the fact that the Executive has decided to implement the reports' recommendations, there continues to be considerable mistrust among members of Scotland's ethnic minority communities about the workings of our prosecution service. The way to rebuild that bond of trust is to have a public inquiry into the handling of the Chhokar case. I hope that, at this stage, the Minister for Justice will take the opportunity to rebuild that bond.

16:49

The Deputy First Minister and Minister for Justice (Mr Jim Wallace): I am grateful to MSPs for their contributions to this afternoon's debate. I am sure that those who have sat through it will agree that it has been a constructive debate on what is a difficult but important subject.

When one is speaking about a report, often the natural thing is to welcome the report and its recommendations. However, it is difficult to welcome something that has its origins in the tragic murder of a young man. Like Michael Matheson, I am conscious that a young man has been murdered, his family have grieved and no one has been convicted of that murder. It is, therefore, quite understandable that his family have a burning sense of injustice.

In the Parliament and in private, the Lord Advocate and I have expressed our regrets and apologies to the parents and other family of Surjit Singh Chhokar. I repeat those apologies and again pay tribute to the campaign that they and their supporters have conducted with considerable dignity. Like Roseanna Cunningham, I hope that some of the reforms that are introduced as a result of those efforts and the reports will give them some comfort.

I want to repeat thanks to the authors of the reports. Sir Anthony Campbell and Raj Jandoo have both carried out thorough and authoritative inquiries into a sensitive and difficult case. Indeed, George Lyon mentioned that no stone had been left unturned. They have been far-reaching inquiries; no one who has read the reports can be in any doubt about the detail that they go into. They do not pull their punches and they present a comprehensive and compelling account.

I have listened to the appeals for a public inquiry. In his opening remarks, the Lord Advocate gave a number of reasons why he thought that inappropriate. It is instructive that, despite the number of appeals in today's debate for a public inquiry, no one has suggested that there are any material facts that have not been addressed in either of the reports.

Tommy Sheridan: The Scottish Trades Union Congress has announced that it intends to raise money to conduct a public inquiry. Will the minister co-operate with it if he is asked?

Mr Wallace: If I am asked to give evidence and if there is anything relevant that I can give, I will certainly give it, but I do not think that there is anything that I could give. I do not believe that a public inquiry will take matters forward in any meaningful way. We believe that the important thing now is to address the recommendations and to move forward on that basis. There will be follow-ups. The Stephen Lawrence working group, whose most recent meeting I chaired this morning, agreed that at its next meeting next month it will consider progress reports on all the recommendations, with a view to considering what further action may be appropriate. The Solicitor General for Scotland has already undertaken preliminary discussions with certain racial equality councils and the Commission for Racial Equality on how the recommendations can be implemented. He is meeting the CRE at the end of this month to cover that issue and will meet the racial equality councils to discuss the recommendations of the reports.

Phil Gallie: Does the minister agree that his objective is in line with David McLetchie's, which Mr Fitzpatrick referred to, that at the end of the day, our justice system should treat everyone equally, regardless of race, colour or creed?

The Presiding Officer (Sir David Steel): Before the minister responds, I say to members that, as the minister said, this has been a very high-level debate. Members who have just arrived should have the courtesy to listen to what is being said and not have conversations.

Mr Wallace: I found Mr McLetchie's statement at question time a fortnight ago, when he denied the existence of institutional racism, highly unacceptable. It is that kind of complacency that allows institutional racism to breed. I hope that, on reflection, Mr McLetchie recognises that he made a profound error when he said what he did. It is the intention of the Executive to tackle racism—be it individual or institutional—wherever it occurs, because racism has victims who are often the most vulnerable members of our community. We are therefore determined to root it out wherever it is.

It is important that we consider the recommendations and how we can implement them. The Lord Advocate noted, quite properly, that a large number of the recommendations relate to the Crown Office and Procurator Fiscal Service. He concentrated on that in his remarks. The Lord Advocate, the Solicitor General and I have noted the comments made by a number of members from all parts of the chamber on the question of resources.

It is important to recognise that there was a historical legacy. I do not want to start exchanging party political blows in a serious debate, but it is the case that, although the Conservatives put money into police and prisons, they ignored the critical prosecution service for many years. I was the parliamentary adviser to the Procurators Fiscal Society at the time and I have a clear recollection of the resource issues that were being raised then.

No one is complacent. That was quite clear from what the Lord Advocate said. It is important to recognise that the baseline for the Crown Office has gone up from £47 million in 1997 to £61 million this year. That is an increase over four years of more than 28 per cent. Phil Gallie asked about people leaving and joining the service. The Lord Advocate advises me that people leaving the service has not been identified as a serious problem. Indeed, the net increase in legal staff employed by the Crown Office and Procurator Fiscal Service since the tragic death of Surjit Singh Chhokar in November 1998 has been some 22 per cent.

Those are facts. I am not saying that we are complacent about them, but Gordon Jackson made a highly appropriate contribution when he said that, if it is a question of additional resources, we should not take a scatter-gun approach, but ensure that resources are well focused and targeted. Parliament will have heard the Lord Advocate indicate that work has begun on ascertaining additional costs to the service and on implementing the recommendations in the Jandoo report. That will be informed by the review of resource planning and management that is currently under way in the Crown Office.

I shall refer to a number of the police aspects of the recommendations. Several members have said that, in many respects, the actions of Strathclyde police are praised by Raj Jandoo's report. My experience of working with the Scottish police, particularly on the Stephen Lawrence working group, is that chief police officers in Scotland take racism very seriously indeed and have come forward with a number of initiatives to address racism and the race-related issues that our police face.

Today, at the most recent meeting of the steering group, the Association of Chief Police

Officers in Scotland gave its reaction to the recommendations of the Jandoo report. As Dr Jandoo acknowledges, the police service played an active role in contributing to his inquiry, and they welcome his report as an opportunity to consolidate, strengthen and continue existing work in police race relations. The police have also indicated that they intend to add a new permanent standing committee to their current structure to examine race and community relations issues. That new standing committee will come into effect during the course of next year and will ensure that race and community relations are given a permanently high profile on the policing agenda.

A number of other issues have been raised. It is accepted that issues such as translation can make matters even worse for victims from our ethnic minorities. There is no doubt about our commitment to recognise the importance of the victim in the criminal justice system. Over many years, some victims have not been given the attention that they deserved. The sort of experience that Roseanna Cunningham's constituent had is not acceptable. Our strategy for victims and the action plans of various bodies in the criminal justice system are intended to ensure that the proper place of victims is recognised and that strategies are devised accordingly.

I tell Brian Fitzpatrick that much research is being carried out and that more is planned. For example, research into ethnic minority experiences of stop and search is being finalised. I tell Bill Aitken that, as the Lord Advocate said, a number of reviews are under way in the Crown Office. To overlay them with yet another would probably hinder rather than help the operation of the Crown Office and Procurator Fiscal Service. I therefore invite the Parliament to reject both Bill Aitken's amendment and Roseanna Cunningham's amendment.

I thank members for their contributions to what has been an important debate. The reports mark a significant point for the criminal justice system in Scotland. As Roseanna Cunningham said, we have reached a significant turning point. The recommendations can be a signpost to a better criminal justice system. The Executive is determined to introduce the improvements that have been identified in the reports, and I commend the reports to Parliament.

Parliamentary Bureau Motion

The Presiding Officer (Sir David Steel): We move to consideration of Parliamentary Bureau motion S1M-2411, on the designation of lead committees.

Motion moved,

That the Parliament agrees the following designations of Lead Committee—

Justice 1 Committee to consider the Legal Aid (Employment of Solicitors) (Scotland) Regulations 2001, (SSI 2001/392); and

Justice 2 Committee to consider the draft Sheriff Courts (Scotland) Act 1971 (Private Jurisdiction and Summary Cause) Order 2001; and

Justice 2 Committee to consider the draft Small Claims (Scotland) Amendment Order 2001.—[*Euan Robson.*]

Decision Time

17:00

The Presiding Officer (Sir David Steel): I have four questions to put to the chamber as a result of today's business.

The first question is, that amendment S1M-2406.2, in the name of Roseanna Cunningham, which seeks to amend motion S1M-2406, in the name of Jim Wallace, on reports into the investigation, legal proceedings and family liaison arrangements in the case of the murder of Surjit Singh Chhokar, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
Campbell, Colin (West of Scotland) (SNP)
Canavan, Dennis (Falkirk West)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Cunningham, Roseanna (Perth) (SNP)
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)
Hamilton, Mr Duncan (Highlands and Islands) (SNP)
Hyslop, Fiona (Lothians) (SNP)
MacAskill, Mr Kenny (Lothians) (SNP)
MacDonald, Ms Margo (Lothians) (SNP)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Matheson, Michael (Central Scotland) (SNP)
McGugan, Irene (North-East Scotland) (SNP)
McLeod, Fiona (West of Scotland) (SNP)
Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
Neil, Alex (Central Scotland) (SNP)
Paterson, Mr Gil (Central Scotland) (SNP)
Reid, Mr George (Mid Scotland and Fife) (SNP)
Robison, Shona (North-East Scotland) (SNP)
Sheridan, Tommy (Glasgow) (SSP)
Stevenson, Stewart (Banff and Buchan) (SNP)
Sturgeon, Nicola (Glasgow) (SNP)
Swinney, Mr John (North Tayside) (SNP)
Welsh, Mr Andrew (Angus) (SNP)
White, Ms Sandra (Glasgow) (SNP)
Wilson, Andrew (Central Scotland) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Alexander, Ms Wendy (Paisley North) (Lab)
Baillie, Jackie (Dumbarton) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
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)
Eadie, Helen (Dunfermline East) (Lab)
Ferguson, Patricia (Glasgow Maryhill) (Lab)

Finnie, Ross (West of Scotland) (LD)
Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gallie, Phil (South of Scotland) (Con)
Gillon, Karen (Clydesdale) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Goldie, Miss Annabel (West of Scotland) (Con)
Gorrie, Donald (Central Scotland) (LD)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (Edinburgh Pentlands) (Lab)
Harding, Mr Keith (Mid Scotland and Fife) (Con)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, Mr John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Jackson, Dr Sylvia (Stirling) (Lab)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
Johnstone, Alex (North-East Scotland) (Con)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Lyon, George (Argyll and Bute) (LD)
Macdonald, Lewis (Aberdeen Central) (Lab)
Macintosh, Mr Kenneth (Eastwood) (Lab)
MacKay, Angus (Edinburgh South) (Lab)
MacLean, Kate (Dundee West) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
McCabe, Mr Tom (Hamilton South) (Lab)
McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
McGrigor, Mr Jamie (Highlands and Islands) (Con)
McIntosh, Mrs Lyndsay (Central Scotland) (Con)
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)
Mulligan, Mrs Mary (Linlithgow) (Lab)
Mundell, David (South of Scotland) (Con)
Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
Murray, Dr Elaine (Dumfries) (Lab)
Oldfather, Irene (Cunninghame South) (Lab)
Peacock, Peter (Highlands and Islands) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Radcliffe, Nora (Gordon) (LD)
Raffan, Mr Keith (Mid Scotland and Fife) (LD)
Robson, Euan (Roxburgh and Berwickshire) (LD)
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
Scott, John (Ayr) (Con)
Scott, Tavish (Shetland) (LD)
Smith, Mrs Margaret (Edinburgh West) (LD)
Stephen, Nicol (Aberdeen South) (LD)
Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
Thomson, Elaine (Aberdeen North) (Lab)
Tosh, Mr Murray (South of Scotland) (Con)
Wallace, Ben (North-East Scotland) (Con)
Wallace, Mr Jim (Orkney) (LD)
Watson, Mike (Glasgow Cathcart) (Lab)
Wilson, Allan (Cunninghame North) (Lab)
Young, John (West of Scotland) (Con)

ABSTENTIONS

McAllion, Mr John (Dundee East) (Lab)

The Presiding Officer: The result of the division is: For 30, Against 80, Abstentions 1.

Amendment disagreed to.

The Presiding Officer: The second question is, that amendment S1M-2406.1, in the name of Bill Aitken, which seeks to amend motion S1M-2406, in the name of Jim Wallace, on reports into the investigation, legal proceedings and family liaison arrangements in the case of the murder of Surjit Singh Chhokar, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division. *[Interruption.]* Order. I am afraid that the voting system is temporarily not working. I will therefore take a show of hands on the amendment.

Members voted by show of hands.

The Presiding Officer: The result of the division is: For 42, Against 65, Abstentions 1.

Amendment disagreed to.

The Presiding Officer: The third question is, that motion S1M-2406, in the name of Jim Wallace, on reports into the investigation, legal proceedings and family liaison arrangements in the case of the murder of Surjit Singh Chhokar, be agreed to.

Motion agreed to.

That the Parliament welcomes the commitment of the Scottish Executive to take forward the recommendations of Sir Anthony Campbell and Dr Raj Jandoo in connection with the murder of Surjit Singh Chhokar; recognises the significance of these issues to Scottish society as a whole, and the Scottish criminal justice system in particular, and notes the progress that has already been made on race, family liaison and victims issues by the Scottish Police Service and the Crown Office and Procurator Fiscal Service.

The Presiding Officer: The fourth question is, that motion S1M-2411, in the name of Tom McCabe, on the designation of lead committees, be agreed to.

Motion agreed to.

That the Parliament agrees the following designations of Lead Committee—

Justice 1 Committee to consider the Legal Aid (Employment of Solicitors) (Scotland) Regulations 2001, (SSI 2001/392); and

Justice 2 Committee to consider the draft Sheriff Courts (Scotland) Act 1971 (Private Jurisdiction and Summary Cause) Order 2001; and

Justice 2 Committee to consider the draft Small Claims (Scotland) Amendment Order 2001.

Rosyth-Zeebrugge Ferry Service

The Presiding Officer (Sir David Steel): Tonight's members' business debate is on motion S1M-2300, in the name of Bruce Crawford, on the Rosyth-Zeebrugge ferry service.

Motion debated,

That the Parliament notes that the process to secure appropriate funding, including a freight facilities grant, to support a direct ferry service between Rosyth and Zeebrugge is at a crucial and sensitive stage; believes that the introduction of this service is even more vital because of the expected downturn in the Scottish economy in terms of both trade and travel impacts, and therefore considers that the Scottish Executive as a matter of urgency should use all the resources and persuasive powers at its disposal to see this project through to a positive conclusion.

17:04

Bruce Crawford (Mid Scotland and Fife) (SNP): First, I thank everyone who signed the motion for this evening's debate.

It is now 23 months since we debated this subject, when a motion of mine was selected. Safe to say that in the early days in December 1999 there was a lot of youthful enthusiasm about our vision for the development of a roll-on-roll-off ferry service from Rosyth to the continent and the speed with which it could be achieved.

We are a bit more hard-bitten and cynical these days. We are certainly frustrated about how long it takes for the wheels of progress to turn.

The purpose of my motion is to ensure that parties in Scotland are seen to be pulling in the same direction, to ensure that a Rosyth to Zeebrugge service becomes a reality, to provide a focus for all our efforts and not only to see the service operating but to give it every chance of being the undoubted success that it can be.

It was also my intention to ensure that nobody—the Government and the various agencies in particular—sits back on their laurels, pats themselves on the back and thinks, "That's that then. The service is on its way. We can all relax now." This is not the time for relaxation; it is a time for even greater effort if the port of Rosyth is to deliver all that it can for the Scottish economy.

Last time we debated this subject I talked about the development of the ferry service being important because of the high level of exports that our small nation sends to the continent. If that was important in December 1999, it is certainly doubly important now. In December 1999 the economy was at the peak of its cycle. Since then, there has been a general economic slow-down, which has been made much worse by the horrific events of 11 September and the current conflict in Afghanistan.

The development of the Rosyth port will produce an immediate benefit through the creation of construction jobs. The improved access to our major trading partners in Europe that will be created can only enhance the competitiveness of Scotland's exporting companies and provide a much-needed boost to Scotland's tourism.

What has happened since December 1999? Action has been taken and movement has been achieved, albeit that it has probably proved to be more challenging than the "future challenges" that the Minister for Transport and Planning outlined at that time. There has been a study of the market, an examination of how best to attract ferry operators and a competition to select an operator—and Superfast Ferries from Greece has been selected.

I pay a sincere tribute to the owners and management of Superfast, who have conducted themselves with the utmost dignity and patience as the story of securing the vital resources for the required infrastructure at Rosyth has ground wearily along. When, in May, Superfast brought its magnificent new ferry to Rosyth to demonstrate its product, it effectively threw down the gauntlet to the Government to deliver the cash to do the job. Superfast declared loud and clear that it has the ambition to invest in the potential of Rosyth. It was up to the Government to match that ambition. Without Superfast's commitment and professionalism, I doubt whether the project would be as near to potential lift-off as it is now.

That message from Superfast should have provided a wake-up call to everyone in the Government to ensure that they did what was required when it was required, but since May there has been rumour after rumour about delay, failure to submit applications timeously, contracts being late going out for tender and behind the scenes shenanigans. For example, everyone will know by now that, in a disgraceful attempt to protect Hull, P & O and the Associated British Ports tried hard to stop the £12 million freight facilities grant from the Department for Transport, Local Government and the Regions being allocated to Rosyth.

Thankfully, the attempt was to no avail and we heard yesterday that the £12 million cheque has now been signed. Unfortunately, it has not yet been posted—and cannot be until the European Commission gives the go-ahead. I do not know who put the bite on the Department for Transport, Local Government and the Regions, although I could have a pretty good guess about who it would be—there are some major players in Fife. Whoever it was, I say well done to them.

I have it on pretty good authority that EC approval is all but a formality. It is required only to tick a few boxes, and approval will be forthcoming in the next two or three weeks. What intrigues me,

if EC approval is such a formality, is why it is suddenly an issue now. Why are we dealing with the signing-off process at the 11th hour? If all that had been dealt with earlier, the recent anxieties could have been avoided.

The questions that I would like the minister to answer this evening are these: who is responsible for the clearance from the EC—the Department for Transport, Local Government and the Regions or the Scottish Executive? Has the official request been submitted to the EC? If so, on what date? These are important questions as the plan could still go badly wrong if the crucial deadlines are not met.

I will conclude by laying down three challenges to help ensure that Rosyth is able, for Scotland's sake, to reach its full potential. Let us make sure that Wendy Alexander kicks a few butts in VisitScotland to ensure that, in the next couple of weeks, it is active in Holland, Belgium and the low countries, selling the new direct service into Scotland. Get VisitScotland to contact all Scotland's tour operators to help finance supplementary brochures to advertise the service. Undoubtedly, because of the delays, brochures will be produced that will contain no information about the direct route. That initiative is important to ensuring that it gets off to a good start.

I ask Lewis Macdonald or Sarah Boyack to go to the Baltic and Scandinavian countries and sell the benefits of the direct service to Rosyth to those countries. They should do their Christmas shopping in Tallinn or Copenhagen, get them on board and bring Scotland home a present that we could all do with.

It is time to sort out the mess that is the missing rail link from Dunfermline to Stirling. It is vital to creating the freight transport hub that can bring added value to the way we do business with Europe and can help get freight off our roads. When all that has been achieved, ministers can tell their civil servants that the programme has been delivered and that they can relax and perhaps even take an afternoon off. In the meantime, in anticipation of the EC approval, it would be churlish of me not to say well done to Sarah Boyack. I know that it may have been a struggle, but, in the end, it will all be worth while.

17:12

Scott Barrie (Dunfermline West) (Lab): As Bruce Crawford said, there is a touch of déjà vu about this debate as, in December 1999, we discussed the potential for an international ferry port in the Rosyth area. I spoke after Bruce Crawford in that debate and am glad to do so again today. It is appropriate that I am the second member to speak, as Rosyth is in my

constituency. I was pleased to sign Bruce Crawford's motion when it was lodged because I welcome the spirit in which it was introduced, which is one of working together for the advancement of the project. Indeed, on the day the motion was lodged, I asked an oral question in the chamber, asking the Executive what progress was being made, given that a number of MSPs in Fife were concerned about delays in the project.

Everyone welcomes the announcement yesterday of the investment of £12 million that we hope will ensure that the service will commence next year. Over the years, many organisations and people have played an important part in achieving this goal, not least the leader and vice-convenor of Fife Council and Bill Taylor, who is the ex corporate manager of Fife Council. They are in the gallery tonight and have all worked hard since the days of Fife Regional Council to ensure that this tremendous opportunity for the east of Scotland goes ahead.

In my speech last year, I said that this is a strategic matter for Scotland rather than just for Fife as it would provide a much-needed resource that would cut down travel time to our nearest major ferry port, Hull, and make a strategic improvement to the Scottish transport infrastructure.

Bruce Crawford was perhaps slightly dismissive of the work that has been done in the past two years to deliver the project. For example, the Scottish Executive has done a lot of work to improve the east of Scotland's road and rail infrastructure. Only this week, orders were laid for the new eastern bypass around Kincardine village and a commitment was made to provide a new crossing on the upper Forth. We will continue to press the Executive and Railtrack's successor to fulfil the commitment to improve the rail link from Dunfermline to Stirling but, even without that rail link, Rosyth offers tremendous freight opportunities because of the rail links into the port. In fact, that is one of the key elements that made Rosyth an attractive base for the international ferry port.

Bruce Crawford is right to highlight the importance of passenger traffic. Let us be honest: the success or otherwise of the project will be the amount of freight traffic that we can attract to Rosyth. That is why the work that has been done behind the scenes is important. That work has been to encourage freight operators to see the Rosyth development for what it is: a tremendous opportunity to cut down road traffic through the north of England to Hull and a much clearer link for the north of England and Scotland to continental Europe.

A number of people have worked hard to achieve the project. Our Westminster colleagues

from Fife have been tireless in their harrying, shall we say, of the DTLR to ensure the grant and that it is supported by the European Union. I have no doubt that the announcement that the Secretary of State for Scotland made yesterday will mean that, as of next May, not just freight traffic but passenger traffic will leave from the kingdom of Fife to continental Europe. All members welcome that.

17:16

Murdo Fraser (Mid Scotland and Fife) (Con): I commend Bruce Crawford for lodging the motion and for his doggedness in pursuing the issue over a year or two. It gives me pleasure to say that the Conservatives support the motion and look forward to the roll-on-roll-off ferry coming on stream next May.

It is important to the economy of Mid Scotland and Fife, particularly Dunfermline and the surrounding area, that the ferry link is in place next year. It will assist the tourism industry in Fife, Perthshire and Angus, which has suffered some dismal seasons in recent years. Over the past couple of weeks, I have met the chief executives of Perthshire Tourist Board and Angus & Dundee Tourist Board. Both of them stressed to me the importance of the fast ferry link to Europe being in place by the start of the next summer season. Perthshire Tourist Board in particular is optimistic that it will benefit from the link.

Experience elsewhere suggests that visitors who drive off a ferry will drive for an hour or an hour and a half before they stop and begin their holiday proper. Perthshire is well placed to benefit from tourists heading north, as are Angus, Dundee, Stirling, Stirlingshire, north-east Fife and St Andrews. Areas further afield will also benefit; the more people we can get to go to the area, the more we can get to go further north. I know that my colleagues in the Highlands and Islands have been lobbied by tourism groups in that area about supporting the ro-ro ferry.

I do not wish to denigrate Rosyth itself as a tourist attraction, but the last time I was there it was pretty smelly. I hope that the town has now dealt with that smell. Perhaps the local member can confirm that for me.

Scott Barrie: I am only too willing to say that the problem with the sprats that got into the dock at the beginning of the year has now been cleared up and that Rosyth now smells like roses.

Murdo Fraser: That is excellent news. I am sure that we would not wish the first experience of Scotland for those driving off the ferry to be a rather unpleasant whiff.

I echo the comments that Bruce Crawford made about VisitScotland. VisitScotland must get on the

ball and ensure that it makes the most of the ferry link by encouraging tourists to come to Scotland. That means working closely with local tourist boards and marketing Scotland as a destination to our target markets. The biggest tourist market for Scotland is England. Most visitors come from the south of England. After that market, the biggest non-Scottish market is northern Europe—areas and countries such as northern France, Germany, Holland and Belgium. We must target the people in those countries. They are best placed to make use of a direct link from Zeebrugge to Rosyth. VisitScotland has a vital role to play and must begin to produce effective marketing campaigns now so that we can make the most of the ferry when it begins operations.

We must also consider how the infrastructure in Fife will cope with the extra pressure that we hope the ferry will bring. The Executive must examine the A985 on the north side of the Forth to Kincardine and ensure that it is upgraded to cope with the extra traffic. The Executive must try to alleviate extra pressure on the Forth bridge. A bypass for Rosyth must also be considered.

The extra jobs that the ferry service will bring will be a welcome boost to the Fife economy, particularly Rosyth. All that is left is for the First Minister to stick to the promise he made this week: that the target for the launch of the service is May 2002 and that that target will be met. The Executive and the Minister for Transport and Planning must ensure that there is no hold-up in the European Commission clearing the United Kingdom freight facilities grant that was announced yesterday.

The ferry link has a crucial role to play in the development of the economy of Mid Scotland and Fife. Its establishment has been plagued by no end of technicalities; that is the official reason, not mine. A lot still has to be done before the link is operational but it is essential that a date is set and that that date is stuck to.

I again commend Bruce Crawford for his motion and we look forward to the benefits of the ro-ro ferry when it is established.

17:20

Mr Keith Raffan (Mid Scotland and Fife) (LD):

I congratulate Bruce Crawford on obtaining this important debate.

The establishment of a direct roll-on-roll-off ferry service between Scotland and continental Europe, between Rosyth and Zeebrugge, is an immensely important economic and environmental short sea shipping project, as the minister knows. It will help to boost exports by connecting us, on the geographical periphery of Europe, to the centre. It will improve tourist access and, I hope, increase

tourism. It will create 200 to 300 jobs directly. With the multiplier effect, it might create a further 1,500 jobs. It will also take freight off our congested motorways.

Rosyth is the ideal terminal at the Scottish end. Rosyth has all-states-of-the-tide access and it will therefore have relatively low development costs. I congratulate all those who worked so hard to bring the project to fruition—Forth Ports plc, Fife Council, Fife Enterprise, Scottish Enterprise, Scottish Tourist Board and, as Bruce Crawford rightly said, Superfast Ferries.

This matter is not delegated or devolved. It remains the responsibility of Westminster and the DTLR. I welcome the announcement by the Secretary of State for Transport, Local Government and the Regions of the UK Government's firm financial commitment and its willingness to make £12 million available to ensure that the ferry service goes ahead.

However, I have concerns if the service is to go ahead by May 2002. We are up against a tight deadline and I would be grateful if the minister could respond to the following points when he winds up.

First, we urgently need the European Commission's clearance of the use of a freight facilities grant. I understand that officials from the DTLR have gone to Brussels this week. When do we expect to get that clearance?

Secondly, there is the issue of the infrastructure that urgently needs to be put in place: the redevelopment of the quayside; the upgrading of one of the berths; the provision of the terminal building; the construction of access roads; and dredging adjacent to the quay walls. Is the time scale sufficient to enable Forth Ports plc to provide facilities to the standards necessary for Superfast Ferries to provide a first-class service?

Thirdly, what is the current position of Superfast Ferries? Has it made a firm decision on which ships will be used on the service? The company needs to be convinced that the facilities and infrastructure will be ready—otherwise it might commit ships destined for the Rosyth-Zeebrugge route to another route, which could delay the project for several years. That is the last thing that any of us wants.

Fourthly, once Superfast Ferries has committed the ships, will it have sufficient time to carry out essential modifications to handle the North sea crossing and the particular nature of the traffic that is expected on that crossing, as opposed to that on the routes that the company currently operates in the Baltic and the Mediterranean?

Finally, to ensure that the service has a real chance of success in the first year of operations,

there is—as Bruce Crawford and Murdo Fraser rightly said—a need for enhanced marketing to publicise and attract interest in a service that we hope will commence in just over six months' time. The minister—and indeed UK ministers—must be aware that we need to work flat out to meet a tight deadline. We do not need any more bureaucratic hitches. I seek the minister's assurance that UK ministers will do their utmost to ensure that that deadline is met.

The Deputy Presiding Officer (Mr George Reid): From now on, we will have speeches of three minutes. I will advise members when they have 30 seconds to go.

17:23

Tricia Marwick (Mid Scotland and Fife) (SNP): I will not take up too much time.

First, I congratulate Bruce Crawford on securing the debate and I commend the support from so many people that has enabled us to reach the current stage in relation to the Rosyth-Zeebrugge ferry. In particular, I welcome the representatives of Fife Council who have worked long and hard for the ferry.

Presiding Officer, you and I were in Estonia over the weekend and we were up until late last night. While I was there, I spoke to a Scot who owns an electronics company. He was excited about the possibility of the Rosyth-Zeebrugge ferry—he had not known anything about it. That backs up the need to market the service in the Baltic countries and the low countries, because many people will wish to use the service for export and import, as well as for tourism.

I am delighted that, at long last, most of the necessary approvals have been secured. Full steam ahead to the continent next year!

17:25

Helen Eadie (Dunfermline East) (Lab): I would like to congratulate some politicians and officials for their tremendous and wonderful commitment to this project. They are the Minister for Transport and Planning, Sarah Boyack; the Deputy Minister for Transport and Planning, Lewis Macdonald; the First Minister, Henry McLeish; the Secretary of State for Scotland, Helen Liddell; the leader of Fife Council, Christine May; the Minister for Transport at Westminster, John Spellar; and John MacDougall, the former leader of the then Fife Regional Council. They all deserve our thanks and support.

A few weeks ago, the European Commissioner for Environment came here and talked to members of the European Committee, expressing support for the project. She pledged to do what she could in Europe.

One of the most critical arguments has been that the new link will remove from our roads millions of heavy goods vehicles, which will strengthen even more the Executive's strategy of moving heavy goods vehicles off roads and motorways. It will make businesses in Scotland very competitive with those from other parts of the UK at a time when it is critical that we move our goods into the heart of Europe.

The Stirling-Alloa-Dunfermline railway line will not only help bring freight to the ferry; it will make more passenger capacity available to the Fife circle line. I heartily welcome the link for that reason, too.

Early in the summer, I was privileged to be on board the passenger ferry that Superfast plans to run from Rosyth, on a trip to show politicians and businesses the very high standard of vessels that will operate from the port. The vessel is like one of the highest-quality cruise liners that sail the seas. Not only will businesses benefit by getting produce to major European markets more sustainably, but businesses in Rosyth and Zeebrugge—such as hotels, bed and breakfasts, cinemas and shops—will benefit and the ripple effect will be felt in the wider economy.

How exciting it will be for families, individuals and people in the corporate entertainment world to be able to take short breaks in or near Zeebrugge, with only the little effort of making the relatively short journey to board the ferries at Rosyth.

Politicians have made this happen, but they never do so in isolation from the many backroom men and women at the different levels of government. I appreciate that it might always be a risk to single out individuals, but like Scott Barrie, I would like to pay tribute to Bill Taylor, the former corporate manager at Fife Council. I also pay tribute to Mary McLaughlin from Scottish Enterprise, Alf Baird of Napier University and Mike Robinson of Fife Council. Without them and their belief in the project during its earliest stages in the early 1990s, I believe the project would not be happening. Alf Baird—[*Interruption.*] Are you signalling for me to finish, Presiding Officer?

The Deputy Presiding Officer: You have 30 seconds.

Helen Eadie: I say to Lewis Macdonald and Sarah Boyack that the link will open up more opportunities to enhance transport policies in Scotland and that they deserve to go home and open a bottle of champagne. In fact, I have an even better idea: we will invite them to Dunfermline East constituency, where together we can open a bottle of champagne to celebrate all the opportunities for economic and social development in our area that the new link will bring. Well done. We in Fife are heartily excited.

17:28

Mr Kenny MacAskill (Lothians) (SNP): I congratulate my colleague Bruce Crawford on securing the debate and I echo Helen Eadie's comments, particularly those regarding Scottish Enterprise, Mary McLaughlin and Alf Baird at Napier University. Scottish Enterprise is an organisation that is frequently maligned—often by me—but to be fair, the idea has been well thought through by Mary McLaughlin and her transport and area development department at Scottish Enterprise. They have persevered and they have been dogged in their determination, which has finally—I hope—borne fruit.

It is absurd that it has taken us until now to deliver an east-coast ferry service. I can understand why the principal port of a land-locked European nation should be located in a foreign land. I can understand why, for example, the principal port of Switzerland might very well be Rotterdam or Antwerp. However, it is quite absurd that the principal port for an island nation such as Scotland should be Hull. That port is not even proximate to our borders, but is located a considerable geographical distance away and, indeed, at the other end of a bad road. It is absurd that, in the 21st century, more than 50 per cent of the traffic going to and from Hull emanates from or is bound for Scotland. However, I am grateful that Mary McLaughlin and others have persevered to remedy that situation.

Although I do not like to look a gift horse in the mouth, the delay in implementation has been a bit like drawing teeth. The economic benefit of the link has always been clear and we should be grateful that we have finally got round to establishing it. However, we must ensure that the delays and impediments that existed previously do not re-emerge.

Where do we go from here? The question about the link has never been, "Will it come?" Rather, it has been "Will it stay?" Previously, a principal port was started at Dundee. It came, stayed for a short period and then went. As Bruce Crawford and others have correctly pointed out, we need to improve our infrastructure. We need to ensure that the Stirling-Alloa-Dunfermline line is opened and that there is a decent terminal, not merely a replication of Cairnryan, which is not the sort of place at which we want people coming from the continent to arrive.

It is fundamental that the port achieves critical mass. The doubt that the Freight Transport Association and the Road Haulage Association have about the port is that it will not run the number of ferries that would make it important for them. If somebody is in a time-critical situation and they miss a ferry, they do not want to wait 24 hours for the next one. The advantage of Hull is

not that it is geographically proximate, but that if people miss a ferry, they can catch another in two or three hours and still manage to make up the time that they have lost.

If we want Rosyth to survive as a ferry port, we must ensure not only that we increase the level of service there, but that we build on it so that Rosyth becomes the principal port for the east coast of Scotland, tying in with the land bridge that has always been mooted from the west to the east. As Bruce Crawford said, we will then at long last again have a direct link to the continent, similar to the link that we had centuries ago with Gothenburg and the rest of Scandinavia. That will enable us to tie in with the Baltic, where the infrastructure for fast ferries already exists.

This is just the start. We must ensure that there are no further delays and that we build on what has been done so far for the benefit of Rosyth and of Scotland.

17:31

Marilyn Livingstone (Kirkcaldy) (Lab): The problem with speaking almost last is that the previous speakers have thanked everyone involved so many times that the thanks begin to sound repetitive. However, it is worth reiterating them.

All members present must welcome the possibility of 300 jobs being created in Fife immediately and 1,500 being created in future. The achievement of a ferry link between the ports of Rosyth and Zeebrugge will have a significance that extends far beyond Rosyth or Fife. All previous speakers have referred to the terminal's huge importance to the economy of Scotland. I do not want to be parochial, but I would like to concentrate on what I regard as the benefits of the link to Fife and in particular to my constituency.

As many members will know, my constituency covers a significant amount of the Fife coastline, from Burntisland to the Wemyss villages and Methil. We have a long and proud tradition—not just in Kirkcaldy, but in all Fife—of mining and seafaring industries that support maritime activities. Not least among those are engineering and shipbuilding yards, which still exist in Fife and, indeed, in my constituency. Such enterprises are key to the success of the project and are in an excellent position to advance it. Burntisland Fabrications has a wealth of experience and skill in engineering support services. I hope that jobs will come to areas that need employment.

I would like to draw members' attention to Fife's excellent record in training and skills. I do not say that simply because I am a member of the Enterprise and Lifelong Learning Committee. In Fife we have learned a great deal about

partnership. European, national and Scottish Executive funds and programmes have been used to benefit the people of Fife and to enable us to offer a highly skilled, motivated and well trained work force. We will be able to respond to the needs of potential employers. I know that Forth Ports and Superfast Ferries will be looking for locally based staff. In Fife we will be in a position to deliver that.

I turn now to the overall benefits to the economy and environment of Fife and Scotland that will flow from the link. I intended to speak for about two minutes about those, but a great deal of what I had to say has been said. Since the early 1990s, Fife partnership, politicians, the business community, public sector agencies and private businesses have worked to make the case for the ferry. This is not something that has happened over the past six months or the past few years—it has happened over the past decade. The case for a link was built to a significant extent on the economic benefits that it would bring to businesses in Scotland and, indeed, to the north of England. Shortening long lorry journeys will have a beneficial impact on the environment and will help us to achieve national targets on sustainability and job creation.

I am being told to wind up.

The Deputy Presiding Officer: You must if all members are to have a chance to speak.

Marilyn Livingstone: The achievement of the ferry link will be an enormous boost to the people of Scotland and we all pledge our support for the project. I say to Bruce Crawford that I hope that in future people from the continent will come to Fife to do their Christmas shopping.

The Deputy Presiding Officer: I ask members for even tighter speeches, if possible.

17:35

Mr Murray Tosh (South of Scotland) (Con): I am happy to echo what has been said about Bruce Crawford's persistence in the matter and to welcome the fact that Kenny MacAskill has finally said in the chamber something pertinent about Scotland and Scandinavia. I am also happy to follow our new lead spokesman on transport, Murdo Fraser, and his welcome for the Rosyth-Zeebrugge ferry service. The introduction of the service will combat Scotland's perceived peripherality and allow us to respond strategically to the perception that congestion on England's road network in the years to come will make it harder for Scotland to be a competitive location. It will also allow us to respond both to trends in growth in freight and passenger traffic to Europe and to open up markets that do not—and cannot—exist, but that can be created by the provision of

the new service. I am happy that we have reached this stage.

My questions for the minister are, I hope, constructive. It would be useful to know whether the payment will come from the Scottish Executive's grant, given that the announcement was made by the Westminster minister. What year will that payment fall into? What effect will that have on other applications for freight facilities grant, given that demand is greater than supply? We would like to know about the delay in securing European Union support for extending freight facilities grant eligibility from inland waterway to coastal and short-sea shipping. Is it the case that that is a formality? If so, why has there been a delay? When can we expect an announcement and when can we expect work to go ahead on the ground?

Given that the potential exists for further delay, it would be useful if the minister could assure us that the service will be able to go ahead next summer. It would also be useful if he were able to advise us on what the Executive's role will be in promoting, marketing and carrying out all the rest of the work that will be required to make the service a success.

Has Superfast been able to reach a back-up agreement with an English port, or any other port, in case the European announcement is delayed? Has it attempted to reach such an agreement? If the announcement is delayed, can we be sure that the service will be secured for the future? After all, Superfast's investment, which will be substantial, is moveable.

Keith Raffan made a pertinent point about the ships that are to be used. There has been a lot of speculation that the ships that are under construction will be deployed in the Adriatic and that Superfast 1 and Superfast 2 will be deployed in the North sea. We would like an assurance that those ships are up to that work. I have heard speculation that Superfast has been considering the sale of Superfast 1 and Superfast 2, and I would like an assurance that that is the company's backstop position in the event that the service collapses, rather than a viable proposition that it is actively pursuing.

I see the time, Presiding Officer, and conclude by recording my satisfaction that we have reached this stage. However, we need a lot more information and we must tease out many more issues in the immediate future.

17:38

Nora Radcliffe (Gordon) (LD): I will try to keep my remarks brief.

Bruce Crawford must be absolutely delighted that we are debating his motion in the context of

the announcement and not in the context of pushing for an announcement. It is wonderful that the Gordian knot that was holding up the project seems to have been cut.

I am particularly pleased because I have been banging on for years about the fact that we have forgotten the potential for trade across the North sea from our east coast. For goodness' sake, that route was exploited in the middle ages. In a National Trust for Scotland property in the north-east, there hangs a portrait of an Aberdeen merchant who was called Danzig Willie, because that was where he made his money. I am delighted that we are beginning to realise that potential.

I have never forgotten a presentation that I attended on how Shannon airport developed. The presentation began with two maps: the first showed Europe, with Shannon on the edge of nowhere, while the second showed Europe and America, with Shannon bang in the middle. We should look at the map of Europe to see where we fit in and where potential exists. I am glad that the service will be a start in developing that potential.

The service is a great start, but much has been said already about the necessity of achieving critical mass and of building up the infrastructure. Having mentioned Shannon, I should highlight the fact that there must be strong Irish interest in exploiting a short land-bridge, so that the Irish can send their exports across tens of Scottish road miles, out of our east coast and into Europe, rather than hundreds of road miles through England.

Tourism has been mentioned. Scotland is especially suitable for car-borne tourists, so how much better that their landfall should be in Scotland? On a parochial note, I am delighted: it will be much easier to persuade car-borne tourists to turn right when they come off the ferry and head into the north-east than it has been to prise them out of the honeypots of the south and the Highlands.

I noticed the other day in a tourism paper that, on one of the Seacat crossings to Ireland, there is a fully manned tourist information service that enables forward bookings to be made for tourists who are going in either direction. That allowed two and a half hours' selling time on the ferry that would not be wasted. Let us utilise the 16 hours' selling time on the new ferry.

17:40

Dr Winnie Ewing (Highlands and Islands) (SNP): I congratulate all the brave movers and shakers and Bruce Crawford for the part that he has played. To Helen Eadie I say that I foresee trade developing with champagne coming in and whisky going out. I hope that that will happen.

This is a significant time. We have not had a direct link to continental Europe for many decades—even centuries—although we used to have one. We had great links with the low countries, the Baltic countries and with Scandinavia. I hope, as other speakers have hoped, that the new link will be the first of many and that the old "Fog in channel—Europe cut off" joke will end. I hope that the mentality that regards us as being cut off will end too. That would affect not only minds and attitudes, but our excellent export trade, which is formidable.

There exists in Europe a bank of good will towards us. Members of the Petitions Committee of the European Parliament have been here this week. There is a spread of nationalities on that committee and they were delighted to hear that there would be a direct link. That delight will be shared across the EU. After all, we were part of the Hanseatic league.

Representatives of Fife Council are here. They and I have some concerns about a project that will reopen our historical links with Zeeland in the Netherlands, which was run by Scotland for 200 years. We ran the divorces, the marriages, the debt courts and the criminal courts until Napoleon put us out. Clerks recorded everything, and a few of us got together—especially people from the Fife Council—to save the archives of Zeeland from the greedy hands of Amsterdam. There is now a museum in Zeeland that holds those archives. I have a title that was given to me by the Queen of the Netherlands: I am the comptroller of the Scottish privileges of Veere. However, I should add that I have no privileges.

17:43

Maureen Macmillan (Highlands and Islands) (Lab): Follow that.

Everything has already been said and everyone has been thanked. I would like to add my thanks. The ferry will be of enormous importance to the north and north-west of Scotland. I am sure that we will have many more tourists coming to the Highlands because of the ferry. Many German, Dutch and Belgian tourists already come by car. The link will increase traffic, especially now that we have LPG—liquid petroleum gas—for them to run their cars on.

Keith Raffan and others have said that we have to market this because it is a tremendous opportunity for our tourism industry. It is also a tremendous opportunity for producers of good food and other goods in the Highlands to get into European markets and sell, for example, salmon in Germany, where the Norwegians have the biggest slice of the market. The quality of our salmon should ensure that we do better, once we have this direct route.

I will be a bit naughty and talk about another overseas ferry link that will make a great difference to the economy of the Highlands and especially Kintyre. I speak, of course, of the Campbeltown-Ballycastle service.

The Deputy Presiding Officer: You will have to do so quickly because it is not relevant to the subject under debate.

Maureen Macmillan: The consultants' report on that link is on the minister's desk and I know that there is strong commitment from everyone. The last attempt foundered on poor marketing. We now have investors to help us with the economics of the project. I hope to hear an announcement on it in the near future.

17:44

The Deputy Minister for Transport and Planning (Lewis Macdonald): I congratulate Bruce Crawford and I welcome the opportunity that his motion provides to debate plans for a ferry service from Rosyth to Zeebrugge. From the contributions to the debate, it is clear that the initiative has widespread support. We in the Executive have vigorously promoted the service. We believe that it will offer great environmental gains and economic opportunities.

I know that Bruce Crawford lodged his motion immediately before the October recess and that Scott Barrie had lodged a parliamentary question that was due for answer at much the same time. I am grateful to all members for their patience in awaiting the developments that have taken place this week and for the positive approach that has been taken in both the motion and this afternoon's debate. That patience and perseverance paid off yesterday with the announcement by Stephen Byers that he is minded to offer £12 million in freight facilities grant to make the ferry service happen.

I will explain a little about the process. If the first requirement was the Scottish Executive's commitment to promote the service, the second requirement was that the Department for Transport, Local Government and the Regions be prepared to endorse the proposal and to make the formal offer of public money. We have reached that critical stage; the offer has been made.

Several members referred to the great economic potential of the direct ferry connection.

Bruce Crawford: Several members raised the issue of the process and the role of the European Community in particular. I hope that the minister will address some of the questions on that that I asked earlier. It is important that we know who is responsible, when the request goes in and when we can expect the reply.

Lewis Macdonald: Mr Crawford may rest assured that those questions will be answered. I want to lay out the process and explain how we came to this point.

It is important to note that, above all, public funding support is based on the environmental benefits of transferring freight from road to sea. Those benefits apply to freight traffic in Scotland and England. That is part of the argument that lies behind the DTLR's consideration of the matter and its decision to endorse the award of freight facilities grant to a project that will have benefits for both sides of the border.

The scheme is also about the development of Rosyth and the regeneration of the area. As Scott Barrie said, local government has played a key role in that, working in partnership with private and public bodies to secure regeneration. The parties that are involved identified early the importance to that regeneration strategy of a direct ferry connection. We have worked as partners to bring that idea to the stage at which it is today.

We must now move to the third stage, which is European Commission approval for the extension of the inland waterways component of the freight facilities grant to include coastal and short-sea shipping routes. Freight facilities grant is a state aid and—as members know—state aids require EC approval. Therefore, Stephen Byers's award of FFG was conditional on European clearance. His officials and ours will go to Brussels later this week jointly to press the Commission for early clearance so that a decision is made and the scheme can proceed as soon as possible.

Bruce Crawford: That is the crux of the question that has been asked by several members. Is this the first approach by the Scottish Executive and the DTLR to the European Commission or has an application or letter been sent earlier to confirm that such an approach will be made? Was that part of the negotiation?

Lewis Macdonald: Mr Crawford must take my word for it when I say that I understand why the points have been made, and that I intend to answer them.

Members will be aware that the submission that was worked up was passed on to us in May 2001. Then, the European Commission was approached in order to seek support for our proposals. Because those proposals involve an extension of FFG, they require EC clearance. Clearance is being sought by the DTLR and the UK Government—as the representative of the member state—in partnership with the Scottish Executive.

Mr Raffan: I am sorry to push the point, but it is immensely important. We must get that clearance, which is crucial to Superfast's commitment. When

does the minister expect to receive that clearance? The European Commission is sometimes even slower than the Scottish Executive is.

The Deputy Presiding Officer: You have only two and a half minutes left, minister.

Lewis Macdonald: Indeed. If members will forgive me, I will seek to make progress in order to answer all those points.

We believe that the DTLR's support will be critical in demonstrating that the Rosyth route is entirely compatible with fair competition. As the department of the member state, it is for the DTLR to pursue that application.

To return to one of Bruce Crawford's points, which was also made by Marilyn Livingstone, I fear that I will not be doing my Christmas shopping in the Baltic this year. It is more likely that it will be done, as usual, in Aberdeen. However, I assure Mr Crawford that efforts already are under way. Scottish Enterprise and organisations throughout Government are gearing up for the marketing effort that will be required as soon as EU clearance is given. However, we are not simply awaiting that clearance—tomorrow there will be a meeting between Scottish Enterprise Fife and the Kingdom of Fife Tourist Board, which has the support of VisitScotland, to begin to address those issues.

I say to Mr Raffan that we are joined in the gallery by Alexander Panugopulos and Yannis Criticos of Superfast Ferries, as well as by representatives of Fife Council. It is clear that the decisions that they must make about ships are matters for them, but they have committed vessels to the route and they have a schedule for work that we believe can be completed on time.

In response to Murray Tosh's queries about the mechanics of payment, FFG will be paid by the DTLR. Funding is in place to meet those costs, and it will be marked against the current financial year and the forthcoming financial year—that is, 2001-02 and 2002-03.

We recognise that time is short and we recognise the need for quick and urgent action. That is why senior officials from the Scottish Executive and the UK Government will meet Commission officials in Brussels on Friday to seek clearance. The Commission must move quickly. We need to convince the Commission that if the project is to be put in place in time—given the tight timetable that we face—it must make a decision quickly.

We do not regard that decision as a mere formality. We recognise that because state aid is involved, the project is rightly subject to consideration at each level of government.

However, we are confident—on the basis of the case that we have made to the DTLR and to Europe—that the project will go ahead. We need the applicants to accept the offer that was made to them yesterday and we need approval to be issued by the European Commission as soon as possible. We will continue to press for that positive decision. If Tuesday was one important step, Friday will lead us to the next important step, and to completion of the work that has gone into the project.

Meeting closed at 17:52.

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