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Scottish Parliament

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

Freedom of Information (Scotland) Bill: Stage 1

The Deputy Presiding Officer (Mr Murray Tosh): Good morning. The first item of business is a debate on motion S1M-2274, in the name of Jim Wallace, on the Freedom of Information (Scotland) Bill.

09:30

The Deputy First Minister and Minister for Justice (Mr Jim Wallace): I preface my remarks by informing the Parliament that I have a ministerial meeting in London this afternoon to discuss European matters—I think that this debate was originally pencilled in for yesterday. I have written to Roseanna Cunningham and James Douglas-Hamilton to inform them of that, and I spoke to the Presiding Officer about it yesterday. I apologise that I will not be here for the conclusion of the debate, but Richard Simpson, the Deputy Minister for Justice, will be here throughout and I will read the *Official Report* with interest.

The consultative steering group, in setting out the principles to guide the work of the Scottish Parliament, was clear that it was to represent a new form of democracy: an accountable, visible Parliament, where people were encouraged to participate fully in public debate and the policy-making process. Above all else, it was proclaimed that the Parliament was to be open and accessible to all. Those same principles sit at the heart of the Freedom of Information (Scotland) Bill, which is why I believe the bill to be of significant importance to the Parliament.

Freedom of information facilitates public debate. I believe that information is the currency of an open, democratic society. An effective freedom of information regime will result in more information being in the public domain and encourage public authorities to make information available voluntarily. The reasons for the decisions that affect all our lives will be readily available, which will stimulate and encourage informed public debate. The bill gives us the opportunity to extend those principles beyond the Parliament to the rest of the public sector in Scotland.

I am pleased that the importance of the bill is recognised by the Justice 1 Committee in its report, and that the committee recommends that the Parliament agrees today to the general principles of the bill. I am also pleased that the report welcomes what I consider to be the bill's key elements: the independence of the Scottish information commissioner; the user-friendly application system; the obligations on authorities to assist applicants; the harm test of substantial prejudice; and the important role to be played by the codes of practice.

The committee raised a number of other issues, which we will need to consider and to which we will give serious thought. I take this opportunity to thank Christine Grahame, the convener of the Justice 1 Committee, and the other committee members for their work in taking evidence and producing their report.

Despite widespread recognition of the importance of the bill, I fear that there are a few—perhaps on the Conservative benches—who maintain that the bill is not necessary, and that we simply do not need freedom of information legislation. Their argument goes that, if the Scottish Executive is so committed to openness, all it need do is disclose all the information that it holds. To say that that is a misunderstanding is an understatement. I cannot say that 18 years of Conservative Governments did a great deal to make the case for freedom of information.

I have no doubt that the legislation is necessary. Similarly, the many individuals and organisations who responded to our two consultation exercises have no doubt that the bill is necessary, and I am delighted that the majority of members of the Justice 1 Committee have recognised that it is necessary.

Murdo Fraser (Mid Scotland and Fife) (Con): Will the minister give way?

Mr Wallace: In just a moment. For the benefit of anybody in the chamber who might think that we do not need the bill, let me give a few reasons why we do—but before doing so, I will give way.

Murdo Fraser: Will the Deputy First Minister tell us what percentage of visitors to his constituency surgeries over the past year have pressed him to introduce a bill on freedom of information?

Mr Wallace: Many of them have sought information, but I do not think that any of them has asked for a freedom of information bill. My constituents know, however, that when I first stood for election in Orkney and Shetland and was asked what private member's bill I would introduce if I were ever successful in the House of Commons ballot, I said that it would be a freedom of information bill. Regrettably, I was never successful in the House of Commons ballot, but now that I have this opportunity in government in the Scottish Parliament, I am delighted to take it.

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): Does the minister agree that the Tories seem to be showing the same niggardly attitude to the Freedom of Information (Scotland) Bill that they showed when they voted against the second reading of the Freedom of Information Bill down at Westminster?

Mr Wallace: It appears that the same line is being followed, and I think that that is regrettable. If we are to promote an open democracy, this measure will form an important part of that.

Why do we need the bill? First, it will establish a legal right of access, which will, if information is withheld improperly, be defended by the Scottish information commissioner. If we had not introduced the bill, we would always have had to rely on what public authorities alone decided should be available. If public authorities did not want particular information to be disclosed, it would not be disclosed.

Secondly, and just as fundamental, the bill applies across the length and breadth of the Scottish public sector. The Scottish Parliament, the Scottish Executive, local authorities, the national health service in Scotland, the police, education institutions, non-departmental public bodies: all those bodies will be subject to the freedom of information regime. It has been suggested that it would be sufficient if the Executive were simply to disclose all the information that it holds, but that would offer no guarantee of openness throughout the rest of the Scottish public sector. If we are committed to promoting a culture of openness and transparency across our public authorities, we need to take significant steps to encourage that culture. That is one of the reasons why new legislation is necessary.

The establishment of a statutory freedom of information regime was an early priority for the Executive. It was set out in both the partnership agreement and the first programme for government. Although freedom of information is, on the face of it, a set of quite simple principles—a legal right of access; a limited set of exemptions to protect sensitive material; and an independent arbiter to supervise the regime—the detail can be far from straightforward. That is why we have taken time to develop the right bill, which has been designed specifically for Scotland.

We undertook two consultation exercises and received a good response to both. Many of the issues that were raised in those consultations are reflected in the bill that is before us. We have drawn on international experience of freedom of information regimes elsewhere, particularly those in Ireland and New Zealand. I and my officials have met representatives of the range of organisations that have followed the bill's development, most notably the Campaign for Freedom of Information in Scotland, Friends of the Earth Scotland, the Scottish Consumer Council and the statutory equality bodies.

The Justice 1 Committee's stage 1 report welcomes the close relationship that we have enjoyed with a wide range of organisations, and I thank those who have been involved. The bill that we are debating today is testimony to their efforts and input. The consultation process has delivered a strong bill. The process has been extensive and genuine, and the discussion that has ensued has been informed and constructive. That is why the bill is widely recognised as a balanced and strong piece of proposed legislation.

That is not to say that there has not been debate about the detail, and I am sure that that debate will continue during stage 2 consideration. We intend to announce at stage 2 any revision to our proposals on charging, and we will make available provisional drafts of the two codes of practice that will support the operation of the legislation.

I mentioned earlier the three basic elements to the bill's principles. Those elements are: a legal right of access; a limited number of narrowly drawn exemptions to protect sensitive information; and an independent arbiter, the Scottish information commissioner, who will supervise and police the information regime.

An effective legal right of access to information held is central to the bill. The right of access is open to all. It can be exercised by anybody worldwide, and the bill is specifically designed so that it will be exercised. To make a formal freedom of information request, all that an applicant need do is make a request in writing, describing the information that they are looking for and providing their name and address. That is all. Applicants do not need to cite legislation or specific sections of it, nor need they say why they are requesting the information. The bill establishes a right to know that is not reliant on establishing a need to know.

We tried to ensure that the application and appeals procedures would be user-friendly and quick. Long drawn-out procedures are time-consuming and expensive, and they almost always work to the detriment of the individual. We considered it essential to avoid that. As a result, an authority is obliged to respond to an applicant within 20 working days.

To keep the whole process moving, the bill provides that an applicant who is dissatisfied with an authority's response has 20 working days in which to request that the authority review its original decision. Following a recent meeting with Friends of the Earth Scotland, and having taken on board the views of others, including the Justice 1 Committee, we intend to lodge an amendment to

extend that period to 40 working days, which will provide an applicant with some extra time before the right of appeal lapses. I will say more about the appeals process when I talk about the role that will be played by the Scottish information commissioner.

The second main element of the bill is exemptions. When freedom of information regimes are discussed, exemptions always get a lot of attention and they are, perhaps understandably, seldom popular. There is no doubt that the right of access must be carefully balanced against the right to privacy and confidentiality and the need to ensure that sensitive information is properly protected. We have sought to find the right balance and, in doing so, have tipped the scales decisively in favour of openness.

When we set out our original proposals, we indicated that we were considering the adoption of a harm test of substantial prejudice. That was enthusiastically welcomed at the time and has been welcomed at every stage since. I am pleased to note that the Justice 1 Committee, too, welcomes the provision.

Some comment has been made on class exemptions, which, it is important to stress, are a standard feature of freedom of information regimes. It is widely recognised that certain categories of information are particularly sensitive and require appropriate protection. Protection is required not just for the information concerned, but for the processes involved.

For example, when an authority conducts an investigation into an individual's conduct, it is likely to seek statements from others involved. Often, individuals will be asked to make candid and frank statements about other individuals. I have no doubt that the candour and frankness of those statements would be materially affected by the risk of routine early disclosure. Such statements should be made with the security that information will be disclosed only when it is in the public interest to do so. That argument applies equally to other class exemptions. Advice to ministers should be given with a candour that can be guaranteed only by ensuring that the officials involved understand that their advice does not run the risk of routine early disclosure.

That does not mean that information that falls into a class exemption will never be disclosed. Except for some technical exemptions, an authority will be required to consider whether the information should be disclosed in the public interest. A public authority must still consider whether there are broader factors that require disclosure of that information in the public interest. Authorities will also need to ensure that they can justify their decisions to the commissioner.

The appointment of a Scottish information commissioner is the third, and perhaps the most important, feature of the bill. The commissioner will police the right of access. If an authority does not take seriously its obligations under the legislation or tries to escape them, the commissioner will be there to act. Because of that, I took the view that it was crucial that the commissioner should be fully independent. The bill provides that the commissioner be appointed by the Queen, on the nomination not of ministers, but of the Parliament.

The commissioner's independence will ensure the integrity and credibility of the regime. Applicants will be reassured that authorities will not be able to stall and stall and stall before responding. Authorities will be required to give serious consideration to the application of exemptions. It should not be a case of their saying, "How can we withhold this—do any of the exemptions apply?" Instead, the commissioner will ensure that the default setting is disclosure.

The commissioner's role is vital, not just in enforcing the freedom of information regime. International experience of establishing such regimes has demonstrated that public authorities do not always embrace the principles of openness and transparency easily and quickly. As well as legislation, promoting cultural change is essential and the commissioner will be in a perfect position to do that. Working on a day-to-day basis with public authorities, the commissioner will be able to help the authorities to apply the legislation. He or she will be able to work with authorities in the development of publication schemes, emphasising the importance of publishing information voluntarily rather than waiting for requests. The commissioner will set out best practice and ensure, for example, that effective advice and assistance is provided to potential applicants. I believe that, through such work, the commissioner will be able to accelerate changes in culture and to encourage openness and transparency across the Scottish public sector.

Implementation has been the subject of some recent media speculation, but there can be no question about our commitment to timely implementation. The five-year provision that is outlined in section 72 of the bill is a backstop, rather than an indication that we expect implementation to take five years.

Our preparations for implementation are already in motion. In February last year we established a working group with members from across the public sector, including local government, the police and education bodies, to consider how we could plan and prepare for implementation. The group has met several times and will soon report formally to me on its progress. We have taken

steps to ensure that we can have the commissioner in place as soon as possible. On our initiative, amendments have been made to the Parliament's standing orders to allow appointment arrangements to begin following the completion of stage 1 of the bill, although the appointment of the commissioner by Her Majesty must await the bill's royal assent.

Those are not the actions of an Executive that is keen to delay the implementation of the bill. At the same time, it is important to recognise that the bill cannot be implemented overnight. A commissioner must be appointed, an office must be established, and staff must be employed and trained. All that must happen before the commissioner can begin the important tasks of working with authorities, providing necessary guidance, approving publication schemes and explaining how, in his or her eyes, the regime will operate. That work cannot be done overnight, but I am determined that it should be done properly. For that to happen, it must be done carefully and comprehensively. I aim to ensure that it takes as little time as is practically possible to put Scotland's freedom of information regime properly in place and to get it up and running and working.

Our commitment to openness, to an effective and balanced freedom of information regime and to timely implementation should not be in any doubt. Freedom of information is an important issue and should have particular resonance with this new Parliament. Of course, there are matters of detail that need to be addressed. We intend to work through those matters with the Justice 1 Committee at stage 2. However, the bill is generally acknowledged to be necessary and balanced. It is a strong and balanced bill, and I urge the Parliament to support it.

I move,

That the Parliament agrees to the general principles of the Freedom of Information (Scotland) Bill.

09:46

Roseanna Cunningham (Perth) (SNP): As most people know, the SNP supports the Freedom of Information (Scotland) Bill and the intention behind it. We welcome today's debate and the widespread, if not quite unanimous, support for the bill in the Parliament.

There are points where we would like changes to be made, but the Parliament should feel considerable satisfaction that it is debating a bill that underlines the difference between this Parliament and Westminster. Our freedom of information regime will be much more robust than the regime that was set up under the Freedom of Information Act 2000. I have no doubt that campaigners in England and Wales will continue to press for changes to be made down south to emulate what we will have in Scotland. However, as I have hinted, that does not mean that the bill is perfect. I am sure that the Minister for Justice would be bitterly disappointed if I said that it was. He might also be very surprised.

The fact that, in many ways, the Scottish bill is better than the UK act does not mean that it does not contain flaws, or that the UK act does not have the edge over it in a couple of areas. Where that is the case, I am not averse to a bit of cross-border raiding; at times there is nothing wrong with legislative plagiarism. There are one or two areas in which I would like to propose such plagiarism.

The first area of concern is class exemptions. I am sure that the minister is not surprised to hear me say that. Everyone accepts that a bill on freedom of information has to contain some exemptions. However, those exemptions should depend entirely on the content of the information that is being sought, rather than its broad type, as is the case under a class exemption.

There is justification for the view that the harm test and the public interest test are sufficiently robust to deal with those occasions when information ought to be withheld. If the minister were confident about the robustness of those tests, he would not need to insist that class exemptions be retained in the bill. In written evidence to the Justice 1 Committee, the National Union of Journalists pointed out:

"If harm cannot be demonstrated to the Scottish Information Commissioner, then either the harm test is wrong, the Commissioner is wrong, or there is no harm."

It is difficult to argue with that.

Insisting on class exemptions for police, judicial and statutory investigations, including health and safety investigations, could protect any stage of any investigation by any public body. In practice, that means that, even if the bill had been in place, no additional information would have been available on the BSE crisis, food safety, rail safety or any number of recent major public scandals. Although I do not share Conservative members' view that the bill is pointless, I believe that the minister should guard against giving substance to their criticisms. I am afraid that the bill's provisions on class exemptions create precisely that possibility. However, I know perfectly well that, if the minister had introduced a bill that did not contain class exemptions, that would have given Conservative members even more cause to complain.

The second area of concern is the bill's provision for a decision on the disclosure of information or an enforcement notice to be made void by a certificate issued to the commissioner by the First Minister. In effect, that would give the

First Minister a veto on freedom of information. Many witnesses who gave evidence to the Justice 1 Committee during stage 1 consideration of the bill spoke out against that power. The NUJ, in a paraphrase of its concerns about class exemptions, argued:

"If harm cannot be demonstrated to the commissioner or to the court, what harm can exist—other than perhaps political discomfort?"—[*Official Report, Justice 1 Committee*, 21 November 2001; c 2838.]

The NUJ described the provision as

"not a belt-and-braces approach—it is a belt, braces and straitjacket approach."—[*Official Report, Justice 1 Committee*, 21 November 2001; c 2841.]

Executive officials told the committee that ministerial certificates would be used only in "limited circumstances". My problem with that assurance is that similar reassurances have been given before.

The Law Society of Scotland's comment on the predicted infrequency of the use of ministerial veto was succinct. It said:

"it is frequently said that the procedure … will never be relied on. In that case, why is it there?"—[*Official Report, Justice 1 Committee*, 21 November 2001; c 2812.]

Why, indeed?

It is not necessary to go abroad to discover occasions on which ministerial vetoes have been abused. I note the example of New Zealand, which was given in evidence by the Campaign for Freedom of Information, but the experience of Sewel motions in the Scottish Parliament ought to give all members pause for thought. As with Sewel motions, a trickle can soon become a stream or, indeed, a flood. As the Campaign for Freedom of Information put it:

"Our concern is that when the veto has been used once or twice and ministers discover that it is relatively easy to get away with it, it will become a frequent occurrence."—[*Official Report, Justice 1 Committee*, 27 November 2001; c 2898.]

That raises a real concern, which must be taken on board. The minister has been a long-standing campaigner for freedom of information and I am sure that he understands that concern.

The third area of genuine concern is the proposed cost for accessing the right to access information. Friends of the Earth Scotland and the Law Society are but two of the organisations that have serious concerns about the implications of a charging structure that would effectively render that right meaningless. That is one area in which it would appear that the Westminster legislation has the advantage. I cannot say whether the minister is standing by the figures that were outlined in the commentary that accompanied the draft bill, but they are a matter of some controversy. An inquirer would have to pay up to £50 for a piece of information that it would cost a UK body £500 to provide. However, the inquirer could be asked for up to £400 to obtain similar information from a Scottish body—to those that have will the information be given.

The Law Society described the issue of costing as

"the kernel of the whole system's integrity".

It went on to say:

"If people cannot translate the rights under the bill into an effective remedy, the bill is meaningless".—[*Official Report, Justice 1 Committee*, 21 November 2001; c 2812.]

The minister referred to costs in his speech, but I hope that more detail will be provided before stage 2.

Mr Jim Wallace: I will elaborate the position a little. The draft bill's proposal reflected the earlier consultation, but I acknowledge that there has been considerable unease about that proposal. When I appeared at the Justice 1 Committee, I undertook to look into the charging regime and structure. I can advise Parliament that that work is taking place and that we hope to make a further statement when we reach stage 2.

Roseanna Cunningham: I am pleased to hear that, as I am concerned about persisting with two very different charging structures for the separate regimes. Once the structures are in place, the difference will become stark. It will not matter whether the Scottish regime is better in other areas, because the fact that it is not better in relation to charging would create unnecessary rancour, which would be unfortunate.

I have outlined my three main areas of concern: cost, unnecessary exemptions and too much power in the hands of ministers. However, those concerns are not the only hurdles to access to information in the bill as introduced. There are one or two smaller matters that I hope the deputy minister, Richard Simpson, will address in his closing speech.

The first such matter might seem to be relatively minor to others: the requirement for the request for information to be made in writing. That has been a matter of concern for some organisations, a number of which have provided good arguments against it. I make a particular plea for a rethink of that provision. In passing, I remind members that I am looking for sponsorship to raise money for the Royal National Institute for the Blind—donations to my office, please. The RNIB is one of the organisations that made a clear point about the difficulty that blind people would have in making an application in writing. I appreciate that there might be administrative issues to resolve, but that is a relatively minor point on which to stick and I hope that there may be some movement on it.

On the matter of vexatious and repeated requests for information, although there might be an argument for a freedom of information equivalent of the vexatious litigant, I recall that vexatious litigants are so designated in our courts fairly reluctantly and only after a great deal of consideration has taken place. Will the minister clarify whether the code of practice will contain guidelines on when and how such requests will be designated? If it will, what are the guidelines likely to contain? The minister will also need to reassure members that all public authorities will observe the same standards, or we will end up with vastly different experiences in different parts of the country.

Many of those who made representations on the bill stressed that organisations that provide public services are not always public bodies, as defined in the bill. I think of, for example, social inclusion partnerships, housing associations and the range of companies that would otherwise be regarded as private but that provide public services. Unison Scotland said that the omission of such organisations from the remit of the bill could

"give rise to a two-tier freedom of information system, in which some providers of public services would be liable to provide information to the recipients of their services … whereas others would not."—[*Official Report, Justice 1 Committee*, 13 November 2001; c 2787.]

A number of my colleagues wish to make serious points about the effect of what would eventually become a form of commercial confidentiality rule. Given the Executive's avowed intention to increase the use of private finance initiative contracts through a variety of mechanisms, we face the distinct possibility that much of the information that would once have been accessible through the exercise of the rights that are conferred by the bill will not in fact be accessible. When the regime comes into operation, the amount of accessible information will be diminishing rapidly. The issue of commercial confidentiality already gives rise to serious misgivings and a thoroughly confusing understanding of the true picture of what happens in public services—I need only mention the continued debate about the cost of keeping a prisoner in HMP Kilmarnock in comparison with other prisons. The situation will not be helped if that practice continues. Unison made the point in its written evidence that the consultation document indicated that the freedom of information regime should apply to "public service providers". Perhaps the minister could find his way back to that position in preference to the position that is taken up in the bill.

I turn now to the timetable. Today's debate is barely relevant if we have to wait for ever for any form of freedom of information regime to get up and running. As I understand the situation, the UK Freedom of Information Act 2000 will not come into force until January 2005, which is more than four years after the Westminster Parliament approved the legislation. We have known that since 14 November. When I read about the delay in the implementation of the UK legislation, I immediately wrote to the Minister for Justice to seek a firm assurance that the Freedom of Information (Scotland) Bill, once passed, would be implemented speedily. I knew that the minister's party colleagues in Westminster strongly opposed the delay in the implementation of the UK legislation. I wanted some consistency and a guarantee about time scales from the minister, but no such guarantee was forthcoming. In his reply, he gave me an assurance that the legislation would come into force "without undue delay", followed by much hedging about how the timetable was dependent on public authorities having adequate time to prepare and on sufficient time being available to establish the office of the independent Scottish information commissioner. In the space of a few sentences in that letter, the minister managed to water down his commitment to speedy implementation. Although he began by saying that he was

"committed to bringing the legislation into force without undue delay"

he finished by saying that he

"would not wish to take any final decisions"

on the timetable until the commissioner had been appointed.

Reports have appeared about the possibility of the implementation of the bill being delayed until 2005, 2006 or even 2007. The real problem is that, if public authorities are given two years to prepare for implementation, they will take two years, which would be a reasonable timetable. To be frank, public authorities can hardly be taken by surprise by the bill and I am moved to ask what they have been doing over the past two years. However, if they are given three, four or five years, it is in the nature of things that they will take three, four or five years. We all know that that is human nature. I have always held the view that such a delay cannot be what the Minister for Justice wishes, given his long-standing support for legislation on freedom of information. Therefore, I was interested in his comments today, but what he said does not really help the situation. The minister should propose a specific timetable to force the pace; otherwise, I fear that his five-year backstop will end up as a five-year reality.

One final matter requires some comment. I mentioned the UK legislation and the fact that it will usher in a less favourable regime, with the possible exception of costs. The Scottish bill has been drawn up so that it deals specifically with Scottish public authorities. Clearly, UK authorities

are dealt with in the UK bill.

Mr Jim Wallace: On timing, I have indicated that the implementation working group has been in existence for almost a year. We initiated a change to standing orders so that, once the bill passes stage 1, we can get on with making preparations for the appointment of the commissioner.

I will be quite open with the Parliament. There is an issue about whether we should go for what might be described as the big-bang approach—under which every body would come online on one day, as happened in the Republic of Ireland—or whether we should phase in the freedom of information regime in different authorities. No theology is involved in that; it is a practical issue.

I would be interested to hear, perhaps not today but as part of a genuine dialogue, whether Roseanna Cunningham thinks that it would be better to introduce the freedom of information regime all at once or whether it makes some sense that the regime be introduced progressively.

Roseanna Cunningham: My concern is that if we allow an elastic timetable, the elastic will get stretched. I do not know about anyone else in the chamber, but when I am given a deadline to do something, I do not do it two weeks beforehand. I work to the deadline. Perhaps everyone else in the chamber operates differently, but I rather suspect not.

The Deputy Presiding Officer: Your deadline is that you have about one more minute.

Roseanna Cunningham: The Presiding Officer has reminded me that I must wind up.

The truth of the matter is that two years is not a big-bang approach, but represents a reasonable time scale.

The final matter that I want to highlight is the difference between the way in which the UK and Scottish bills deal with the various authorities to which they apply. There is an anomaly, in that the cross-border public bodies, as defined in the Scotland Act 1998, will not be subject to the Scottish regime even for information that relates to devolved matters. The Scottish Consumer Council flagged up the confusion that is likely to arise if we are not careful. The NUJ had wider concerns about the fact that, in truth, substantial areas of Scotland's governance will fall outside the Scottish regime and under the much-criticised Westminster regime.

That is a matter of concern, but I know how the minister will reply—indeed, he need not rehearse it to the chamber. However, let me say this: when requests for information are made to such bodies on matters that are certainly devolved, I very much hope that those bodies will comply with the spirit of the Scottish bill. They should not refuse to provide information simply because they can. After all, although it may be said that bodies such as the Forestry Commission are cross-border public bodies, such bodies will owe a duty to people in Scotland after the bill ushers in what we hope will be a major culture change.

Notwithstanding those specific concerns, I support the bill. The SNP will whole-heartedly vote for the bill at 5 o'clock today.

The Deputy Presiding Officer: Before I call the next speaker, I want to be clear that every member who wishes to take part in the debate has pressed their request-to-speak button. If anyone has not done so, please do so now.

10:02

Lord James Douglas-Hamilton (Lothians) (Con): We are, and always have been, in favour of open government. However, in our view, we do not need a sledgehammer to crack a nut; we do not require legislation that will cost many millions of pounds to force the Executive to disclose the information that is in its possession. If the Executive is as committed to freedom of information as Jim Wallace claims, it can publish whatever it wants on a voluntary basis.

Despite Labour's criticisms at the time, when in 1994 we were in a position to disclose, we introduced the "Code of Practice on Access to Government Information". In July 1997, it was announced that an additional 77,500 records had been released by departments and by the Public Records Office over the previous five years.

The Executive needs to answer one simple question: what information is it currently withholding that the bill would bring into the public domain? If the Executive is withholding information, why is it doing so? Jim Wallace has not been forthcoming on that point.

Robert Brown (Glasgow) (LD): Will the member give way?

Lord James Douglas-Hamilton: I would be happy to give way to Jim Wallace if he wanted to respond to that point.

Furthermore, Jim Wallace has been somewhat vague about the impact that the bill will have.

Robert Brown: Will the member give way?

Lord James Douglas-Hamilton: I want to finish the point that I am making.

In response to written parliamentary questions, Jim Wallace has said:

"It is not possible to predict what new information … will be made available as a result of the Freedom of Information (Scotland) Bill."—[*Official Report*, *Written Answers*, 19 December 2001; p 433.]

In other words, all this is a costly experiment to tinker with what he calls a culture of secrecy.

Mr Jim Wallace *rose—*

Lord James Douglas-Hamilton: I am glad that I have coaxed the minister to his feet.

Mr Wallace: Perhaps Lord James's problem is that he does not remember the Scott inquiry on arms to Iraq and all the cover-ups that went on during the Conservative Administration. The point is that the information that will be covered by the bill will be available to the citizen by right. At the moment, the citizen does not have a right to information that is withheld by the Government or other public authorities. The code of access that John Major promulgated was welcome as far as it went, but it did not give a right that could be enforced. Lord James has not quite managed to grasp that fundamental difference.

Lord James Douglas-Hamilton: I realise that the minister is trying to promote cultural change. It is not our priority to promote cultural change in such a way. We support open government with flexibility. We do not need a sledgehammer to crack a nut, as such an approach removes the flexibility that accompanied the "Code of Practice on Access to Government Information".

The powers that the bill will give to ministers are somewhat contentious. Paragraph 11 of the committee report outlines the committee's concerns over the power that the bill will give to ministers to designate and remove organisations from the scope of the bill. Section 4 of the bill will allow ministers by statutory instrument to add or remove from schedule 1 bodies to which the provisions of the bill should apply. In essence that means that, although Scottish ministers are at present to be covered by the bill, they could remove themselves by using that provision. That creates an air of uncertainty and obfuscation.

Naturally, the Campaign for Freedom of Information raised concerns about section 4. Maurice Frankel stated:

"That power could be used in effect to exclude almost wholesale from the provisions of the bill bodies that are currently subject to the bill by simply removing from the scope of the bill information relating to various functions."

Robert Brown: Will the member accept an intervention?

Lord James Douglas-Hamilton: I want to finish this quote:

"I understand that the purpose of the power is to deal with bodies that cease to exist, but a provision could be written into the bill to the effect that a body is deleted from the schedule when it ceases to exist, without granting the power to ministers to remove organisations as the bill allows."—[*Official Report, Justice 1 Committee*, 27 November 2001; c 2900-01.]

That is a fully legitimate point. Although the Deputy First Minister might never himself contemplate using such provisions, how do we know what some of his colleagues would do in the future if given half a chance?

Gordon Jackson (Glasgow Govan) (Lab): Does Lord James accept that the Justice 1 Committee's way of dealing with that would to some extent solve the problem? We suggested that the power should be limited by requiring ministers to consult the commissioner before removing a body from schedule 1. If the committee's suggestion was accepted, it would be politically difficult to remove a body if the commissioner said no.

Lord James Douglas-Hamilton: I am grateful to the member, because it is quite clear that he has highlighted an inadequacy in the bill. If the bill is to proceed any further, we should give particular attention to that area.

On enforcement, the police and others have said that they fear that the bill might have an impact on their work load. When Chief Constable Wilson gave evidence to the Justice 1 Committee, he said:

"We will need to develop a culture of advising people that, notwithstanding the fact that we want them to help us with our inquiries and that identifiable elements may be deleted from any future disclosure, the evidence they provide may find its way into the public domain. One hopes that that will not be counterproductive." [*Official Report, Justice 1 Committee*, 27 November 2001; c 2913.]

In other words, not only is the minister creating other duties for the police that could take them away from crime prevention and dealing with crime, but victims and witnesses may be less likely to come forward if what they say could become public.

Another of the many problems that has prompted a great deal of concern is the charging regimes, which Roseanna Cunningham dealt with at some length. On considering the submissions, the Executive agreed that it would review the proposed charging regime, under which no charge would be levied if the costs were under £100 and public authorities would be allowed to charge the full marginal costs after the first £100. With a £500 ceiling, that could result in seekers of information paying up to £400.

In his letter of 10 December 2001 to the committee, the Minister for Justice wrote:

"the charging arrangements should neither discourage applicants nor impose unreasonable or limitless burdens on Scottish public authorities."

However, the terms of the bill are not strictly consistent with his assurances. Although the Executive has trumpeted its plans to make government more open and accessible, a charging

regime such as that provided for in the bill could in effect price applicants out of the market. I note what the minister said this morning on that point, which we will pursue vigorously if the bill proceeds.

Mr Jim Wallace: I am grateful to Lord James for acknowledging that we would consider the matter. However, I would be interested to know where, in the bill, he finds the charging regime. The whole point is that it is not in the bill, which is why we have said that we will consider it and introduce proposals at stage 2. The charging regime will be introduced by way of regulation.

Lord James Douglas-Hamilton: I feel that it is very important that such matters be dealt with by Parliament. If the bill proceeds, the system that is put in place should not be the one originally proposed.

When the UK Freedom of Information Bill went through Westminster, Jack Straw had to make a number of concessions—for example, to exempt from disclosure advice given to ministers on the formulation of policy. The further the bill progressed, the more concessions had to be made, as ministers realised the practical implications. We are concerned that the Executive may not yet be fully aware of the consequences of its actions. What is being discovered here is the same as was discovered by the Labour UK Government as its bill progressed: an inflexible regime that is more suited to dealing with appearances than with practicalities. Ponderously legislating in this area will lead to the real danger that we will end up with a restriction of information bill.

This morning, Roseanna Cunningham has highlighted the extent of the exemptions. I believe that the Executive is guilty of trying to impose an inflexible and complex regime when what is required is a flexible system in which each case can be determined on its merits.

The Executive seems to be intent on forcing through unnecessary measures. It is time that it realised that some issues are better left without having a rigid and inflexible legislative regime placed on them. Ideas such as those in the bill—or, indeed, such as banning parents from smacking their children, forcing through a pointless and unnecessary land reform bill that is irrelevant to the real needs of the countryside, and seeking to allow 16 or 17-year-old criminals to escape trial in adult courts—will not solve the many problems of our justice system. Solutions must be found to the growing levels of violent crime and overcrowding in prisons. Instead, all we get is politically correct tinkering.

Alasdair Morgan: Will the member give way?

Lord James Douglas-Hamilton: I will give way in just a moment.

The Executive should be trying to make people feel safe and to increase public confidence in our justice system. The police presence should be increased and honesty in sentencing should be delivered. If justice demands the imprisonment of more lawbreakers, that is exactly what the Executive should have the courage and capacity to ensure happens.

Alasdair Morgan: I thank the member for giving way and I apologise for dragging him back to the bill. Even if we were to assume that his code would be effective in relation to the Executive, how would he enforce such a provision on local authorities, many of which, of course, he despises, as they are run by the dreaded Labour party?

Lord James Douglas-Hamilton: A framework already exists. I am well aware that ministers are in a position to give directions. Ministers have a certain influence that is perhaps not always seen. I have no doubt that, if ministers are thwarted or frustrated, or if a genuine problem arises, Parliament will act. However, what is being proposed is a sledgehammer to crack a nut.

We support open government, accessibility and accountability, but the bill, like the new Parliament building, apparently has growing cost implications. We must ask whether it is strictly necessary. On behalf of the Scottish electorate, we make the plea that open government should not have to involve extra bureaucracy and should not be a millstone around the neck of the taxpayer. If the bill proceeds further, we will act as guardians of the people's interests, which we will defend with vigour.

10:14

Gordon Jackson (Glasgow Govan) (Lab): In March last year, we discussed the freedom of information principles: the citizen was to be entitled to be given information and, at long last, the citizen was to be empowered and a culture of openness encouraged. At the time, there was much agreement on those principles among members on the nationalist and coalition benches, as there still is. Only the Tories were strongly opposed.

I say to Lord James that I genuinely regret that, even after hearing all the evidence in the Justice 1 Committee, he has not changed his position. I am disappointed and, frankly, I find his views difficult to understand. I cannot begin to see how, in a democratic society, we should be opposed to the proposed legislation. It is all very well for Lord James to say that he wants an open culture, but Jim Wallace made the important point that what we are doing is giving the citizen a right to information. What can possibly be wrong with that?

There will certainly be some disagreement in the chamber on the details of the bill and I for one would not want to minimise the importance of that. There are a number of important issues that should not simply be swept aside. We will need to discuss them with the minister at stage 2 and I will talk briefly about some of them now.

There is legitimate concern that the bill should have proper coverage of the specified institutions. Roseanna Cunningham touched on that issue. As has been pointed out, many bodies that are not strictly speaking public authorities exercise functions of a public nature. I have a great deal of sympathy with Glasgow City Council's statement that

"openness is the price of doing business with the public sector".

It is important to ensure that there is proper coverage. Although organisations can be designated by the minister, the Justice 1 Committee has suggested that we should at least consider whether the bill should contain an appropriate form of words to cover all such bodies. I do not know whether that will be possible, but the principle is important. There should be no gaps.

Although removing certain bodies from the scope of the bill may be a matter of common sense, I repeat what I have said to Lord James before: there should be a statutory obligation to consult the information commissioner before a minister removes a body. That is what the committee has recommended.

Fears exist that there may be ways in which the bill can be prevented from operating properly. I think and hope that such fears are more cynical than justified. Nevertheless, there are fears that public bodies may take unfair advantage of certain provisions in the bill. Roseanna Cunningham has mentioned some of those fears and I will do the same.

One fear is that the bill covers only recorded information. Of course, that is as it must be, but the fear exists that information may deliberately not be recorded in order to avoid disclosure. We must ensure that, at the very least, the commissioner issues guidelines to prevent any abuse in that area.

Another fear is over the fact that requests for information have to be in writing. For a variety of reasons, there clearly has to be some recording of requests. There is also a fear over the idea that costs may be a ground for refusal when a campaign is taking place or when a vexatious request is being made. I have no difficulty with excessive costs being a ground for refusal, but we will again need guidelines to prevent abuse.

Concerns have been raised about the charging scheme. It is certain that cost could always be used as an excuse to thwart the purpose of the bill. The Justice 1 Committee would like to see more details about proposals for a charging scheme before stage 2 is completed.

Another fear is that anything to do with charging will be dealt with by negative instrument. That may seem to be a minor matter, but it was raised by both the Justice 1 Committee and the Subordinate Legislation Committee. We do not think that the proposal is right; we believe that the Parliament should make a positive decision, by affirmative instrument, on anything to do with the cost of provisions.

Interesting ideas have arisen about the lack of sanctions against authorities that fail to comply. What is to be done with authorities that simply ignore the legislation or that may be at least tempted not fully to fulfil their obligations? Like others in the Justice 1 Committee, I am not sure what sanctions are practical, but we have suggested that the commissioner should have the authority—and perhaps even the duty—to name and shame authorities that repeatedly and for no good reason act contrary to the principles of the bill.

Those matters may seem minor, but I do not apologise for raising them. It may be that none of them will ever be a problem. However, raising them highlights the point that there are a number of ways—at least in theory—in which the purpose of the bill could, to some extent, be thwarted. We must constantly ensure that that does not happen. We must be vigilant and we must have proper guidelines.

Other issues, which may seem far more important, have caused division in the Justice 1 Committee—I have no doubt that they will cause division in the Parliament, too. Those issues mainly involve the exemption of information, which is a bone of contention. Everyone accepts that every freedom of information regime must build in exemptions. No reasonable person would ever dispute the need for that—even in a free and open society there must be some form of not giving out information. However, there is a legitimate debate about the extent of exemptions and how they should operate in practice. On the bill, that debate is focused on several specific areas and phrases.

We have considered the phrase "public interest". In many situations, the test will be whether the public interest in disclosing the information is or is not outweighed by the public interest in maintaining the exemption. In other words, where does the greater public interest lie? Does it lie in telling the information or keeping it back? It has been suggested that the bill should attempt to define public interest. The committee in general did not feel that to be appropriate or necessary. Apart from anything else, public interest is a

concept that changes with the passage of time.

The commissioner will need to provide guidance on how the test is to be applied. I suspect that in due course the courts will have to tell us the meaning of public interest in the context of the bill. I expect that to work in practice. It will allow for flexibility and changes as time passes. The important point is that the test exists. Therefore, for the exemption—even a class exemption—to apply in any case, other than that of an absolute exemption, it will be necessary to show that the public interest lies in favour of non-disclosure. I think that we can be fairly sure that that will be a substantial and difficult hurdle for any authority.

Like everyone else, I welcome the phrase "substantial prejudice". In many situations—although not in the case of class exemptions—it will be necessary for the authority to show that disclosure would be a substantial prejudice to the protected interest. That is a high standard. We have repeatedly said that it is higher than the UK standard of "prejudice", but some people might not think that distinction important. They might think that it is just one word—a question of semantics. However, the distinction is very important. It is almost always possible for an authority to show some prejudice. It is much more difficult to hide behind the test of substantial prejudice. We should not underestimate how important that change is.

The real argument that we will have—I am looking at my committee colleagues—will be about the phrase "class exemption". That is a difficult issue. Some people will argue that there should be no such thing. The argument that we have heard is that the public interest test and the substantial prejudice test taken together should be sufficient. I am not totally unsympathetic to that view. On most occasions, that system would work quite well in practice. However, on balance, I have come down on the other side and I tend to the view that there is a case to be made for class exemptions in the sort of situations envisaged by the bill.

There are situations where the substantial prejudice test should be the starting point, after which we should apply the public interest test. It is important not to allow people to suggest that a class exemption means that information within that category will never be disclosed. That is not true. The public interest test must still be applied, which is important as far as the citizen is concerned.

Another argument centres on the ministerial veto, which generates a great deal of discussion. My suspicion is that in some ways the point is an artificial one—Christine Grahame is looking at me askance. My suspicion is that, in reality, the argument about the ministerial veto is much less important than the arguments about class exemptions and the public interest. I understand the fear that the ministerial veto will counter the spirit of the bill and over the years might be used by Governments to thwart the bill's intentions. I can see that; I am as cynical as anyone else when it comes to that sort of thing. However, I do not think that it is entirely relevant to our situation.

Experience throughout the world suggests that Governments want to have the comfort of that backstop. If I were sitting in the front row where the ministers sit, I would probably think the same.

Christine Grahame (South of Scotland) (SNP): Dream on.

Gordon Jackson: We can all dream and be fanciful—do not hurt me any more.

My view is that, although the Government has the comfort of that backstop, the veto would be quite difficult to use in practice. Roseanna Cunningham said that, once Governments have used the veto a couple of times, they will find it easy to get away with doing so. I do not think that it would ever be easy for Governments to get away with it. My colleagues in the SNP and the Conservative party would make that absolutely certain. Political reality would prevent any Government from repeatedly overturning the decision of the independent commissioner. Indeed, if a decision were overturned, the courts would be called on—

David McLetchie (Lothians) (Con): Why?

Gordon Jackson: Because the decision would be subject to judicial review.

David McLetchie: If it is passed by Parliament, the decision will be upheld.

Gordon Jackson: All things that Government ministers do are passed by Parliament but open to judicial review. The courts would ensure that the veto was being exercised properly and responsibly. I have no doubt that even the veto is open to such a review. I understand why Governments want a veto. I have reservations about it, but I do not think that its existence is of any great practical significance.

What is most important is to ensure that the bill works in practice. After we have finalised the detail of the debates, we must ensure that we have the right spirit to operate the regime. We will need a properly funded commissioner. We must ensure that funds are available for all public authorities to operate the regime in the way that it should be operated. I am not going to apologise if that costs a few bob, as that is not an inappropriate use of a reasonable amount of public funds.

We have suggested that every public authority should have a designated freedom of information officer, who would have a particular role to play in ensuring that the regime is properly implemented. The regime will be robust and will be supported by

good legislation. Once we have ironed out the details together, the regime will form an important element of an open and democratic society.

David McLetchie: On a point of order. In view of the ruling that the Presiding Officer gave last week on Duncan McNeil's point of order, I draw to your attention the fact that the Deputy First Minister and Minister for Justice did not remain in the chamber to do Mr Jackson, speaking on behalf of the Labour party, the courtesy of listening to his speech. Could we have a ruling reinforcing the point that was made last week?

The Deputy Presiding Officer: If Mr McLetchie had been present at the beginning of the debate, he would have heard Mr Wallace give an explanation and an apology for his necessary absence. That point has been covered.

I emphasise that the Presiding Officers will continue to monitor the practice of members who have spoken leaving the chamber before listening to a couple of supplementary speeches. In general we will adhere to the ruling that was made.

I allowed Gordon Jackson an extra minute or so, given that he was sharing his fantasies with us. There is some flexibility today—12 members wish to speak and I expect to call them all. I can allow members up to six minutes for their speeches.

10:29

Christine Grahame (South of Scotland) (SNP): I will not be sharing my fantasies with you, Presiding Officer—you might be a little shocked.

I will try to leave my party-political hat to one side and address the issue as convener of the Justice 1 Committee—it is a bit of a test for me. With one exception, the committee welcomed the bill. I welcome the substantial prejudice test as a higher test. Gordon Jackson explained eloquently—as always—that that is not a minor change of language.

There is a great deal of emphasis in the bill on the role of the Scottish information commissioner, to which I shall return. At the end of his speech, Gordon Jackson raised the important issue of our concerns about proper funding for the independent commissioner and for public authorities so that the bill can operate.

I listened to Lord James Douglas-Hamilton's speech with great interest. He has been a positive contributor to the Justice 1 Committee in many ways, but he is wrong about the bill not being necessary. It is good to have regulatory legislation that does not dictate but which guides on rights and obligations—the right to information and the obligations on public authorities. In due course, with the codes of practice, we will see whether the bill is flawed—as Lord James thinks it is—or otherwise, but the principle behind the bill and the fact that we need a bill are clear. People do not know what their rights are or the obligations and duties of public bodies.

The committee welcomes the intimation by the Minister for Justice of an amendment in response to the recommendation in paragraph 40 of our report that the time scale within which an applicant must apply for a review be extended from 20 days to 40 days.

Class exemptions will be of interest when we get to stage 2. Some Justice 1 Committee members have substantial reservations about class exemptions and wonder whether they simply take a swipe at the bill and undermine it fundamentally.

Others will develop the issue of commercial confidentiality, but I can think of attempts to get information on private prisons that were stymied because the information was said to be commercially confidential, yet it is public money that is used for private prisons.

I say to Gordon Jackson that we will have a little stushie about certificates issued by the First Minister. I do not think that they are as unlikely to be used as he makes out. His argument was interesting and no doubt we will hear it developed, but there are problems. Even the Law Society of Scotland said that if they are not necessary, why have them? It is a belt-and-braces approach. I think that Gordon Jackson asked for an example of when such a certificate would be used. I do not recall hearing an answer to that.

Gordon Jackson: David McLetchie did not seem to be terribly up on this issue. The courts could review the issuing of a certificate by the First Minister. The courts will have the final say, even on a ministerial veto.

Christine Grahame: I take that point. We will have an interesting debate when we deal with amendments on the issue.

The role of the commissioner is at the heart of the bill. He or she will be crucial to the development of the legislation and to its operation and policing and will make a great deal of difference to how the legislation develops, not just because of the commissioner's status, but because he or she will be the first commissioner to be appointed.

There is concern that there are no sanctions against public bodies that fail to comply with an order to produce information. Section 55 puts a bar on raising an action against a public body. We draw the minister's attention to that. There seems to be an imbalance.

The committee was unanimous in saying that two years was a reasonable time over which to bring the bill into operation.

I will finish quickly. Do I have four minutes?

The Deputy Presiding Officer: You have six minutes.

Christine Grahame: I have six minutes. I can slow down.

I want to address the culture of openness, which is at the heart of the bill. Those of us who are in Parliament have found it hard to detect the fresh breeze of openness blowing through the Parliament's corridors. Parliamentary questions are something of an art form. When one gets to one's fourth supplementary one might begin to smell blood, but it takes a great deal of cunning to get there, because one knows that the civil servants on the other side are working out how to—I love this word—obfuscate with their answers. One gets the wonderful answer, "This information is not held centrally." Where is it held? One has to dig around for it oneself. A culture of openness is essential.

The codes of practice are of great concern. There are many references in the Justice 1 Committee's report to the codes of practice: paragraph 28 states that disabled rights, which Roseanna Cunningham raised in relation to blind or partially sighted persons, should be mentioned in the codes of practice; paragraph 31 mentions the codes of practice in relation to the grounds for refusal to provide information by a public body; paragraph 57 refers to charging; and paragraph 52 relates to vexatious litigants.

I listened carefully to what the Minister for Justice said. I think he said—he will correct me, please, if I am wrong—that we would receive the codes of practice during stage 2. That is not good enough. We require draft codes of practice before the last date for lodging amendments. That is important, because amendments will be lodged if the codes do not address certain issues. It is important that those amendments are tested at stage 2. I would like the Deputy Minister for Justice to give us an exact time for when the codes will be provided, because we are supposed to be launching into stage 2 some time in the coming weeks. On behalf of the committee, I say that we will not be happy to examine a draft code of practice once amendments have been lodged at stage 2 and there is no time to lodge more.

I have nothing further to add.

10:35

Paul Martin (Glasgow Springburn) (Lab): I welcome the bill and the culture of openness that it will provide. I am disappointed that the Conservatives are not able to support the bill, in particular on the day when IDS—otherwise know as Iain Duncan Smith, the Conservative leader—advises that he will improve public services. Improving public services is about providing information to the public and ensuring that they have access to important public information. Murdo Fraser asked Jim Wallace how many people in his constituency raised the issue of freedom of information. I will give an example from my constituency.

I have mentioned on a number of occasions in the chamber that it has been proposed to site a secure unit at Stobhill hospital. As a local MSP, I requested information. When I did so, I was advised that Greater Glasgow Health Board would provide the information, but that there was no legal requirement for it to do so. That concerns me. The message to quangos is that the Freedom of Information (Scotland) Bill will ensure that never again will a local member of the Scottish Parliament or a local community be told that information will be provided only if there is a legal requirement to do so. The bill will ensure that such information is provided.

Lord James Douglas-Hamilton: Is Paul Martin aware that, according to section 39 of the bill,

"Information is exempt … if its disclosure … would be likely to, endanger the physical or mental health or the safety of an individual."

The rest of the section spells that out in greater detail. Is there any reason to believe that the bill will make such information any more available than it is at present?

Paul Martin: I appreciate Lord James's input. He has worked closely with us on the bill. It is unfortunate that he was unable to outline his immediate concerns during stage 1. The point is simple: our local community requested information from Greater Glasgow Health Board concerning the option appraisal exercise that selected Stobhill. That information should be made available to a local member of the Scottish Parliament and to the local community. I do not want to get into a debate about Stobhill; I just want to provide background information.

Roseanna Cunningham touched on the requirement to request information in writing. Many individuals encounter bureaucracy that tells them to request their information in writing. Many members of the community have severe difficulties with that, in particular those who do not have English as their first language or who have difficulty reading and writing. Local authorities and all other authorities that are covered by the bill should be legally obliged to assist those who request information and perhaps to provide designated areas where people can be assisted to fill in the required forms. I hope that the codes of practice, which will be formulated during stages 2 and 3, will ensure that local authorities do that.

I welcome the fact that individuals will no longer

be required to provide their reasons for requesting information. People should not be asked their reasons for requesting information. It is their right to access particular information. We do not need to ask their reasons for doing so.

Another issue that the committee raised during stage 1 was that of first ministerial certificates. The NUJ raised a particular concern about the First Minister having the opportunity, in exceptional circumstances, to issue a first ministerial certificate. The bill is clear that if a first ministerial certificate is applied for, that certificate should be brought before the Parliament "as soon as practicable".

The period of time referred to by the phrase "as soon as practicable" was mentioned with the Deputy First Minister. In his introduction today, he did not explain what the period would be. During stage 1 consideration of the bill, we asked the Deputy First Minister to define the period, because the phrase "as soon as practicable" can be used loosely. I would like the Deputy Minister for Justice to address that and to define what the period will be.

On many occasions, the Parliament has been given a difficult time about its effectiveness in local communities. We have shown that we have successfully interrogated all the witnesses who came to the committee at stage 1. We considered every aspect of the bill and that is shown by the responses that we received from the various organisations, such as Friends of the Earth and the Campaign for Freedom of Information Scotland.

I believe that the bill will ensure absolute openness and fairness in Scotland. Such a culture should create an atmosphere where who someone is or whom they know does not matter; it is their right to know.

10:42

David McLetchie (Lothians) (Con): I note that in the previous debate on freedom of information in the chamber, the Deputy First Minister and Minister for Justice, Mr Jim Wallace, came out with this opening line:

"Openness and accountability are principles that must lie at the heart of government and not least at the heart of our devolved institutions."—[*Official Report*, 15 March 2001; Vol 11, c 543.]

It is clear that Mr Jim Wallace is a devotee of the Jackie Baillie book of clichés to which I referred last week. The Freedom of Information (Scotland) Bill is apparently yet another Executive priority, but I noticed that it did not feature in the First Minister's motion last week. Indeed, judging by the *Sunday Herald* report at the weekend, which said that the bill's full implementation could be delayed until 2005—which is, coincidentally, the same as the timetable for the UK legislation—it does not look as though the bill is much of an Executive priority at all any more, despite the minister's protestations today. So much for a Scottish solution.

If the bill has been shoved down the list of priorities, the people of Scotland, aside from a few political anoraks, will not shed many tears. Few regard the bill as a priority for the Deputy First Minister and Minister for Justice at a time when violent crime is on the increase and there are many more problems with our justice system that require his attention, as my colleague Lord James Douglas-Hamilton ably outlined.

In many ways, the bill is a perfect metaphor for the Executive's whole approach, as it appears to achieve something worthy and important, but in reality is a piece of political window-dressing. The concepts of freedom of information and open government are the political equivalents of motherhood and apple pie, which are universally acknowledged to be a good thing. Accordingly, to champion such a cause is not exactly an act of political courage.

Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab): Does Mr McLetchie recognise the qualitative difference between the individual citizen asserting a right to information from Government and the kind of shameful teasing out that we had to witness in instances such as the Pergau dam controversy and the Scott inquiry? Ministers of Mr McLetchie's political complexion used every possible device to avoid telling the country's taxpayers how they had managed to squander the country's money.

David McLetchie: If I were Mr Fitzpatrick, I would be wary of being so holier than thou about such matters. After all, he supports a Government that has refused a full, open and independent public inquiry into the foot-and-mouth disease outbreak. I also point out to him and Mr Jackson that it is all very well to say that there is a right, but one has to look at how heavily qualified that right is. If the right is heavily qualified by all the exemptions that ring it, it is meaningless and not worthy of the paper on which it is written.

I will move on. Everyone supports the idea of greater freedom of information, but how one brings that about is important. I have said on numerous occasions in the chamber that open government does not depend on the passage of a piece of legislation. If the Executive wants to release information that is in its possession and which relates to matters within its competence, it needs only the political will to do so—there is no other impediment. In order to have freedom of information in this country, we do not need a bill that has 7 parts, 73 sections and three schedules

and which will introduce bureaucracy that will cost £5 million a year.

Robert Brown: Is not that the key? The issue is not whether the Executive or a Government authority wants to release information, but the right of the citizen to force the Executive to release information. That is the essence of the bill.

David McLetchie: The essence of the bill is that one has to compare the right with the qualification. As I pointed out to Mr Fitzpatrick, it is all very well to blow the trumpets and give people a right, but if one qualifies that right so that it becomes meaningless, it is not a right at all. That is the essence of the debate.

Lord James Douglas-Hamilton outlined many of the measures that the previous Conservative Government took to promote freedom of information. That was done largely without the need for the elaborate statutory framework that is under discussion today. From the Executive's standpoint, the problem with that perfectly sensible approach is that it does not make a bold enough statement about the Executive's political virtue. It is not enough for the Executive to do good; it must be seen to have done good and have that acknowledged publicly. Thus, the bill is a classic example of the sanctimonious, holier-than-thou approach to politics that is the trademark of the Liberal Democrats and which is usually laced with a good dose of self-serving hypocrisy.

Let us leave aside the fact that the Executive seems to believe, wrongly, that legislation is the solution to all our problems. The bill will provide an added layer of protection that the Executive knows could be of value to it in some politically embarrassing situation in the future. Without the bill, the decision whether to disclose rests on the minister's judgment. He must stand or fall by that decision and account for it to Parliament. If a freedom of information act had been in place at the time of the Scottish Qualifications Authority inquiry, Mr Galbraith could have used the class exemption that covers information on policy formulation as a shield to protect him from disclosing information to the investigating committees and Parliament. If need be, the Cabinet could have backed that up with a ministerial certificate under section 52 of the Freedom of Information (Scotland) Bill.

Mr Jackson made great play of the fact that ministerial certificates could be the subject of judicial review. However, as Mr Jackson knows well, judicial review does not consider the substance of a decision; it considers how the discretionary power is exercised. Therefore, in this context, I suggest that it is seriously misplaced to put much faith in the concept of judicial review.

The bill should really be called the having-your-cake-and-eating-it bill. The Executive will seek political credit for legislation on freedom of information, while the bill will make it easier to suppress information as a result of its wide-ranging exemptions—brilliant. That is a perfect illustration of new Labour politics, in which style always triumphs over substance. Once again, we have smoke and mirrors. The Liberal Democrats have found in new Labour their perfect partners. We should reject this charade of a bill.

10:49

Robert Brown (Glasgow) (LD): I must confess that, despite Mr McLetchie's tirade, I found it somewhat difficult to get clear what exactly the Conservative viewpoint on the matter is. Are the Conservatives in favour of freedom of information and an open ethos or not?

David McLetchie: Yes, we are. If the member had listened, he would have heard the measures that the previous Conservative Government took to promote freedom of information: the Local Government etc (Scotland) Act 1994; the Local Government (Access to Information) Act 1985; the code of practice that was enacted in 1994, which was revised in 1997 and which is the basis of the current code; the Access to Medical Reports Act 1988; and the Access to Health Records Act 1990. We have an excellent record of supporting open government, access to information and freedom of information. There is no need to go any further with this elaborate bill.

Robert Brown: I am not sure whether the matter has been clarified. Lord James Douglas-Hamilton and David McLetchie criticised the principle behind the bill and do not seem to recognise the distinction between what an Executive of any description chooses to place in the public domain and what the citizen has the right to demand.

Liberal Democrats welcome the bill, which is a flagship manifesto commitment and a key part of the liberal agenda of the Scottish Executive. That is in stark contrast to the attitude of the Conservatives, whom a commentator recently described as having presided over the most secretive Government in modern history by the end of the Thatcher and Major eras.

I do not want to waste too much time on the Tories. Not for the first time, they are out of step with the public mood and the issues in Scotland. I pay tribute to Jim Wallace for his commitment to the cause, but for which a weaker, Jack Straw-type bill might have been the outcome.

Knowledge is power. The right to knowledge about the activities of those with public power is important. That is one of the key checks and balances on the exercise of public power under

our constitutional arrangements in Scotland.

The information that is sought under the bill may frequently be awkward or embarrassing for ministers, civil servants or individuals. The person who seeks the information may be an eccentric with a bee in his bonnet, a man or a woman with a grudge, or an Opposition politician who wants to do down the Government or council of the day. That does not matter. Public information is held by public authorities in trust for and on behalf of the people, from whom they draw their power. It is to the Executive's credit that it is prepared to back the bill, even at the price of creating a rod for its own back.

Like Roseanna Cunningham, I like what is good to be made better. I am not too obsessed by the limited ministerial veto, because its exercise would be a major political event. The minister gave some reassurance on the charging regime—we can leave that for the moment.

I do not like the definition of public authorities, which is different from the definition in the Human Rights Act 1998. A repeatedly amended list of bodies is not obviously based on principle and does not make for clear and accessible law. A huge range of bodies could be included. I defy any list to include them all. For example, I draw social inclusion partnerships to the minister's attention. In many members' experience, they have not been models of accessible or accountable bodies. They answer to several public organisations. The bill does not refer to bodies that are managed by several public bodies.

That is a common situation with public authorities. As one or two other members have said, some public services are provided by public companies and voluntary bodies may provide more. I am not entirely sure that the definition in the bill is particularly apt to deal with voluntary bodies, which do not fit the dimensions of public authorities or public companies, although many of them provide substantial public services.

Much of the information that bodies produce was accessible, but might no longer be so, because of the extension of the PFI concept of provision of services by bodies that are not public bodies in the sense of being Government bodies. That situation is made more complicated by the linked issue of commercial confidentiality. I endorse the call to the minister to have the extent of that more tightly defined.

Like Gordon Jackson, I liked Glasgow City Council's comment that

"openness is the price of doing business with the public sector".

That carries a message for us all, although I must say that that principle has not always been the hallmark of the council's activities.

The key to the bill's success is for those who are subject to the bill to keep their records orderly and accessible and to use modern information technology techniques to archive and arrange records. Bodies should already do that, but they should have resources, advice and training from the Executive. None of that should be an excuse for a lengthy delay in implementation. There is merit in the big-bang approach.

On a slightly different subject, I mention in passing that I have had problems obtaining from the Scottish Executive detailed reports at council level under the Home Energy Conservation Act 1995.

The bill is a key measure and is central to the Parliament's ethos. It is long overdue. Our Presiding Officer, Sir David Steel, is one of a long line of Liberals to have introduced private members' bills on the subject at Westminster, but it falls to Jim Wallace, the Executive and the Parliament to pass such a bill.

I urge the Parliament to pass the bill at stage 1 with the claim that it will make a major difference to the way in which public power is exercised in our country.

10:55

Bruce Crawford (Mid Scotland and Fife) (SNP): Unlike the Tories, the SNP welcomes the bill. Perhaps the horror stories and secrets that have still to surface from the Tories' time in office make them reluctant to support the bill. Lord James Douglas-Hamilton was worried about bodies that have ceased to exist. If the attitudes that he and David McLetchie displayed today are anything to go by, such a fate may come to the Tories sooner than they expect.

Lord James Douglas-Hamilton: The member described the Executive's concern. My concern was with ministers exempting themselves.

Bruce Crawford: The Tories' real concern is their next manifesto, which will say that the Parliament has produced too much legislation, which they will cut out. That and not the bill is their concern.

I will concentrate on environmental issues. I will give practical examples and examine whether the bill will make a difference. The European Union directive on access to information is likely to be revised soon, and the UK Government is expected to ratify the United Nations Aarhus convention. New regulations on environmental information are being developed to accommodate those changes. I understand that the Executive intends to introduce those regulations while the bill goes through Parliament; perhaps Richard Simpson will deal with that point.

It is obvious that it is an ideal time to introduce a bill that is good enough to comply with the EU directive and the Aarhus convention. I hope that the Executive will make the proposed information commissioner responsible for harmonising the time scales for environmental information and other information.

At present, articles 3, 4 and 9 of the Aarhus convention will be incorporated into the bill, but article 5, on the collection and dissemination of environmental information, will not. That is a worry. Concern has been expressed that any pollution register that is introduced in Scotland will not be comprehensive enough to comply with the Aarhus convention. If that is to be addressed, article 5 must be included in the bill. I ask the minister to reflect on that.

How does Richard Simpson intend to ensure that when ministers make promises about the release of information, they stick by those promises and deliver when they said that they would? In March 2000, the "Scottish Climate Change Programme Consultation" was published. On page 10, the Executive promised to produce, with effect from 1998, an annual inventory of Scottish greenhouse gases. Given the importance of those figures and the fact that this is the year of the world summit on sustainable development in Johannesburg, is it not a disgrace that the most recent figures date back to 1998? That is not to say that information does not exist. It has sat on Ross Finnie's desk for months. A Scottish Executive memo that has come into my hands makes it clear that no figures will be available until the end of March at the earliest. Why are those figures not being published? What bad news is being hidden? How will the bill stop such activity?

Perhaps the minister will also tell me how the bill will change the Executive's working practices. On 8 October 2001, I submitted three parliamentary questions about a large number of infraction proceedings that the European Commission had initiated because Scotland was considered to have broken European laws.

Incredibly, it took Jim Wallace until 28 December to tell me that he was not prepared to release the information. It took him a full 81 days to tell me that he would keep the information secret and yet I was able to secure information directly from the European Commission, through the offices of my good friend Ian Hudghton MEP. How is it that Margot Wallström, the European Commissioner for the Environment, is prepared to provide specific information on infraction proceedings involving Scotland, but the minister with responsibility for freedom of information in Scotland is not?

Perhaps in summing up Richard Simpson will be good enough to tell me whether the bill will ensure that the Executive will not be so secretive with such information. There is no point in spouting on about the intent of a bill if it does not deliver a change in culture and practice. There is no doubt that without changing the culture of secrecy, there will be no change. Changes in culture require to be driven by leadership from the top. It is time for the ministers to show such leadership and to ensure that their own practices are an example to others.

PFI and public-private partnership issues have been raised this morning. At present, waste strategies are being implemented in Edinburgh and the Highlands. As those strategies are being undertaken as PPPs, we cannot see the names of the bidders, the full tender documents or the outline business case in which alternatives were discussed. That is not good enough.

The Agriculture and Environment Biotechnology Commission report "Crops on Trial", about genetically modified crop trials, was issued in September 2001. It states:

"some of the chosen sites have made it seem that the trials have been conceived and designed in a secretive way, with key players not fully engaged."

The Executive should let us know how the bill will make a difference to the operation of such trials.

11:02

Maureen Macmillan (Highlands and Islands) (Lab): When the Justice 1 Committee first began its consideration of the bill, it was obvious that there were different concerns depending on which side of the fence people stood—as potential information providers or information seekers.

On one side, people giving information were anxious about the implications, time and money that are involved in supplying information, especially if inquiries are made unnecessarily or even mischievously—I am reminded of the vast number of parliamentary questions that are asked by some members. However, there seemed to be an unwarranted concern that administrative staff would have to cope with a considerable element of bloody-mindedness.

On the other side of the fence, people seeking information were worried that they would encounter bloody-mindedness from officialdom and that requests for information would be turned down using the excuse that the requests were vexatious, cost too much or were part of a campaign. It was also feared that public authorities would deliberately not record information so that they could dodge the responsibilities of disclosure.

It is crucial that we get away from that mutual suspicion. We need to build a culture and an ethos in which government is open and information

seekers behave in a responsible way. There should always be the presumption that information is available. Members of the public, especially those who are in some way disabled and have difficulty in making requests in writing, should have the opportunity to apply in a manner that will result in them getting the information that they seek.

Local authorities need to have information officers who will assist people who request information. I draw the chamber's attention to paragraph 132 in the committee's report. It says:

"The Committee is concerned that the multiplicity of statutory provisions applying to access to information could cause confusion, both for public authorities and for members of the public. The Committee recommends that clear guidance on the application of these statutes should be contained within the codes of practice and that the Commissioner should play a strong role in ensuring that both public authorities and members of the public are clear on which provisions apply to the information they are seeking."

There is no use in having a freedom of information act if ordinary members of the public do not know how to access it or use it.

Much anxiety has been generated by worries about the definition of words such as "vexatious" or "campaign". We must ensure that those definitions are dealt with in the guidelines to the bill. People should not be put unnecessarily into positions of conflict with local authorities. I urge a light hand. Several people seeking information about a local cause for concern is not the same as an aggressive campaign and should not be treated as such.

I have found the Executive's response to such concerns to be helpful, as has the response to representations on the level of charges to be levied. I accept that detailed consultation has been conducted and that it is not possible to please all the people all the time. I recognise that the Executive is committed to finding a solution, which I hope can be put before the Justice 1 Committee in the very near future.

The issues that divide the parties are class exemptions and the ministerial veto. I consider those matters to be reasonable safeguards. It would be politically irresponsible to use them irresponsibly. They are not of concern to the vast number of people who seek information for personal reasons or for research. Ordinary people want a courteous, efficient service, in which openness and an acknowledgement of their right to ask for and receive information is assured. That means that public authorities need to have funds to enable them to put their archives in order and train staff, for example. We have to ensure that when the act comes into force, public authorities are ready and able. However, that should not be an excuse for postponement of implementation. I note the minister's remarks that five years is a backstop and that he hopes to see the act implemented long before that time.

The bill will change the culture of officialdom in our society. The information commissioner has a key role to play in that respect. Although it is the politically active and the campaign groups who make the headlines over freedom of information issues, it is the ordinary people of Scotland who will see the benefit of the bill. I support the principles of the bill.

11:07

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): In common with most other members, I welcome the bill. I will say why it is needed. I refer to a quotation that I included in the speech that I made when we debated the issue last year. I quoted Dr David Clark, the Cabinet minister who was responsible for introducing the freedom of information white paper in the House of Commons. He said:

"there is obsessive secrecy in Britain. Secrecy is almost endemic in senior levels of the civil service".—[*Official Report*, *House of Commons*, 7 December 1999; Vol 340, c 739.]

David Clark is hardly a radical—he is a mild man. If he says something such as that, we should not doubt it. He might have gone further, as that same attitude of secrecy applies also to Cabinet ministers.

It is clear that something needs to change. We should not be bashful about that, as we are talking about our information—public information, which is held on behalf of the public, created by the public, paid for by the public and often kept secret by virtue of public funds.

In the context of obsessive secrecy, we should ask whether an act of Parliament is enough. We need to change the culture. Ministers and senior civil servants will need to take proactive initiatives. Those at the top need to lead by example. We do not want a culture of secrecy to be replaced by one that gives the minimum information that is necessary to comply with the terms of the act.

Christine Grahame mentioned parliamentary questions. In some cases, asking questions is a game. Members phrase a question that tries genuinely to seek information. In some cases, officials seem to delight in giving the minimum amount of information that is necessary to comply with the wording of the question. The member receives the reply and refines the question to get a little more information. The game goes on and on until the member gets the information. That approach to giving information has to change. When the Justice and Home Affairs Committee carried out pre-legislative scrutiny while I was convener, one official was of the opinion that

parliamentary questions would be subject to the legislation, just like all other information.

The explanatory notes are clear that the bill is a minimum requirement. Bodies do not need to take advantage of all the exemptions that are in the bill. We need to encourage them not to take advantage of those exemptions but to have a culture of giving out as much information as possible. However, in the context of obsessive secrecy, I am worried about some exemptions. The bill is an interesting document for finding out how many organisations in Scotland are public bodies. Public servants, ministers and quangos are listed in vast array. If we assume that all the people working in those bodies are totally reasonable and mild, we could go through the explanatory notes that detail what the exemptions are about and say, "Well, that sounds fair enough. Any reasonable person reading these notes and interpreting them reasonably would not have a problem in giving out information."

However, if some of those people are not totally reasonable and come from a system where there is a culture of obsessive secrecy—as David Clark said—we do not need a crystal ball to see that it would be possible to use some of those exemptions to drive a coach and horses through the intentions of the bill. Section 28, on relations within the United Kingdom, deals with exempt information. It says:

"Information is exempt … if its disclosure under this Act would, or would be likely to, prejudice substantially relations between any administration in the United Kingdom and any other such administration."

That is not an absolute exemption, but I am not convinced by its necessity. If ministers used section 28 to cover their backs, we could not rely on the commissioner to use the public interest test to overturn it.

I cannot see what important matter would be covered by section 28 that is not covered by other exemptions in the bill. There is section 29 on the formulation of policy, section 30 on prejudice to effective public affairs and section 31 on national security. What on earth will fall under section 28 that does not fall under one of the other sections? If we are saying that the section is valid, we are saying that there exist types of communication or information which, if passed between departments of the Scottish Executive, would be open to the public but, if passed between a department of the Scottish Executive and a department of a UK minister, could be exempt. The Scotland Office is not part of this Parliament; it is a department of the UK Government. Is the section specifically to exempt information passing between the Scotland Office and the Parliament? I suspect that that may well be the case.

Call me a paranoid nationalist—[MEMBERS: "Paranoid nationalist."] I thank members—that has done my street credibility no end of good. Call me a paranoid nationalist and ask me to lie down in a darkened room, but I cannot for the life of me see why section 28 is needed, unless a political scalp has to be saved now or in future.

The problem with having such broad exemptions is that we will never know whether the public interest is being damaged by the fact that information is not available. We may suspect that the unavailability of a certain piece of information might damage the public interest, but we cannot be sure, because we do not know what that information consists of. We will rely on the commissioner to save us in those circumstances. That is one reason why we should try to get rid of those broad exemptions. I welcome the bill and I hope that the committee will be robust when it goes through it section by section.

11:14

Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab): I thank Justice 1 Committee members for their contributions to the debate, which are of interest to onlookers such as me. I am pleased that the committee has agreed on the general principles of the bill.

It seems a long time ago now but, as a baby advocate, part of my living was made by turning up at rather quaint rituals in the Court of Session, such as the commission to take evidence. I quite often had to do that in advance of hearings and so on. One thing that offended me every time I did it—certainly at the stage where it became contentious—related to the recovery of medical records. It struck me that everybody and his auntie could have a good old poke through a person's medical records—everybody, that is, but the person whom they concerned. That was usually because a health board or an insurer had decided that it was not in a person's interests to have a good old poke around their medical records and that it might in fact be in their interests to prevent that person from doing that. A person had to get a court order to gain access to their own medical records. As a young advocate, that helped me to put a meal on my children's table, but I do not apologise for being offended at having to turn up in the first place.

Like Maureen Macmillan and Alasdair Morgan, I hope that the bill will mark a radical departure from one style or culture of public service to another. However, a number of contributors to the debate have jaloused quite correctly that the legislation must not be seen in isolation. It is one aspect—perhaps the most central one—of a wider process of reform in government and public service generally.

We have already started the renewal of the constitutional face of this country and the move from subjects to citizens. We have created something that people said we would never manage, although the disappointment brigade—diminished though it is—has lined up willingly all along. There is the Scotland Act 1998, and we have passed into law an act that will still be regarded in 10, 20, 50 or 100 years' time as the single most important change made in the relationship between the citizen and the state: the Human Rights Act 1998. The bill should be seen as a necessary companion to that act.

We should not forget that the Human Rights Act 1998 finds its origins in the ashes of the Holocaust and the recognition, at the end of the 20th century, of the insistent demand that we should use our best endeavours to organise our western democracies so that racists, fascists and others will never be able to use the instruments of democracy to strip the citizen of rights. The use of arbitrary power and the abuse of discretion in even the most well-meaning of societies has been challenged. The closed society is always defeated by the open one. Openness is the most powerful defensive weapon for democracy. It is the natural enemy of arbitrariness and the natural ally in the fight against injustice. As the Deputy First Minister said, information is the currency of an open, democratic society.

On any fair measure, the bill and other measures represent a substantial and hugely important set of reforms that will modernise and regenerate our constitution. Our Prime Minister said that we would change the relationship between government and the people, to give people a better sense of what it means to be a citizen and not a subject. I suspect that it is the attachment of many Conservatives to being a subject that motivates much of the discussion in that party.

Working together with our partners in Scotland we have set about changing the way in which government works and introducing freedom of information legislation. One of the crucial things about the bill—it is the difference between us and those on the right—is that it not only deals with those discretionary decisions that we can already effect by ministerial direction or decision but gives every citizen a legal right of access to information held on them by bodies throughout the public sector. We know—it will be part of the stage 2 debate—that there are variable interests that have to be balanced.

On the one hand we are told that the public interest lies in disclosure and on the other that the individual's interest lies in the privacy of their own information. On the third hand—if that is possible—we are told that the public interest lies in there being no disclosure; sometimes that means that it lies in there never being disclosure, but in many cases it means that it lies in disclosure not being premature. It is the responsibility of the Executive and the Deputy First Minister to make those decisions in the best interests of everyone.

I welcome and echo what Gordon Jackson said on the substantial prejudice formula. I believe that it delivers the principle that harm that is claimed to be caused should be real, actual and of significant substance. One does not need to be a lawyer to know that that is a pretty substantial test. There must be a probability of significant prejudice. I would relish the opportunity to make such an argument against a recalcitrant Executive. David McLetchie shows his lack of interest in taking up such a challenge.

I was going to touch on policy advice, but we may come back to that issue. It is interesting to note the absence from the press gallery of the people who benefit in large part from freedom of information regimes around the world. I hope that, if they are to be able to look in on the processes of government, we will have the opportunity to look in on the processes of an editorial conference.

I have a couple of questions for the Deputy Minister for Justice. We have talked about the change of culture in government. A number of members have made clear their appreciation of the fact that that is essential to the proper working of a freedom of information regime. I would be interested in hearing the minister's views on what we are doing to secure that.

On exemptions, many freedom of information acts around the globe have sunset clauses. I would be interested to learn what consideration has been given to that and what systematic review of exemptions will take place. Are they to be exemptions sine die or should they be constantly reviewed? I would always stand on the side of constant review and of information being disclosed thereafter.

Finally, I declare an interest as a member of the Faculty of Advocates. The Deputy First Minister and Minister for Justice will be aware that we are currently five judges down because of our responsibilities for the Lockerbie appeal. I have no difficulty in anticipating that there will be some volume of work in due course to deal with applications under the Freedom of Information (Scotland) Bill. I would like to know what consideration and discussions have taken place in relation to the implications for judicial resources.

11:22

Murdo Fraser (Mid Scotland and Fife) (Con): Let us be clear about something from the start. The Scottish Tories support the principle of

freedom of information. We are proud of our record in government. My colleagues James Douglas-Hamilton and David McLetchie have already referred to the many measures that we introduced when we were in government to allow open access to information, including the 1994 "Code of Practice on Access to Government Information", which ensured the release of records by Government departments and the Public Record Office.

If we support the principle of freedom of information, why do we not support the Freedom of Information (Scotland) Bill? I shall try to answer that question. Before I came to the Parliament, I practised law, as did many other members. In that profession and while studying for it, I needed to understand the nature of laws. Governments should not legislate just for the sake of it. They should not legislate just to appear to be active and thus fill up the statute book with unnecessary legislation for which there is little or no demand. The poor law students of tomorrow will have an unnecessarily heavy work load if that is what Governments or the Executive do, and the functions of the Government and the Parliament will begin to fall into disrepute.

I am not sure whether we are allowed these days to call the Executive a Government, but Governments should legislate only where there is a clear need for new laws to deal with a new situation that has arisen, to reflect a change in attitudes in society or to right some dreadful wrong. None of those events has occurred in relation to the Freedom of Information (Scotland) Bill. Is information currently being withheld? We trust not. Is it likely to be withheld in the future? There is no reason to believe that that is likely, under this Executive or any future Executive, so where is the pressing need for legislation?

If the Executive wishes to provide freedom of information—as it should—it should just get on with it. It does not need an act of Parliament to say so. The Executive is either committed to open government or it is not. If it is, it does not need legislation to support that commitment.

I am sorry to see that Bruce Crawford has left the chamber. He made an interesting point which, rather unusually, I agreed with in part. He said that if there is to be more freedom of information, we need a change of culture. To an extent, he is probably right. We do not need legislation. If a change of culture has to come, it must come from within the Executive. We do not need legislation such as the bill that is before us, which is hedged around with all sorts of exemptions and get-out clauses for the Executive.

Members of the public, people who come to surgeries and others who contact me raise many different topics, including the state of the health service and transport infrastructure, the lack of police, failures in the justice system and the decline of the rural economy. That list will be familiar to all members. Not a single one of those people has complained to me about the lack of a freedom of information bill or about the need for the Freedom of Information (Scotland) Bill. When I questioned the Deputy First Minister on that point, he confirmed that nobody coming to his surgeries had expressed that concern either. If any other members have had that concern raised at their surgeries, I would be happy to hear from them.

Roseanna Cunningham: I am interested in what Mr Fraser has to say. Of course people do not turn up to an MSP's surgery calling for a freedom of information act, but they turn up to my surgeries wanting information and asking how they can find out about things. That is what the debate is all about. People may not couch their concerns in the nice, legalistic terms that Mr Fraser obviously prefers, but that does not mean that they are not interested in how they can find information. That is what we are debating today.

Murdo Fraser: It is up to the Executive to provide the information. The point that I am making is that the Freedom of Information (Scotland) Bill will do nothing to progress the cause of freedom of information. The Executive says that it is committed to open government. It is up to the Executive to make that information available if it is not currently being made available.

Christine Grahame: Will the member accept an intervention?

Murdo Fraser: No. I would like to make some progress.

It does the Parliament no credit to be spending its time discussing matters that are of a minority interest. When people outside see our health service crumbling, our roads in need of improvement, our railways not running, businesses being closed down in rural areas and criminals escaping with lenient sentences, they want to see Parliament addressing those issues. What do they see instead? Endless strategy documents for dealing with this and that; words in place of action; a bill to ban fox hunting; land reform; and freedom of information. It does us no credit whatever.

Alasdair Morgan: Will Murdo Fraser give way?

Murdo Fraser: No. There is one further point that I would like to make.

Members have mentioned the fees chargeable for providing information. As that is an important matter, I make no apology for raising it again. Section 9 provides that the fees that may be charged by public bodies will be set by Scottish ministers by regulation. The bill does not say that

those fees should be reasonable, nor are Scottish ministers required to consult on the level of those fees. It would therefore be possible for Scottish ministers to set the level of fees at some outrageous figure, in effect preventing access to information. The Executive will say that that is inconceivable and that such a move would defeat the purposes of the bill. However, that right remains. In practice, the public will have no more guaranteed a right to freedom of information, should the bill become law, than they do at present.

That brings me back to where I started. The bill will do precisely nothing to improve access to Government information.

Brian Fitzpatrick: Murdo Fraser said that he has a law degree. Presumably, he recognises the difference between a legal right to information and information being disclosed as a matter of discretion. There is a philosophical difference, a legal difference and a qualitative difference between the two.

Murdo Fraser: It appears that Mr Fitzpatrick was not listening to the point that I was making. The bill is so hedged around with exemptions that it does not actually give any additional rights. On the specific point about fees, if ministers can set fees by regulation, what is to prevent them from setting the fees at a level that would prevent the information being accessed by members of the public? The fact is that the bill is flawed in relation to fees.

In concluding, I reiterate that my party supports freedom of information. We are proud of our record in that respect, but the Freedom of Information (Scotland) Bill will do nothing to make information more freely available. My party will oppose it as an irrelevance to the real concerns of the Scottish people, which the Executive continually fails to address.

11:28

John Farquhar Munro (Ross, Skye and Inverness West) (LD): Like many of the previous speakers, I welcome the Freedom of Information (Scotland) Bill. I especially welcome the appointment of a commissioner. The Liberal Democrats also welcome many other aspects of the bill, the most obvious of which is the statutory right to the disclosure of information. That is an historic achievement, on which many people will congratulate Jim Wallace, our Scottish leader.

However, like many others, I believe that section 33(1) is too vague. The bill does not allow the commissioner to scrutinise public-private partnerships or private finance initiative projects, on the ground of commercial confidentiality.

All projects that involve PPPs should automatically be open to the commissioner. PPPs are becoming the favoured method of funding most major new projects in the state sector. Unfortunately, PPPs and PFIs have confidentiality clauses so tightly wrapped around them that it is sometimes difficult—even impossible—to find out trading names. I hardly need to tell members that there is an example in the Skye bridge contract. [*Interruption*.]

Christine Grahame: I knew that that was coming—it took less than two minutes.

John Farquhar Munro: I and others have asked many questions, but I do not think that any answer has given insight into why the public will have to repay £120 million in tolls for a bridge that cost £15 million. To paraphrase Winston Churchill, never in the history of public-private finance initiatives will so much be owed by so many to so few.

The number of times that I have been quoted the commercial confidentiality agreement between the Scottish Executive and the Bank of America as a reason not to answer Skye bridge questions is unreasonable. Such official obstruction should be stamped out. We should not allow the Administration to hide behind the veil of commercial confidentiality—we hear that quoted daily—and to opt out of accountability to the electorate.

My constituents on Skye have been the victims of one of the most disturbing tales of official collusion and incompetence ever disclosed in Scotland. I am still determined that that wrong should be righted and am just as determined to ensure that commercial confidentiality does not muzzle this country.

I have just read a book by George Monbiot on the corporate state. He writes at length about the Skye bridge contract and says that it has

"more in common with the development of hydroelectric dams in Brazil than with the scrupulous detachment we have chosen to believe that surrounds infrastructure projects in Britain."

Several members have quoted Glasgow City Council. I am not prone to quoting that august body, but it recently gave evidence to the Justice 1 Committee that was fair, appropriate and correct. It said that, in respect of any PPP contracts entered into, the guiding principle should be that

"openness and transparency is the price of doing business with the public sector".

That is an apt statement.

Schemes that are to be built for the public and part funded with public money should be open enough to ensure that the beneficiaries are not mainly the shareholders in the private sector.

A strong commissioner is a way of ensuring public confidence in any new PPP schemes. The commissioner must investigate issues of commercial confidentiality on behalf of the public to determine value for money and fair play. It is reasonable to expect that any company that is willing to go into a contract with the public sector must also be willing to provide information for the public. Without strict controls on commercial confidentiality in the Freedom of Information (Scotland) Bill, public-private partnerships such as that involved in the infamous Skye bridge contract, will continue to circumvent democracy and disfranchise the electorate.

11:34

Pauline McNeill (Glasgow Kelvin) (Lab): I commend the Justice 1 Committee for its thorough report and for using its imagination in calling the controversial David Shayler to give evidence. The relaying of his experiences with MI5 and MI6 raised the stakes of the debate. Shayler said:

"We have a history in this culture—much more so than in other western democracies—of … denying people access to information."—[*Official Report*, *Justice 1 Committee*, 21 Nov 2001; c 2852.]

No one would disagree with that.

I was disappointed that the intervention by my colleague Mr Fitzpatrick did not receive a more accurate reply from David McLetchie. The point about the Scott inquiry was missed. The shame is that innocent men lay in prison while Government ministers issued themselves public interest immunity certificates and hid behind them. For anyone to defend that is shameful.

It is also astonishing that a Conservative party lawyer does not understand the difference between a right in law and no right in law. Ordinary people understand that, whatever we are doing, we are giving ordinary citizens a right in law.

Murdo Fraser: Of course I understand the difference between a right in law and no right in law. My point was that the bill is so hedged with exemptions and get-out clauses for the Executive that it does virtually nothing to increase the rights of individuals.

Pauline McNeill: With the greatest respect, I do not believe the member. If that is his position, he should propose amendments to the bill rather than oppose it in its entirety.

Passing the bill will provide a potential to move with the times. A true culture of openness can be created. This is an age in which citizens have high expectations of public and private authorities in respect of information and answers that they want and that affect their lives.

The bill will benefit a range of individuals, organisations and campaigners—even journalists. The emphasis, however, should be on benefiting ordinary Scots—and communities—who wish to exercise their right to access meaningful information promptly and accurately with minimum cost.

When the passing of the bill is publicised, the minister should consider publishing a public information leaflet that shows the type of information that might be accessed, how it can be accessed and details of any costs. The Justice 1 Committee is right to spend time on the charging regime.

There are issues for public authorities in respect of the costs of providing a freedom of information regime, but we should focus on the potential costs for individuals and ensure that those are not a barrier.

The Justice 1 Committee is also right to recommend that the affirmative rather than the negative procedure should be adopted for changes to fees. There would be greater scrutiny with a minister present during the affirmative procedure. The committee would be invited to recommend any regulations to Parliament. With the negative procedure, regulations more or less go through on the nod.

When a person requests information, how do they know if the collation of that information will cost more or less than £100? There should be some way of notifying a person during the 20-day period if they will incur any charge—before information is supplied.

I note the practical difficulties in treating citizens from commercial entities who request information. I wonder if it would be possible to consider a deterrent for companies that do not reveal that they are requesting information for their own use. It is ironic that, in an openness regime, any body or organisation may seek to hide the fact that they are making use of a freedom of information regime and avoiding greater charges by requesting information through a single person. I have sympathy with the Convention of Scottish Local Authorities' view that there should be a mechanism to prevent undue consumption of scarce resources where information is for commercial gain.

I whole-heartedly support John Farquhar Munro's comments on the breadth of organisations that should be covered by the bill and would like an answer from ministers on the public bodies that should respond to the freedom of information regime. PPPs and voluntary regimes will be covered by the bill only if designated by ministers. It would be a very one-sided freedom of information regime if it were

restricted to public bodies and did not cover those with public funds.

We have a good foundation on which to build a new information culture: 129 MSPs already question the Executive, public authorities and many other organisations of behalf of citizens. We are continuing in the same way. I detect a sea change, even in the much-criticised Crown Office and in the attitude of law officers in providing detailed and helpful information about prosecutions.

We can go further still. The vast majority of institutions have embraced the devolution settlement and provided great amounts of information to MSPs and their constituents. The bill will progress the work started under devolution, and I say well done to the ministers and to the Justice 1 Committee for its report.

11:39

Stewart Stevenson (Banff and Buchan) (SNP): The debate has been entertaining and informative and I intend to bring one or two new points to it.

A desire to keep information is always an expression of someone's self-interest—generally someone in public service. Given that, David McLetchie missed the point. At present, all information is retained unless a decision is taken to release it. We are moving to a new start, whereby information will be released unless it is decided to keep it secret and in the system. Such decisions will be accountable, auditable and kept under review.

The present system and its practical implications harm individuals, companies, the national interest and, on occasions, democracy. I will give a particularly ironic example that extends back to the 1960s and 1970s and which came to light in 1997. To be fair to my Labour colleagues, that happened because of the Labour party's commitment to freedom of information, which the SNP has shared for a long time. My example relates to what appears to be a technical subject, but it is important in the modern world. The subject is cryptography. Although that statement woke up almost no members, cryptography is important technology that protects information. It is at the heart of the modern economic miracle, which came through electronics, and it underpins the security of nations. Cryptography secures a person's transactions from an automated teller machine as much as it secures a multinational company that makes a large electronic payment for a multibillion-pound oil rig.

Where did the technology come from? The conventional history begins with Whitfield Diffie and his colleagues Hellman and Merkle, who developed the asymmetric key idea. They developed something that, curiously enough, Mary, Queen of Scots used to converse with her lovers. However, there is no time for that story, even in an extended debate.

Gordon Jackson: That is a shame.

Stewart Stevenson: I will tell Gordon Jackson the story over a coffee after the debate.

In 1977, the mathematicians Rivest, Shamir and Adleman apparently developed the mathematics that made the idea possible. That was a case of Americans leading the way with technology that is integral to the modern world and which protects our commercial and security interests. The reality was very different and became apparent only at a conference in November 1997. Government Communications Headquarters developed the technology, but, because of the culture of secrecy, the world became aware of that only in 1997. James Ellis, who was employed at GCHQ, developed the public key concept in 1969; Clifford Cocks developed the mathematics in 1973; and in 1974, Malcolm Williamson completed the development with a key distribution system. That commercial asset is worth not hundreds, thousands, millions, or even billions of pounds; over the life of the technology, it will be worth—

Brian Fitzpatrick: Zillions.

Stewart Stevenson: No, the next figure is probably trillions of pounds. A culture of secrecy denied this country the rights to that technology. It is thanks only to Phil Zimmerman and the different climate in the States that the matter was brought into the public domain.

I have a point about costs. In the Justice 1 Committee's deliberations on the bill there is reference to the Data Protection Act 1984, which was a way of securing and protecting data. The act gave citizens the first statutory right of access to data and introduced a charging mechanism. Typically, the cost was around £10. The interesting thing is that, even with that quite modest charge, the access requests to large commercial companies with large databases are numbered in single figures.

I suggest that in considering the bill we take a genuinely radical step and make public access by individuals free and charge only for commercial access. If it is necessary to protect the integrity of the inquiry system, let us make it a criminal offence for a commercial operation to purport to be an individual.

Let me give John Farquhar Munro a little glimmer of hope. The parliamentary draftsmen may have opened a little crack on PFI. I refer to section 6(2)(a)(ii) of the bill, which states that a company is wholly owned by the Scottish ministers

if it has no members except

"persons acting on behalf of the Scottish Ministers or of such companies."

We can take that to mean that if a PFI company is established solely for one contract—and I am thinking of BEAR Scotland Ltd in particular—it is acting wholly and exclusively on behalf of the Scottish Executive. For the purposes of the bill, it is therefore a public body. I do not imagine that that is what was intended, but perhaps we could brush up on that little part of the bill and ensure that that is its practical effect.

I am cognisant of the answer that the Deputy Minister for Enterprise, Transport and Lifelong Learning gave to Andrew Wilson on 14 January in response to his question about Amey Highways Ltd and BEAR Scotland Ltd. There is a willingness to be open on that subject.

In conclusion, Jim Wallace said that sensitive information must be protected. I am going to be radical and say, "No, Jim, it is precisely—in the generally understood sense of the word 'sensitive'—sensitive information that must be available." We are currently denied the sensitive information.

As my colleague Alasdair Morgan indicated, we are debating a change of law, but we must also bring with that a change of culture and practice.

I say to Murdo Fraser that the mindset of Sir Humphrey Appleby is alive and well. I think that Sir Humphrey was quoting Francis Bacon when he said that he who hath a secret to keep must keep it secret that he hath a secret to keep.

The Deputy Presiding Officer: We move to wind-up speeches. We have about six minutes in hand so members may take a minute beyond their set time if they so wish.

11:47

Donald Gorrie (Central Scotland) (LD): I am a member of the Justice 1 Committee and listened to most of the evidence that was given on the subject. Because of illness, I was not there when the committee was drawing up its report, so I do not claim any credit for it, but I think that it is excellent and covers the main issues well.

As my colleagues have said, the Liberal Democrats have a long history of commitment to freedom of information. In that, we are totally hostile to the Conservative attitude.

Jim Wallace has a great commitment to the subject and he and those politicians and civil servants who are in favour of openness have done an excellent job on the bill. It is much better than the UK Freedom of Information Act 2000.

However, compromises have still had to be made with the large number of politicians and civil servants who are in favour of secrecy. All organisations are intrinsically in favour of secrecy. Governments, political parties and any other organisations have embarrassments to conceal. There is a strong force in favour of secrecy. The bill includes compromises between the openness people and the secrecy people.

Part of the Parliament's duty is to push the bill further. We are here to make government as open as possible. This is a great opportunity and we can make the bill even better. I do not think that the Parliament is bound by the compromises between the openness brigade and the secrecy brigade. I look forward to improvements being made to the bill.

In preparation for the debate, I watched three of my videotapes of "Yes Minister" programmes last night. I was assured by a former Cabinet minister that the programme actually understated the awfulness of the civil service.

A group of archivists raised strongly with me a particular point that has not been mentioned very much in the debate. We do not realise in how bad a state the archives and records of many councils, quangos and public bodies are. At the moment, there is no strict law to ensure that people keep information, which means that the situation is patchy. For example, I have been told that, in Glasgow, there are very good records of what we would now regard as social work issues dating back to the poor laws. On the other hand, a few years ago, when there was great concern in Edinburgh about the molestation of children in residential homes that the council had run a few years before, it was found that no records had been kept and that no one was able to tell the police the names of the staff and the inmates of those homes. The situation changes from area to area. Indeed, I have been assured that, as we speak, water records are being destroyed in the changeover from three water boards to one.

We must ensure that records exist and that organisations have a proper system for cataloguing them. I have been assured that many do not have such systems. Librarians are industriously drawing up rules on how people should borrow books when many of the books that people think are there are not there at all and, indeed, no one actually knows what books are there. As a result, we must support organisations in financial and other ways to ensure that they keep all their records and organise them properly.

I support the comments made by Robert Brown, John Farquhar Munro and many other members on the various issues raised in the debate. For example, I am greatly concerned by the issue of class exemptions. Although I do not know whether we can entirely eliminate such exemptions and

simply judge each issue on the basis of content, we should go as far as possible in that direction.

Furthermore, commercial organisations and voluntary and community bodies should be open to scrutiny when they undertake public work and spend public money. Those of us with council and parliamentary experience know that the excuse of commercial confidentiality is used constantly to block legitimate concerns about expenditure.

I am also concerned by the idea that an organisation can refuse to say whether information exists at all. I cannot understand why that particular section has been included; such a provision is straight out of Kafka or Stalin, not 21st century Scotland. Although it might be legitimate for a council to refuse to provide sensitive information about an on-going public inquiry, it would be absolutely ludicrous for it to refuse to tell someone whether it had carried out a particular survey.

We must also extend control over the factual basis for advice to civil servants. I also cannot understand why the bill considers campaigns to be a bad thing. All of us in the chamber are campaigning animals and it is absolute nonsense for the bill to stipulate that if two or three people write in on the same issue they do not have to receive a reply. That provision will have to be changed.

The bill is a great step forward. The Conservatives feel that we do not need the bill; if it were up to them, the 30 mph speed limit would be abolished and instead we would simply have a letter that read: "It would be very nice if people could possibly drive no faster than 30 mph." Unless we have a law that enshrines people's rights, we will not achieve what we want. This issue is very important. I look forward to improving the bill, although it represents a great advance as it stands.

11:54

Bill Aitken (Glasgow) (Con): I want to say from the outset that we are not arguing that the bill is particularly harmful. We do not doubt the good intentions of those who have introduced it. However, we think that it is basically unnecessary.

Surely the purpose of any legislation laid before the Parliament is to make life better for the people of Scotland. Is anyone seriously suggesting that the bill will materially change the lives of the people whom we represent? In the debate, only Brian Fitzpatrick and Stewart Stevenson gave any examples of how that might happen; Jim Wallace certainly could not. Indeed, my colleague David McLetchie lodged a written question last December about the information that would be more readily available if the bill were passed, to which Jim Wallace replied:

> "It is not possible to predict what new information … will be made available as a result of the Freedom of Information (Scotland) Bill."—[*Official Report*, *Written Answers*, 19 December 2001; p 433.]

That answer encapsulates the entire issue.

Stewart Stevenson mentioned cryptology, which at first made me think that he had an unhealthy interest in the occult; instead he took us on a trip into the esoteric. We would really require further information on the issue, and I look forward to obtaining it from Mr Stevenson in due course.

Stewart Stevenson: If the member cares to show me his diary, I will be happy to arrange that.

Bill Aitken: My diary is certainly not shrouded in black.

Brian Fitzpatrick raised the genuine issue of medical records and mentioned how, in the course of Court of Session actions, he had to obtain a court certificate to ensure the release of certain medical information. Although his point is valid, he might still have a problem in that respect under section 38 of the bill. It is arguable that, under the terms of the new legislation, such information might still not be made readily available.

Despite Robert Brown's claims that the bill will make a major difference, no one has been able to say what that major difference will be.

Brian Fitzpatrick: I like the way that the logical fallacy has become part of the Conservatives' debating style. The Deputy First Minister was not wrong to suggest that no one starts off with a mindset when contemplating the types of information that might be released under the bill.

It might assist Bill Aitken and his party if I list some of the information that we want. We want education authorities to explain better how they apply placing and admission criteria. We want health authorities to provide better details on how they allocate resources for different treatments. We want the Scottish Prison Service to provide information on the performance of different regimes. We want hospitals and general practitioners to explain better how they prioritise their waiting times and waiting lists. Finally, we want national health service trusts and health boards to provide information on the provision of services. Furthermore, we do not want them to provide such information on the basis that they are doing the citizen a favour; we want them to answer the question as a matter of right for taxpayers and citizens. Those are some examples, if the member is looking for them.

Bill Aitken: All those examples are perfectly worthy. However, there is no need to legislate for them; they could be more simply dealt with through direction. Furthermore, Mr Fitzpatrick

should ask his colleagues in the Executive to open up a bit more themselves. If that happened, we would have fewer parliamentary replies stating that particular information is not held centrally or cannot be obtained without incurring costs that are disproportionate to the issue in question. That is the sort of issue that Mr Fitzpatrick should be addressing.

The fact is that the bill cannot be justified.

Stewart Stevenson: Will the member give way?

Bill Aitken: No, I must move on. The thought process behind the bill is quite simple. It has been shown repeatedly that the Executive is unable to cope with the real issues that affect the people of Scotland, and because it cannot deal with the fact that the NHS is a shambles and that violent crime is on the rise, it devotes its time more and more to trivia.

Of course, the system that will be introduced is a bureaucratic nightmare. It might be argued that, just as everything in a free democracy should be permitted unless it is specifically prohibited, people should have access to all information unless there is a specific reason for not letting them have it. That is only correct. However, is not it ironic that 15 sections in the bill deal with the right to information, whereas 17 sections deal with exemptions? Does not that indicate the complexity of the matter and why we should have avoided legislation?

Alasdair Morgan: I compliment Mr Aitken and the other Tory speakers on using the same arguments that Ann Widdecombe used when she spoke against the Freedom of Information Act 2000 at its second reading at Westminster. The difference between Ann Widdecombe and the Tories in this chamber is that Ann Widdecombe opposes hunting with hounds, whereas they support it.

Bill Aitken: That is scarcely a relevant point.

In the original documentation that was published, which was entitled “An Open Scotland”, the cost of the regime to the public was estimated at between £9 million and £12.5 million. Jim Wallace has again been specifically vague but, in answer to a parliamentary question from David Mundell, he said that there was no intention to make other funding available to Scottish local authorities, on the basis that the machinery was already largely in place to enable authorities to do what they were being asked to do. That is a sound argument; however, it is also an argument against the necessity of the bill.

We have heard some interesting speeches. When Roseanna Cunningham intervened on Murdo Fraser, she made the valid point that, although people are not coming to MSPs’ surgeries in massive numbers to demand the bill, they are coming to ask for information. That happens to us all. However, that information should be available in any event and, if it is not available, that should be a matter of direction by the Executive.

Other aspects have been touched on. Murdo Fraser highlighted the cost to the individual who applies for the information. It would be unfortunate if the Executive’s efforts to make information more freely available were thwarted by its thinking simultaneously that charges can be made for information that is freely available at the moment. If, for example, local authorities can—quite properly—charge for planning inquiries, they might realistically expect to be able to charge for other information. The bill would allow them to charge for information that would normally be provided without charge.

We believe that the bill is totally unworkable in many respects and that it is unnecessary. Once again, it is a classic example of an impotent Executive trying to deal with trivia rather than facing the real issues that confront the people of Scotland today.

12:02

Michael Matheson (Central Scotland) (SNP): Most members have been constructive in welcoming the general principles of the bill, with the exception of the Conservatives. The Justice 1 Committee report and the comments that have been made by other members today make it clear that a number of changes must be made to the bill to improve it further. Openness and transparency are important features in any modern, mature democracy. The fact that the bill goes further than the Westminster legislation shows that the Scottish Parliament has demonstrated a greater willingness to enhance its democratic credentials.

The Tories’ position in the debate has been strange. In his opening comments, Lord James stated that the Conservatives

“support open government with flexibility.”

I see no reason why the Conservatives would not support the bill, if they wanted to put their words into action. Murdo Fraser said that the Conservatives support the right of the individual. However, it appears that they do not support the individual’s right to information.

As members have suggested, an ingrained culture of secrecy exists in many of our public authorities. It is easy for the Conservatives to suggest that the authorities should just make the information public in the first place. The reality is that there is a culture of secrecy, which must be addressed. The best way to do that is through the

bill. Unfortunately, some public authorities seem to think that any form of external inquiry is to be viewed with suspicion.

We should consider freedom of information regimes in other countries. One of the greatest challenges that other countries have faced in implementing their regimes is the breaking-down of a culture of secrecy. Last year, the Information Commissioner of Canada visited Scotland and delivered a lecture, during which he highlighted the fact that, in the 10 to 15 years since Canada introduced its own freedom of information regime, the Government had continually had to address the need for a culture change among public authorities. The Scottish freedom of information commissioner will have an important role in promoting the bill when it is enacted and in changing that culture.

I turn to the list of public authorities in the bill. Concern has been expressed that there are areas or organisations to which the bill will not apply. Schedule 1 lists several public authorities that, according to section 5(2)(a),

"appear to the Scottish Ministers to exercise functions of a public nature".

As several members have pointed out, public services are increasingly being provided by private companies. Examples that Unison Scotland cited to the Justice 1 Committee included the provision of services under social inclusion partnerships and housing associations, and, as John Farquhar Munro said, there is the PPP for the Skye bridge. Premier Prison Services is running Kilmarnock prison at considerable cost to the taxpayer but will not be covered by the bill. In his intervention on Bill Aitken, Brian Fitzpatrick said that he was keen to ensure that the Prison Service was made more open and transparent. Unfortunately, the Scottish Prison Service is not listed in the bill as a public authority. That is to be regretted.

The committee's report recognises the fact that not all public authorities can be listed. However, with the increasing dependency on private companies to provide public services, there must be a level playing field in the application of the bill's provisions. Unison Scotland highlighted the fact that there is a danger that we could create a two-tier freedom of information system if that issue is not addressed. Gordon Jackson referred to the evidence that was provided by Glasgow City Council, that

"openness and transparency is the price of doing business with the public sector".

I hope that the Executive will address that matter at stage 2.

I turn to the provisions for making an application for action under the bill. In his opening speech, the Minister for Justice stated that the application process was user-friendly. I am not sure whether that is true. The evidence that the committee received suggested that there are problems with it. Unison Scotland stated that, if all applications have to be made in writing, the bill

"could discriminate against people whose first language is not English".—[*Official Report*, *Justice 1 Committee*, 13 November 2001; c 2792.]

Furthermore, the Disability Rights Commission pointed out that the bill could marginalise disabled people who have difficulty in communicating through writing. No one should be marginalised by the provisions of the bill. We also stress that the public authorities, which must act under the provisions of the bill, have an important role to play in enabling people who may have difficulty in making an application to do so, to ensure that they have an equal opportunity to gain the benefits that the bill provides. I hope that the Executive will acknowledge the Justice 1 Committee's recommendation on the issue of applications. If we do not address that issue, the mechanism will not be as user-friendly as Jim Wallace intends it to be.

I turn to the issue of exemptions, which members have suggested is probably one of the more contentious aspects of the bill. The Justice 1 Committee is aware of division on the issue among its members. Maurice Frankel, representing the Campaign for Freedom of Information, stated:

"the number of exemptions in the bill is potentially overwhelming."—[*Official Report*, *Justice 1 Committee*, 27 November 2001; c 2892.]

I recognise his point. There is the content exemption, the class exemption and the absolute exemption, and those are topped off by the ministerial veto. The question about exemptions is how they affect the balance of the bill, which should be framed for disclosure as opposed to non-disclosure. I am concerned that some of the exemptions in the bill as introduced could be used by some public authorities to try to prevent information from being placed in the public domain.

We all accept the content exemption. It is to be welcomed, because it applies the public interest test. The class exemption, however, has to be questioned. Gordon Jackson said that he had some difficulty with its application, in that it will apply where it is considered that disclosure would normally result in substantial prejudice—it is assumed that the harm test has already been satisfied. In my view, the class exemption is surplus to requirements and, given that a robust harm test and a public interest test are contained in the bill, I see no requirement for the class exemption. I believe that the Executive should seek to have it removed.

Another vexed issue is that of the ministerial veto that the bill contains. The very idea that the First Minister can overturn an enforcement notice that has been issued by the information commissioner is, I believe, unjustified, and I do not think that it was justified by the evidence given to the Justice 1 Committee. I recognise that ministers view it purely as a backstop and consider that it will be rarely used. As Roseanna Cunningham highlighted in her speech, the Law Society of Scotland asked why the veto is there in the first place if it is not intended to be depended upon.

The ministerial veto also alters the bill's balance in the direction of non-disclosure, which is to be regretted. There is a need at stage 2 to shift the balance back in favour of disclosure. That may be achieved by removing class exemptions and the ministerial veto.

Roseanna Cunningham also referred to the NUJ's written evidence. It asked:

"If harm cannot be demonstrated to the Scottish Information Commissioner"—

or to the court—

"can any harm really exist",

other, perhaps, than political discomfort?

Several members referred to the fact that, if a certificate is issued by the First Minister, it could be subject to judicial review. Should the information commissioner choose to issue a certificate for the disclosure of information, that too could be challenged through a judicial review. I believe that we should follow that option, because it alters the balance back in favour of disclosure and protects the public's right to information. If the Executive is determined to keep the ministerial veto in the bill, I hope that, at the very least, it will accept the Justice 1 Committee's recommendation about laying the ministerial certificate before Parliament.

Notwithstanding the limitations of the bill as introduced and the issues that require to be addressed, I support the general principles of the bill.

12:14

The Deputy Minister for Justice (Dr Richard Simpson): I am pleased to be closing the debate. I believe that the Freedom of Information (Scotland) Bill, when passed, will have a fundamental impact on the Scottish public and the public authorities that serve them. I feel privileged to be involved in such an important and welcome piece of proposed legislation.

The bill has to be seen in the context of a desire on the part of the Executive for better public services, so as to put the citizen, the consumer, the client and the patient at the centre of the process, which gives them rights.

Later I will address the argument that the Conservatives have consistently made against the bill.

If we want there to be public confidence in our public authorities, we must have accountability. If we want accountability, we must have openness. The bill will go some way towards achieving that. It will produce real accountability and openness that are not based on discretionary codes or non-statutory regimes.

Today we have had a very thorough debate, in which many issues have been raised and some well-argued points have been made. In the time available, I will respond to as many of those as I can.

When closing the debate on freedom of information that took place on 15 March last year, Iain Gray said that this was

"the right bill at the right time."—[*Official Report*, 15 March 2001; Vol 11, c 549.]

The Minister for Justice has repeated that, and I share his view. We introduced the right bill because we gave it a great deal of thought. We considered the needs of the users, the public, and of the implementers, the public authorities. Achieving a balance between those needs was not easy. We also considered overseas experience and, importantly, we listened. We carried out two consultations, one on principles and one on the draft bill. The Executive met a number of interested parties and sought their views. We were subject to comprehensive scrutiny by the Justice 1 Committee and other committees of the Parliament, a task that they undertook with great thoroughness.

I have listened to today's debate and will try to deal with as many of the points that have been made as possible. A point was made about the requirement for requests for information to be made in writing and about the simplicity of the access system that the bill will put in place. We believe that we have come up with a fairly simple access system, but I accept that the requirement for requests to be made in writing may create difficulties for ethnic minorities with languages other than English and for the disabled. We will consider that issue in relation to the codes of practice and examine closely how it ties in with the Adults with Incapacity (Scotland) Act 2000.

Christine Grahame made a point about the draft codes of practice. We have indicated to the Justice 1 Committee—I hope that that information has reached it—that we will provide draft working versions of the two codes to support stage 2 scrutiny of the bill. We will provide those drafts by 30 January, the date for which they were

requested. However, I want to put on record that the codes are drafts and that the Scottish information commissioner's input to the final codes will be very important. The independent commissioner's role is crucial to the bill. Sometimes the juxtaposition of that role with the other provisions of the bill is not given enough emphasis.

A number of members raised the issue of charging. A considerable number of those who responded to the first consultation expressed support for the second option contained in the consultation document "An Open Scotland", and we listened to what they had to say. Nevertheless, the Deputy First Minister has indicated that he is willing to re-examine the charging regime. I have registered the points that were made by Gordon Jackson and Roseanna Cunningham, as well as Bill Aitken's point that we must not create new blocks for citizens who are seeking access to information and that the charging regime needs to be reconsidered. That is one of the few points that I can take on board from the Conservatives.

We note the comments made by the Subordinate Legislation Committee and will consider whether the charging and upper threshold limits should be subject to an affirmative regulation procedure.

Alasdair Morgan raised the issue of relations within the UK and the transfer of information between the UK Government and the Scottish Executive. Is he really suggesting that information should be disclosed if it passes between UK and Scottish departments, even if that substantially prejudiced relations between the Scottish Executive and the other devolved Administrations, and was contrary to the public interest? Disclosure of such information will be subject to the two tests that have been outlined. The Scottish information commissioner will decide whether in such cases the criterion of substantial prejudice has been met.

The issue of class exemptions has been raised. Exemptions are a common feature of freedom of information regimes around the world. Members should bear in mind the fact that exemptions do not require that information be withheld or prohibit its disclosure: they merely provide a means by which an authority can withhold information. Only if that authority can justify its decision to the independent commissioner can the information in fact be withheld. The commissioner's role is fundamental. Class exemptions act as a sort of road warning sign, pointing out to people that when information relates to a particular area it is likely that the commissioner will agree that it should be withheld. However, the power of decision will rest with the commissioner.

The bill contains only a limited number of class exemptions. They apply to categories of information that are invariably sensitive and not appropriate for disclosure, or to areas where disclosure would harm the processes that are contained within the exemption concerned. For example, the disclosure of Cabinet minutes would substantially harm the frankness and candour of discussions on the formulation of Government policy. Most class-based exemptions also require the consideration of the public interest test. Therefore, the majority of class exemptions can be claimed to withhold information only where that would be in the public interest.

Brian Fitzpatrick referred to the removal of exemptions, such as the 30-year period for the release of Government papers, the 60-year period for information about honours and royal matters and the 100-year period for census information. We will not revise the 100-year period for the release of information on the census. In fact, I note that we have just started the publication of information from the 1901 census. We began that work on 3 December last year and are continuing with it. I believe that an answer to a written parliamentary question on the matter will be published later.

The code of practice that is to be issued under section 60 will deal with campaigns, or aggregation of requests, which were mentioned by Maureen Macmillan and others. The fact that information has been requested by a campaign does not mean that the authority can ignore the request. However, authorities do not need to respond to requests for every single piece of information. The aggregation element is addressed in section 12. I think that we have the right balance, but we can revisit the issue at stage 2.

Michael Matheson raised the issue of ministerial certificates in his comprehensive and well-delivered summary of the debate. We believe that we should retain the ministerial certificate. The important point is that, unlike the procedure in the Irish legislation—which our colleagues in the SNP are fond of quoting—under which ministerial certificates are issued by individual ministers before the commissioner makes a decision, only the First Minister will be able to issue the certificate under the Scottish legislation. In addition, the First Minister must consult his entire Cabinet.

In New Zealand, the practice moved from the situation in which certificates were issued by ministers before the commissioner's decision to one in which certificates were issued after the commissioner's decision.

Alasdair Morgan *rose—*

Dr Simpson: I will give way to Alasdair Morgan after I have finished my point.

The effect of that change was that, although many certificates were issued up to 1987, subsequently not a single certificate has been issued. We believe that we need to retain that power, as issues may arise that would lead the First Minister to want to overrule the commissioner. I refer to issues that may not be linked to national security but that are nevertheless important, such as crime or terrorist activity. I think that it is understood that such certificates will be issued only in exceptional circumstances. It is also almost certain that such matters will be debated in Parliament.

Michael Matheson *rose—*

Dr Simpson: Does Alasdair Morgan still wish to intervene?

Alasdair Morgan: I will be brief. I take it that the deputy minister's interpretation of section 52(2) is that the First Minister must consult all other members of the Executive. Of course, that does not necessarily mean that he must obtain their consent, or even a majority of their votes.

Dr Simpson: We considered whether such decisions should made collectively by the Cabinet, but procedural difficulties with that approach arose—the Executive did not create those difficulties. However, in effect, a Cabinet decision will be made. That is our interpretation of that provision, which I am happy to put on the record.

I will move on, unless Michael Matheson wishes to intervene.

Michael Matheson: The deputy minister referred to the need for the ministerial veto in matters of national security or terrorism. However, such situations would be covered by absolute exemptions. I still have not heard a reason why the bill must contain a ministerial veto.

Dr Simpson: I also mentioned the example of crime. I repeat that there are elements that mean that we need to retain that power. The commissioner, as an independent individual, may make decisions that are not regarded as being appropriate. I am sure that we will debate the ministerial veto during stage 2.

I turn to a question that was raised by a number of members, including John Farquhar Munro—who sticks to his last in relation to the Skye bridge—Robert Brown and Gordon Jackson. Michael Matheson quoted Glasgow City Council's evidence that openness should be

"the price of doing business with the public sector".

That is a good statement. The important point is that the test of substantial prejudice must apply. The Executive's intention and hope is that the majority of PPP/PFI contracts will be published. For example, I can advise members that the substantial part of the contract for HMP Kilmarnock will be published. The elements that will be retained will be very small.

I want to correct one thing that Michael Matheson said. The Scottish Prison Service is listed in the bill, so he got that point wrong. I agree with him that it is important that the SPS is listed, but that is the case.

Michael Matheson: Elaine Bailey, who is the managing director of Premier Custodial Group Ltd, in her evidence to the Justice 1 Committee, agreed that the committee members could see the full contract in private. Why did she write back to the committee on 20 December 2001—some two months after giving that evidence—stating that the offer has been withdrawn?

Dr Simpson: I understand that Elaine Bailey went beyond the remit that she was given on that occasion. That is why she wrote back. I accept that there was a mistake, but the intention is that the Kilmarnock contract will be substantially published. The overwhelming majority of the PFI-equivalent contracts in America are now published. As people become more confident about the process, I think that the amount of information that it is appropriate to put into the public arena will increase.

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): As the member for Kilmarnock and Loudoun, I am delighted with the statement that the minister has made. How widely will that information be available? Will the information have to be sought out, which is what many of us have had to do during the past two and a half years?

Dr Simpson: The hope is that the information will be made available.

Bruce Crawford gave us some interesting information about environmental regulations and the Aarhus convention. We are preparing material on that and I will write to him separately about that matter. On the infraction proceedings, the Commission's approach is evolving and, as that is quite a technical area, I will get back to Bruce Crawford on that.

I do not have much time left, but I want to conclude by mentioning the issue of training and support, which was raised by Maureen Macmillan and others. She and Pauline McNeill also asked about public information. Those important issues are being addressed by the implementation group, which has been working for a year.

That leads me on to mention our intentions on timetabling. The fact that we will move swiftly to appoint a commissioner after the bill passes stage 1, and the fact that the implementation group has been working for a year, should, I hope, give some good feeling to Roseanna Cunningham—not

something that I am in the habit of doing. [*Interruption.*] I will stop on that point, but I hope that members will recognise how keen we are to bring the legislation into effect quickly. Five years is an absolute backstop so that we can give a total commitment.

Several members mentioned the need to change the culture, but I do not have time to deal with that.

In the two minutes that remain, I want to deal quickly with the Conservatives, who have been consistent—consistently stuck not in the 20th but in the 19th century. The Conservatives have opposed: the incorporation of the European convention on human rights, which allows citizens in Scotland to challenge matters in the Scottish courts; the Maastricht treaty, which gave workers rights; and the minimum wage—to which they are now converted—which also gave workers rights. They have indicated that they will oppose the Executive's proposals on smacking, which are to give children rights.

The Conservatives' view is consistent and holds to what Brian Fitzpatrick called the use of arbitrary power. They believe that the authorities in power should give away power only if absolutely required. We believe that citizens' rights are fundamental and that they should not be doled out by people whose time has long since gone.

Lord James Douglas-Hamilton *rose—*

Dr Simpson: I am afraid that the Presiding Officer is signalling that I am already beyond my time, but I am sure that Lord James will pursue that with me at stage 2.

Indeed, I look forward to the stage 2 consideration, when we will need to consider each amendment carefully. I say that because the bill is an intricate whole and a fabric that is woven of many parts. If we unstitch one part, we may unstitch substantial parts of the bill. We need to ensure that the balances that we have sought are maintained. The bill is robust and I believe that the Scottish people will be proud of it. I urge members to support it.

Freedom of Information (Scotland) Bill: Financial Resolution

12:30

The Deputy Presiding Officer (Mr George Reid): I call Peter Peacock to move motion S1M-2602, on the financial resolution in respect of the Freedom of Information (Scotland) Bill.

Motion moved,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Freedom of Information (Scotland) Bill, agrees to the following expenditure out of the Scottish Consolidated Fund—

(a) expenditure of the Scottish Administration in consequence of the Act; and

(b) increases attributable to the Act in the sums payable out of that Fund under any other enactment.—[*Peter Peacock.*]

Business Motion

12:30

The Deputy Presiding Officer (Mr George Reid): The next item of business is consideration of business motion S1M-2609, in the name of Patricia Ferguson, on behalf of the Parliamentary Bureau, setting out a business programme. Any member who wishes to speak against the motion should press their request-to-speak button now.

Motion moved,

That the Parliament agrees the following programme of business—

Wednesday 23 January 2002	
2.30 pm	Time for Reflection
followed by	Parliamentary Bureau Motions
followed by	Stage 1 Debate on the Budget (Scotland) Bill
followed by	Parliamentary Bureau Motions
5.00 pm	Decision Time
followed by	Members' Business - debate on the subject of S1M-2402 by Alex Fergusson: Research into Myalgic Encephalomyelitis
Thursday 24 January 2002	
9.30 am	Scottish Socialist Party Debate on the Abolition of Council Tax
followed by	Scottish Socialist Party Debate on the Introduction of Progressive Water Tax
followed by	Scottish Socialist Party Business
11.00 am	Green Party Debate on Employment Opportunities in Scotland, with special reference to the Environment and Recycling
followed by	Business Motion
2.30 pm	Question Time
3.10 pm	First Minister's Question Time
3.30 pm	Executive Debate on European Structural Funds
followed by	Parliamentary Bureau Motions
5.00 pm	Decision Time
followed by	Members' Business - debate on the subject of S1M-2585 by Angus MacKay: The Colin O'Riordan Trust
Wednesday 30 January 2002	
2.30 pm	Time for Reflection
followed by	Parliamentary Bureau Motions
followed by	Executive Business
followed by	Parliamentary Bureau Motions
5.00 pm	Decision Time
followed by	Members' Business
Thursday 31 January 2002	
9.30 am	Stage 1 Debate on the Scottish Public Sector Ombudsman Bill
followed by	Financial Resolution in respect of the Scottish Public Sector Ombudsman Bill
followed by	Business Motion
2.30 pm	Question Time
3.10 pm	First Minister's Question Time
3.30 pm	Executive Business
followed by	Parliamentary Bureau Motions
5.00 pm	Decision Time
followed by	Members' Business – debate on the subject of S1M-2528 by Mr Kenneth Gibson: Young Runaways.—[*Euan Robson.*]

Motion agreed to.

12:30

Meeting suspended until 14:30.

14:30

On resuming—

The Presiding Officer (Sir David Steel): Before we begin question time, I am sure that the chamber would like to welcome the members of the Dáil Éireann and the House of Commons who sit on the steering committee of the British-Irish Inter-Parliamentary Body, which is meeting here in Edinburgh today.

Question Time

SCOTTISH EXECUTIVE

Pensions (Former First Ministers and Scottish Ministers)

1. Tommy Sheridan (Glasgow) (SSP): To ask the Scottish Executive what its position is on the pension arrangements currently in place for former First Ministers and Scottish ministers. (S1O-4439)

The Minister for Finance and Public Services (Mr Andy Kerr): The pension arrangements currently in place for former First Ministers and Scottish ministers are determined, quite rightly, by Parliament and not by the First Minister or ministers in the Scottish Executive.

Tommy Sheridan: Will the minister confirm that the pension deal for the former First Minister means that he will receive £34,000 a year immediately, which will amount to almost £1 million by the time he qualifies for his free television licence? Does the minister agree that that deal is obscene, particularly in relation to the pittance on which most Scottish pensioners have to survive? Will the minister join me in condemning the former First Minister for claiming that pension while still in receipt of his MSP salary of £42,500?

Mr Kerr: I would not join Mr Sheridan in condemning anyone—including Mr Sheridan and any other members of the Parliament—for their personal finance arrangements. The arrangements are, rightly and properly, decided independently by Parliament on the basis of what Parliament considers is commensurate with roles. The powers to make provisions for the payments are in the Scotland Act 1998. Any changes to the current arrangements are a matter for the Scottish Parliamentary Corporate Body, not for the First Minister or any member of the Scottish Executive.

Less Favoured Areas

2. Tavish Scott (Shetland) (LD): To ask the Scottish Executive whether there will be any reform of the less favoured area support scheme for 2003 and whether any such reform will involve crofters, farmers and local authorities. (S1O-4451)

The Minister for Environment and Rural Development (Ross Finnie): My department, in consultation with a working group consisting of representatives of the industry—including crofters—is examining ways of further improving the less favoured area support scheme.

Tavish Scott: Does the minister share my frustration about the fact that the latest changes to the less favoured area support scheme do not take due account of the difficulties of agriculture in Shetland or of the fact that 60 per cent of the units in Shetland are losing out under the current arrangements? Will the minister assure me that, as it is altered during 2002, the scheme will take account of circumstances on islands—particularly those in my constituency—and that those changes will be made in time for the start of next year's scheme?

Ross Finnie: I assure Tavish Scott that the changes will be made in time for the start of next year's scheme. The member will be aware that one of the lessons that arose from the 2000 reform of the common agricultural policy was that—with regard to an instrument such as the less favoured area support scheme, which was designed to respond to headage—simply to cut the umbilical cord between headage and payment is not sensible. That is increasingly the view of member states throughout Europe and, fortunately, is also increasingly the view of the European Commission.

I hope that it will be possible for the changes in the scheme to take account of circumstances on islands. At the moment, however, the European Commission views islands as a class. That would not necessarily benefit Shetland because the circumstances in Shetland are markedly different from those in Orkney and especially from those in the Western Isles. We need to negotiate with the European Commission to try to accommodate those problems. I hope that the working group, the Executive and the European Commission will arrive at a satisfactory outcome.

Rhoda Grant (Highlands and Islands) (Lab): The minister will be aware that the rural development regulation states that

"allowances should be fixed at a level which: - is sufficient in making an effective contribution to compensation for existing handicaps",

and should take into account

"the severity of any permanent natural handicap affecting farming activities".

Crofters and farmers are extremely concerned that those principles are being ignored in the existing less favoured area scheme. Will the minister ensure that they are enshrined in the new scheme?

Ross Finnie: I do not wish to get into a long debate about that. I do not entirely accept that we have ignored the regulations. Rhoda Grant must remember that we are, in a way, fortunate that 85 per cent of Scottish agricultural land is designated as less favoured. We therefore have the benefit of additional resources going to that large area. However, I am sure that Rhoda Grant agrees that, within the less favoured area scheme in Scotland, there is a tremendous heterogeneity of application, farming and farming units. It is important that we try to deal with permanent disadvantages to agriculture and that we try to ensure that the level of support allows remote and rural communities to survive sustainably.

Alex Fergusson (South of Scotland) (Con): Will the minister agree to consider in a new review of less favoured area support the drift of such support away from the south of Scotland, which has been brought about by the change from headage to acreage-based payments? Does he agree that that drift is only exacerbated by the late payments of integrated administration and control system support and farm woodland premium scheme support this year, some of which are over three months late and for which his department is entirely responsible?

Ross Finnie: Two separate issues are contained in that second question, but first is the question on the drift of support. I refer to Rhoda Grant's question. On trying to take account of the real and different degrees of disadvantage, there is no doubt that there are levels of disadvantage in the Borders and in Dumfries and Galloway. However, when we assess those areas' difficulties in comparison with the north-east and the northern isles, it is difficult not to argue that the latter have other different and perhaps more severe disadvantages. That only illustrates the point that I made in response to the earlier question that, in Scotland, it is extremely difficult to adapt the less favoured area scheme rules to find an equitable solution for all the 85 per cent of Scotland's agricultural land that is designated as less favoured.

Non-trunk Roads (Winter Maintenance)

3. Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): To ask the Scottish Executive what discussions it has had with the Highland Council about the recent winter maintenance of non-trunk roads. (S1O-4427)

The Deputy Minister for Enterprise, Transport and Lifelong Learning (Lewis Macdonald): The maintenance of local roads is a matter for local authorities, but we welcome the closer co-operation that was recently agreed between the Highland Council and BEAR Scotland Ltd.

Mr Stone: The minister knows from what I said in the chamber last week that we had some fairly hellish conditions in the Highlands over the Christmas and new year period. It might give some amusement to the chamber to know that I was snowed in for some days. Mercifully, we had adequate provisions and whisky but—alas—no cigarettes. The situation was tricky for pensioners and those who were possibly in need of medical services. I seek reassurance that the minister will do everything in his power to bang heads together and ensure that that situation does not happen again—we cannot face it a second time round.

Lewis Macdonald: Lessons are being learned on all sides from the winter conditions that occurred. I am pleased that the Highland Council met BEAR Scotland Ltd and that it has agreed to shared use of strategic depots, equipment and facilities. That is the right way to go.

I will meet councils from throughout Scotland later this month and talk to them about the relationship between trunk road and non-trunk road maintenance. I am sure that we will pursue some of those ideas further then.

The Presiding Officer (Sir David Steel): I remind members that the discussion is about non-trunk roads in the Highlands.

Maureen Macmillan (Highlands and Islands) (Lab): I hope that you will allow me to talk about footpaths. If footpaths are non-trunk roads, there is an issue—

Christine Grahame (South of Scotland) (SNP): Very risky.

Maureen Macmillan: Yes, it is very risky.

An issue about the clearance of footpaths in the Highlands has been brought to my attention by housing officials, who say that the housing budget must be used to clear footpaths in council housing schemes, whereas in other housing schemes the money comes from the general budget. They believe that tenants of council housing are paying twice for the privilege of having their footpaths cleaned. Will the minister comment on whether that is a fair arrangement and give some guidance as to how it might be sorted out?

The Presiding Officer: I suppose that footpaths are part of roads.

Lewis Macdonald: Maureen Macmillan should take that matter up with the local authority. The way in which it chooses to fund such works is a matter for the local authority. Short of trunking the pavements around Scotland, I have little to offer on that question. However, clearing footpaths is one of the issues that have been addressed of late by local authorities and the trunk road operators in dealing with their responsibilities.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): The minister is aware that the trunk roads are the responsibility of a private company—BEAR Scotland—and that the non-trunk roads are a local authority responsibility. Does the minister regard it as sensible to have two sets of gritters, two sets of snow ploughs, two sets of workers and two sets of back-up office supplies? Does not that lead to unnecessary duplication and waste? Is not it the case that the policy is no more than a Railtrack of the roads that is costing Highland folk dear?

Lewis Macdonald: I regard it as sensible for those who are responsible for trunk roads and those who are responsible for local roads to co-operate. That is beginning to happen in the Highland Council area and I expect that other councils will see fit to follow that route in due course. We all have an interest in ensuring that we have unhindered means of travel and communication during winter weather. The best way to achieve that is through partnership between those who are responsible for the two different types of road.

Fish (Illegal Landings and Processing)

4. Robin Harper (Lothians) (Green): To ask the Scottish Executive what action has been taken during the last year to address any illegal landings and processing of fish. (S1O-4458)

The Minister for Environment and Rural Development (Ross Finnie): A number of enforcement measures are in place. More generally, the activities and resources of the Scottish Fisheries Protection Agency have continued to be developed and are aimed at conserving fish stocks by monitoring compliance with regulations, thereby deterring and detecting potential illegal activity.

Robin Harper: There are several questions that I would like to ask the minister on the issue.

The Presiding Officer: You can ask one.

Robin Harper: I will do that. Is there any evidence of a direct connection between the landing of illegal fish and certain processors in Scotland and England?

Ross Finnie: If there were firm evidence, it would have led to some intervention or prosecution. We cannot be in any doubt that the continuation of illegal landings must in some way be to do with funding by processors. As far as the Executive is concerned, the focus of attention is the Scottish Fisheries Protection Agency. We devote some £15 million to that agency and we have 73 enforcement officers. I assure Robin Harper that we pursue every possible line of inquiry, because we understand that illegal activity undermines the activities and the efforts of sustainable fishing.

Mr Jamie McGrigor (Highlands and Islands) (Con): On fishing conservation effort, will the Executive take action to clarify EC regulation 2056/2001, especially as it relates to prawn fishermen who use 100mm nets. It is causing much anxiety, fear and consternation among prawn fishermen, who are confused about whether they are fishing within the law.

The Presiding Officer: I am confused about whether that question is in order.

Ross Finnie: If you were to rule any question on prawns from Mr McGrigor out of order, Presiding Officer, there would be some silence from Mr McGrigor. I do not think that the Parliament would want that.

The prawn fishermen have been in consultation with the Scottish Executive environment and rural affairs department on the regulation and are well aware of its implications. Like the rest of the fishing industry, they must abide by those regulations because they come under the ambit of the Scottish Fisheries Protection Agency and its efforts to maintain sustainable fishing stocks.

Richard Lochhead (North-East Scotland) (SNP): As the minister will be aware, processors face the challenge of coping with the increase in the haddock quota that is available to the industry this year as a result of the massive 1999 year class. Will the minister turn his attention to helping the processing industry to market that product, given that it will take that industry some time to recover from the difficulties of the past few years?

Ross Finnie: As Richard Lochhead is aware, we have a working group that is examining the processing industry and the impact on it of the reduction of core stocks. I hope that the member will agree that, although the recently negotiated total allowable catches are not by any means the salvation of the industry, they will result in improved throughput, which—combined with our work with the enterprise agencies—will be of considerable assistance to the industry.

A890 (Closures)

5. John Farquhar Munro (Ross, Skye and Inverness West) (LD): To ask the Scottish Executive what discussions it has had with the Highland Council with a view to finding solutions to closures of the A890 between Stromeferry and Achintee owing to landslides. (S1O-4430)

The Deputy Minister for Enterprise, Transport and Lifelong Learning (Lewis Macdonald): The A890 is a local road and is therefore a matter for the Highland Council, which is the local roads authority for the area.

John Farquhar Munro: I thank the minister for that reply but, in view of the Highland Council's

professional opinion that that section of the road cannot be considered safe for the travelling public, and in view of the current interest in tidal and wave energy, will the minister consider initiating an engineering study into the feasibility of a tidal barrage across Strome narrows? That could incorporate a combined road, rail and tidal generation facility.

Lewis Macdonald: I noted John Farquhar Munro's suggestion during yesterday evening's members' business debate on Alasdair Morrison's motion on renewable energy. I welcome the member's support of the principle that integrated transport and energy schemes should be developed where possible. Mr Munro will probably be aware that the Highland Council has already met Railtrack to discuss possible options for long-term joint solutions to the problem, which affects both road and rail travel on that route. I understand that there are technical difficulties in pursuing a joint solution, but I know that all the options are being considered. My officials will certainly stand ready with practical advice for both parties if that can be of assistance in taking the matter forward.

National Health Service (Waiting and Discharge Times)

6. Paul Martin (Glasgow Springburn) (Lab): To ask the Scottish Executive what progress it is making in addressing waiting and discharge times in the national health service. (S1O-4443)

The Minister for Health and Community Care (Malcolm Chisholm): Last week, I announced the establishment of a national waiting times unit to work with NHS Scotland to reduce delays for patients. The First Minister announced an additional £20 million to reduce the number of people who are delayed in being discharged from hospital.

Paul Martin: I thank the minister for his reply. Does the minister share my concern that, although senior managers in Glasgow have proposed an acute services review, which they advise will improve waiting times, that review does not include a review of the number of senior management staff within the NHS in Glasgow? Does the minister agree that the facilities of the senior management staff need to be improved and that we need to increase the number of front-line staff rather than invest in senior managers?

Malcolm Chisholm: It is widely recognised that concerns have been expressed about how the North Glasgow University Hospitals NHS Trust deals with some of those issues. That is why the chief executive of Greater Glasgow NHS Board is carrying out a review of the trust, from which I hope there will be some management changes. Everybody believes that effective management is important. That is also why I made the changes at the Beatson oncology centre, which was part of that same trust.

Shona Robison (North-East Scotland) (SNP): Does the minister accept that the creation of the waiting times unit will not address the fundamental problems of undercapacity and lack of staff in the NHS? Would not it be better if the Minister for Health and Community Care were to put his efforts into tackling such issues, rather than into sidestepping them by the establishment of hit squads? We need more beds, doctors and nurses, not more bureaucracy.

Malcolm Chisholm: Capacity issues are of great importance. I look forward to next week, when I shall chair the first meeting of the group that will drive forward implementation of the action plan on the recruitment and retention of nurses.

I am mindful of capacity issues, but it is clearly a mistake to view waiting times as a problem that needs only one solution to resolve it. We have said that several actions need to be taken. In the first place, the new unit will advise and—more important—ensure the development of good practice and service redesign. The unit will also have powers of intervention to co-ordinate any solutions that might be required. There is no single answer to the problem; we are taking action on a broad range of fronts.

For people leaving hospital, we will ensure that that £20 million—part of the biggest-ever investment in care services for older people—is spent as effectively as possible. Every penny will be targeted on dealing with the problem of delayed discharge.

Euro

7. Sarah Boyack (Edinburgh Central) (Lab): To ask the Scottish Executive what action it is taking to help Scotland prepare for the euro. (S1O-4450)

The Minister for Enterprise, Transport and Lifelong Learning (Ms Wendy Alexander): Scotland Europa co-ordinates the Scottish euro forum, which comprises public and private sector representatives and which is implementing a detailed plan on preparatory activities in Scotland. Included in that action plan's wide range of activities are workshops, conferences, a website and the provision of a telephone hotline for Scottish businesses who are looking for assistance.

Sarah Boyack: I am sure that the minister is aware of the importance of tourism to the Scottish economy and, in particular, to my constituency of Edinburgh Central. Now that there has been a smooth transition in the euro zone countries, what action is the minister taking on the

recommendations in the European Committee's report on the euro? In particular, what is she doing on the recommendations to do with raising awareness in Scotland's tourism industry—in VisitScotland and the Scottish tourist forum—of issues such as dual pricing, marketing and staff training, which the industry urgently needs before the coming summer?

Ms Alexander: The Executive welcomes the report of the European Committee. Sarah Boyack might be aware that we gave a response to that committee earlier this week. We accept the vast majority of the committee's recommendations; however, there are one or two that are related to the tourism industry that we do not accept.

The euro, of course, is not legal tender in the UK. However, we have encouraged many businesses—especially tourist attractions—to consider being willing to accept it. The First Minister has written to Historic Scotland to ask it to keep the matter under review.

Alex Neil (Central Scotland) (SNP): Will the minister commission an independent assessment of the economic impact of euro membership on Scottish business? Does she agree that, if we go into the euro at anything like the current exchange rate, it would be a disaster for the Scottish economy?

Ms Alexander: An encouraging recent sign has been the strengthening of the euro, which is easing the position of Scottish manufacturing. There is a difference between our view and that of Alex Neil's party, or that of some members of his party—we are never quite sure. The Labour party is very clear on the conditions that should govern British membership of the euro. I remain unclear as to whether Mr Neil's party is in favour of membership.

Miss Annabel Goldie (West of Scotland) (Con): Instead of being obsessed by matters that are currently peripheral, might be specious and might turn out to be completely irrelevant, would not the Executive be better employed in addressing the actual problems that confront us—a flagging Scottish economy, escalating job losses and the Executive's wilful neglect of our rural and more remote communities?

Ms Alexander: Dearie me—that really was a case of talking Scotland down. Only yesterday, the claimant count—in these difficult times—fell by 600 in Scotland and rose by 3,200 in the rest of the UK. As the Scottish Chambers of Commerce pointed out yesterday, the strengthening of conditions in the United States—sooner than was expected following September 11—has meant that manufacturing confidence is improving.

Free Personal Care (Attendance Allowance)

8. Nicola Sturgeon (Glasgow) (SNP): To ask the Scottish Executive what progress has been made in its negotiations with Her Majesty's Government in respect of continuing the payment of attendance allowance to those people who should become eligible for free personal care in April 2002. (S1O-4423)

The Minister for Health and Community Care (Malcolm Chisholm): Following a series of representations and discussions between the Scottish Executive and the UK Government, we have reached the conclusion that it will be necessary to implement free personal and nursing care from 1 July from existing resources.

Nicola Sturgeon: Whatever happened to the Malcolm Chisholm who said in the chamber on 27 September:

"The fundamental point is that … that money must not be lost to Scotland."—[*Official Report,* 27 September 2001; c 2875.]?

Whatever happened to the Malcolm Chisholm who, when asked at the Health and Community Care Committee on 31 October when negotiations would conclude, said:

"I cannot give a precise date on that, because we do not see an end point except when we have been successful."—[*Official Report, Health and Community Care Committee,* 31 October 2001; c 2129.]?

Does the minister consider it a success to have thrown in the towel on the issue instead of fighting the corner of the people of Scotland and to have handed over £23 million of Scottish taxpayers' money to a UK Government whose motivation appears to have been only to punish—

The Presiding Officer: Order. The question was clear but we are getting a speech now. On you go.

Nicola Sturgeon: Does he consider it a success to have handed over £23 million of Scottish taxpayers' money to a UK Government whose motivation appears to have been only to punish Scottish pensioners for the decisions of this Parliament?

The Presiding Officer: Order. Let us have an answer

Malcolm Chisholm: We made the strongest possible representations. We argued the case. The present First Minister had a meeting in London as recently as December and the previous First Minister was involved with the issue over a long period. However, we have decided that there is no advantage in pursuing the matter further. Our concern is to ensure that the policy is fully implemented as quickly as possible and that all the mechanics are in place to allow that to happen. We are interested in delivering this great

advance for older people in Scotland—we are not interested in constitutional wrangles that have nothing to do with the delivery of free personal care.

Mrs Margaret Smith (Edinburgh West) (LD): The suggestion that attendance allowance should continue to be paid to the relevant pensioners was a recommendation of the care development group, which was chaired by the minister. Were there any initial discussions with the Department for Work and Pensions in relation to the payment of the £23 million prior to the publication of the report? What lessons can the Scottish Executive and the Scottish Parliament learn in relation to similar situations in the future?

Malcolm Chisholm: The care development group met for six months and there was contact between the health department and the DWP in London. That was a recommendation of the group. The argument was never going to be easy to win, but we made it and advanced the cause. However, a time comes when the important thing is to move on and to ensure that the policy—part of the greatest-ever investment in older people's care services in Scotland—is implemented, rather than continuing the argument when there is no advantage in so doing. That is where our priority lies and that is the choice that we have made.

I remind members that part of the package is an expansion of care services, although it is the other aspect of free personal and nursing care that gets the most attention.

Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab): I welcome the minister's comments on priorities and choices. At every meeting with colleagues in Her Majesty's Government, will the minister stress the importance of the continuing integrity of the UK benefit system to pensioner households, working families, unemployed people and people with incapacity? Does the minister agree that the last thing that those people need is the extra cost and bureaucracy of a separate benefit system, as urged on them by the SNP?

Malcolm Chisholm: It is a fact that the majority of people in Scotland support the view that was put forward by Brian Fitzpatrick. If I go on to enumerate the advantages and benefits since 1997, the Presiding Officer will rule me out of order.

The Presiding Officer: Absolutely.

Alex Johnstone (North-East Scotland) (Con): Before we leave the subject of the £23 million, could the minister make it clear when he was first told that we were not getting it?

Malcolm Chisholm: I made it clear in my first answer that those discussions went on into the month of December, when the current First Minister went to London. I know that Alex Johnstone has referred to October in his recent interviews. I can assure him that that was not the end of the matter. A letter was written after October and the current First Minister had a meeting in London in December.

Scottish Football Association (Meetings)

9. Mr Brian Monteith (Mid Scotland and Fife) (Con): To ask the Scottish Executive when it will next meet representatives of the Scottish Football Association and what issues will be discussed. (S1O-4431)

The Minister for Tourism, Culture and Sport (Mike Watson): I will be meeting representatives of the SFA shortly to discuss the possible bid for Euro 2008.

Mr Monteith: The SFA has consistently shown complete disregard for a joint bid with the Football Association of Ireland for the Euro 2008 championships. Given the importance to Scottish football and tourism of a successful bid, and the fact that the criteria stipulates that there should be 30,000 seats in at least eight stadiums, will he do his utmost to ensure that there is a joint bid? Otherwise, he will have to commit £100 million of taxpayers' money to stadiums that will become white elephants the day after the championships are complete.

Mike Watson: Mr Monteith's question betrays a lack of depth of knowledge of the issues and the discussions that have taken place between the Executive and the SFA, between the SFA and the FAI and between the officials of the Scottish Executive and their opposite numbers in Ireland. Neither a solo bid nor a joint bid for Euro 2008 has been ruled out—decisions have not been made. Many of the newspaper reports are speculative and not particularly well informed. It is remarkable that some of the people—including newspaper editors—who froth at the mouth at the prospect of public expenditure in respect of the new Parliament building, while ignoring its possible benefits for the future, are remarkably gung-ho and have a whatever-it-takes attitude to Euro 2008. The Executive will not adopt that approach. We will consider all the figures—costs and benefits—before making decisions and conveying them to the Scottish Football Association.

Andrew Wilson (Central Scotland) (SNP): Does the minister agree that the overwhelming evidence of the DTZ Pieda Consulting report into the economic benefits of Euro 2008 suggests that the long-term impact on the Scottish economy could be phenomenal? Is not it time that Scotland put aside the narrow ambitions of people who never stood behind Scotland's cause? Is not this an opportunity to make a statement about our ambitions for our nation in the 21st century and to

put aside the nonsense from people who would oppose what would be fantastic event for everyone in Scotland?

Mike Watson: Mr Wilson is well known as an economist, among other things. [*Laughter.*] I did not say whether he was a good one or a bad one. I find it strange that he should refer to "phenomenal" benefits. The benefits in some senses are difficult to calculate because they are intangible. For example, who can say what the benefit might be in tourism terms after the tournament? We are talking about the best part of 10 years down the line. However, that is all being weighed in the balance. Certainly, the suggestion that somehow faintheartedness is at the root of the inability of the Executive to reach a decision is absolute nonsense. A decision has not been reached—we are looking at the figures in their fullest sense. The people of Scotland expect no less.

Donald Gorrie (Central Scotland) (LD): Before his welcome elevation, the minister showed the concern that many of us in the Parliament share about the parlous state of almost every football club's finances in Scotland. Will he also take up that issue when talking to the SFA to see whether there is any collective action—through the creation of co-operatives or any other way—that can help to rescue the football clubs from this bad state?

Mike Watson: That is a rather tenuous connection. I know that the financial viability of football clubs is of concern to the SFA. It is also of personal concern to me. We expect that if Scotland went forward either on its own or with Ireland with a bid and we were successful, the benefits that would flow to football at all levels in Scotland would likely be considerable. That would be particularly so in relation to youth football involving boys and girls. What will really ensure the financial viability of Scottish football is good, quality players coming through in the years to come. We are putting many resources into ensuring that whatever happens with Euro 2008, that aspect of football will be well looked after.

Diabetic Clinics (Waiting Times)

10. Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): To ask the Scottish Executive what steps it is taking in order to reduce waiting times for out-patient appointments at diabetic clinics. (S1O-4466)

The Deputy Minister for Health and Community Care (Mrs Mary Mulligan): The Scottish Executive is promoting and supporting a range of measures to improve services for people who have diabetes. We will soon publish the Scottish diabetes framework, which will draw together existing guidance, set new targets for diabetes services and deliver improved care to people who have diabetes.

Mr Rumbles: Is the minister aware of the report "Too Many Too Late" that was published by Diabetes UK in June, which highlighted the fact that the number of diabetics is projected to double within the next 10 years and that currently 92 per cent of hospitals do not have the recommended number of diabetologists? Could the minister outline specifically how the Executive plans to assist in tackling that increasing problem?

Mrs Mulligan: The development of the framework has taken place in discussions with clinicians and people who suffer from diabetes, so I am aware of the growing incidence of diabetes and the need to up the service to deal with that. However, not all people who have diabetes need hospital care. We are aware that doctors, and general practitioners in particular, can offer a service that will provide those who suffer from diabetes with the treatment that they need, which would allow hospitals to provide services for those who are suffering most.

Ms Margo MacDonald (Lothians) (SNP): Does the minister agree that it will do nothing to improve in-patient or out-patient services for diabetics if Lothian University Hospitals NHS Trust is able to proceed with its plan to dock one specialist diabetes nurse from the complement in Lothian?

Mrs Mulligan: As I said, the package that will be available to those suffering from diabetes cuts across a number of health professions, therefore it will be up to local health boards to take decisions on the precise number of professionals that they need in hospitals and in primary care situations.

Economic Regeneration

11. Mr Duncan McNeil (Greenock and Inverclyde) (Lab): To ask the Scottish Executive how it plans to support economic regeneration in Scotland in 2002. (S1O-4463)

The Minister for Enterprise, Transport and Lifelong Learning (Ms Wendy Alexander): The Executive has set out its priorities in "A Smart, Successful Scotland". It focuses on three priorities to raise the long-term productivity of Scotland: growing businesses, global connections, and learning and skills.

Mr McNeil: I thank the minister for her response. The minister will be aware of the importance of the electronics industry in my constituency of Greenock and Inverclyde, and of the restructuring that is taking place within that industry, not to mention the impact that that restructuring is having on jobs throughout Scotland. For example, IBM is outsourcing desktop computer manufacture, which is presenting smaller contractors with many challenges and opportunities. What support and

advice can the minister offer to help such companies that are based in Scotland to meet those challenges and opportunities?

Ms Alexander: The evolution of IBM is a clear indication of the future of electronics in Scotland. It is a company that has been here for many decades. As the member said, it started off overwhelmingly as an original equipment manufacturer. As of last week, it has outsourced all manufacturing, and is concentrating instead on systems integration and services. Therein lies the future of Scottish electronics.

The Executive is addressing two issues. First, suppliers to original equipment manufacturers now need to be able to supply on a global basis. That is why we have transformed Locate in Scotland and its worldwide sales force to market Scottish products overseas.

Secondly, the situation requires the reskilling of the work force. That is why modern apprenticeships are now available to people of all ages. The electronics industry has used that scheme extensively in people's retraining.

Perhaps there is a third point. The situation requires us to reconsider regional selective assistance, which has historically been the key means of supporting the electronics industry. We are reshaping that key instrument of financial assistance for the future.

Mr Kenneth Gibson (Glasgow) (SNP): The minister will be aware that, in Glasgow, even before 11 September, only 65.2 per cent of the city's male working-age population was in employment, according to her figures. Does the minister accept that 24,000 jobs will therefore have to be created just for resident Glaswegian males in order to reach average employment levels throughout Scotland?

Given that 40,000 Scots are now working in the booming Irish republic, what measures will the Executive take to stimulate demand—specifically in Glasgow and not just in the wider Scottish economy—to prevent the loss of skilled workers and secure increased job opportunities and enhance urban regeneration?

Ms Alexander: Addressing that issue is the task of the employers coalition within the new deal. The new deal has been the primary instrument in returning people to work and it is funded by taxing the windfall profits of the privatised utilities. I note that Mr Gibson's party did not support that policy.

Kate MacLean (Dundee West) (Lab): Is the minister aware that yesterday Levi Strauss (UK) announced that it proposes to close its operations in Scotland? That would lead to 462 job losses in Dundee and is in spite of the fact that the company has enjoyed a 30-year association with the city of Dundee and the support of a loyal and flexible work force, many of whom are women. Will the minister join the locally elected representatives, national and local trade union representatives, economic development agencies and the work force in trying to persuade the company to reverse its decision?

Is the minister also aware that today Dundee received more bad news on the jobs front when it was announced that Farmor Engineering has called in the receivers? That is obviously of great concern to everyone, not least the 115 people who work there.

In addition to supporting the workers in Dundee whose jobs are under threat, could the minister advise the Parliament whether the Executive has a strategy to deal with the worrying level of job losses in the manufacturing sector?

Ms Alexander: On the various points that the member has raised, and on a day when we saw claimant count unemployment fall again in Scotland, it was particularly sad to hear of the risk of job losses on such a scale in Dundee and Bellshill.

My officials, those of Scottish Enterprise Tayside and those of Scottish Enterprise are already in extensive discussions with Levi Strauss and are advising me on what we can do to be of assistance in the circumstances. With respect to the other redundancies, it is the right moment to note the existence of a specialised rapid reaction force for every case of major redundancy. That force is allowing people to move from one job to another and is allowing the Executive to set incredibly ambitious targets—in cases such as Motorola—of 90-plus per cent of the work force getting back into work or training within a year of the closure.

Disabled People (Independent Living)

12. Bristow Muldoon (Livingston) (Lab): To ask the Scottish Executive what steps it is taking to assist disabled people to live independently. (S1O-4446)

The Deputy Minister for Health and Community Care (Hugh Henry): Throughout the range of the Scottish Executive's responsibilities, policies exist that are designed to assist people with a disability to live independently; those include consultation, adaptations to homes and managing direct payments. In addition, the Executive consults service users and disability groups throughout the country to ensure that the requirements of disabled people in living as independently as possible are identified.

Bristow Muldoon: I have been contacted several times by constituents who have had difficulty in accessing direct payments. What is the

Scottish Executive doing to support and promote more ready access to direct payments for people with disabilities?

Hugh Henry: Research shows that direct payments can increase independence and aid social inclusion, and the Executive is committed to making them more widely available. The Community Care and Health (Scotland) Bill introduces several proposals that will help to improve the take-up of direct payments. The bill will place a duty on local authorities to give eligible people the choice of using direct payments to arrange and purchase their care services.

We have committed £530,000 to Direct Payments Scotland, which is a two-year development project that will help to put in place the local support systems that are needed to help people to manage their direct payments. That project will also offer local authorities advice, information and training.

First Minister's Question Time

SCOTTISH EXECUTIVE

Prime Minister (Meetings)

1. Mr John Swinney (North Tayside) (SNP): To ask the First Minister when he last met the Prime Minister and what issues they discussed. (S1F-1546)

The First Minister (Mr Jack McConnell): I last met the Prime Minister formally on 26 November 2001, when we discussed the importance of delivering first-class public services to the people of Scotland.

Mr Swinney: This week, the Church of Scotland warned that it might have to close some of its residential homes, which provide accommodation for some of the poorest people in our society, because of Government underfunding. Last June, I raised that issue with the First Minister's predecessor, who said that it would be resolved in weeks. It has been not weeks, but months. The situation has not been resolved; it is not improving, but worsening. When the Minister for Health and Community Care meets local authorities, they should not fight over who is to blame. Instead, will the First Minister guarantee that the issue will be resolved tomorrow?

The First Minister: We had this problem last week—the suggestion that there are solutions that can suddenly be invented for tomorrow. It is right and proper that serious negotiations take place between the Executive, the local authorities and the care home providers, to deliver that solution. It would be wrong of the Executive simply to hand over money to private care home owners or voluntary sector care home owners on the basis of the sums that they demand.

That is responsible government. Thinking of an idea, spending the money and getting on with it is not responsible government. That may be what the member advocates, but it is not what we will do.

Mr Swinney: Last week, the First Minister pledged to end bedblocking by committing some extra money. If he wants to end bedblocking, he must ensure that the number of residential care places is sustained. The number has fallen year after year. If the present crisis is not resolved, the figure will fall even further.

The First Minister cannot wash his hands of the matter. He cannot say that the decision is not up to him, because he funds local authorities and the care sector involved. Will the First Minister guarantee that to honour his pledge on bedblocking, he will ensure that the number of

residential home places in Scotland does not fall?

The First Minister: We should start from a position of some honesty. No pledge was made to end bedblocking in Scotland's hospitals; the pledge was to reduce bedblocking and to deliver an action plan next month that will work towards that reduction.

We should not irresponsibly raise expectations on that matter. The problem is complex and requires action not only by the Executive, but by local authorities, health boards and care home owners. In otherwise very disappointing statistics this week, it is heartening to see that a difference is being made in three local authority areas.

From local experience in North Lanarkshire, I know that, in one of those areas, the action by the health board, the local authorities and others in the area is making a difference. The problem is complex and requires a complex solution. It does not require the nationalist approach of, "Here is an idea—spend the money." It requires action that is based on proper budgeting and a proper solution. That is what Malcolm Chisholm is working towards and that is what we will deliver.

Mr Swinney: The First Minister was able to highlight only three out of 32 local authorities where progress is being made. The overwhelming majority are unable to make progress because they do not have the money to resolve the problem.

The First Minister talked about immediate solutions. However, the problem has being going on for seven months and we do not appear to have made any progress. Residential home places are falling, the number of beds that are blocked is rising and the First Minister has no solutions. Will he give me one commitment today? Will he find the money that the independent review's evaluation of the problem set out as required to meet the funding gap in residential home places? Will the First Minister act to deliver a solution?

The First Minister: No, I will not. It would be entirely irresponsible for any Executive to stand in Parliament and say, before the negotiations are complete, "We will give you the money. We will give you every penny that you are asking for." That is what Mr Swinney is asking me to do.

We have heard such demands from the SNP every day this week—for rail and, this morning in the newspapers, for £100 million for a football tournament—without any regard to the economic analysis. Today, we have heard a demand for money for care homes before the end of the negotiations. Those demands are irresponsible in the extreme and they must stop. In the Scottish Parliament, we must take responsibility for our decisions, manage our budgets and deliver better public services for Scotland.

Cabinet (Meetings)

2. David McLetchie (Lothians) (Con): To ask the First Minister what issues will be discussed at the next meeting of the Scottish Executive's Cabinet. (S1F-1553)

The First Minister (Mr Jack McConnell): Next week, the Cabinet will discuss matters arising from this week's meeting and forthcoming parliamentary business. There will be an extended discussion on the forthcoming spending review.

David McLetchie: I would be interested to know what will be discussed under any other business, but no doubt we will find that out next week.

I hope that the First Minister will find time to look at our health service. I draw the First Minister's attention to something that Mr Alan Milburn said this week:

"The NHS is the last great nationalised industry. It is the last bastion of a particular form of mid-20th century organisation and I think it's time to change it."

I will contrast that statement with something that the First Minister will recall my raising in question time on 13 December, when I said:

"we need a national health service in this country, not a nationalised one."—[*Official Report*, 13 December 2001; c 4865.]

Will the First Minister tell the Parliament whether he can spot the difference between the two statements? Will he consider introducing in Scotland the sort of sensible, Conservative policies that Mr Milburn proposes for England?

The First Minister: I suppose that the 13th was unlucky for some.

The purpose of having the Scottish Parliament is to make our own decisions for the Scottish health service, education and a whole range of other areas. Just as the United Kingdom Parliament, where it has specific responsibility for English public services, should not follow blindly the example of the Scottish Parliament, nor should we do that in the other direction. We should make our own decisions on the basis of the Scottish experience and the Scottish structure of public services. If we do that, and concentrate on that, we will deliver a better job and better public services for Scotland.

David McLetchie: Whatever happened to that great new Labour phrase, "What matters is what works"? Does not it strike the First Minister as somewhat odd that the thrust of policy south of the border appears to be to decentralise the management and control of hospitals, but in Scotland we are putting our health service in an ever-more centralised politician-controlled straitjacket? Has the thought ever occurred to the First Minister that, given the experience of the past

two years, with longer waiting times, longer waiting lists and even more blocked beds—Mr Swinney outlined some of the problems that have resulted from that—the whole trend of his policy might be going in entirely the wrong direction? Is not it time to reverse that policy?

The First Minister: We are all very keen in the chamber on boasting about the hard work that is done by Scotland's doctors and nurses and praising them for that hard work. In all the hospitals, health centres and clinics that I visit—for example, this morning, at Falkirk royal infirmary in Mr Canavan's constituency, where some extremely innovative and groundbreaking work is taking place in dermatology—at no time has anyone said to me, "Please privatise a bit of our health service." Mr McLetchie may think that privatisation is the solution for the Scottish health service, but it is not Alan Milburn's solution for the health service in England and Wales and it will not be the solution for this partnership in this Parliament.

Mr John McAllion (Dundee East) (Lab): Will the First Minister assure me that, at its next meeting, his Cabinet will discuss the threat to more than 600 jobs in Dundee and Bellshill following the announcement by Levi Strauss (UK) that it intends to close factories in those locations? Will he assure me that, in the short term, the Executive will give its unqualified support to the unions in their fight to save those jobs but that, in the longer term, the Executive, in partnership with the UK and European Governments, will begin to develop a manufacturing strategy that challenges the right of global companies such as Levis to scrap unionised and well-paid jobs in one part of the world in order to replace them with non-unionised and lower-paid jobs in another part of the world?

The First Minister: I share the concerns expressed by Kate MacLean and John McAllion about the position faced by workers in Dundee. Michael McMahon and I share concerns about the workers in Bellshill, some of whom come from my constituency. They are in an extremely unfortunate situation as they face that threat to their jobs.

I received assurances from the company this week that it will assist the process of trying to secure new jobs for those workers should those closures go ahead. I can assure Mr McAllion that my Cabinet discusses almost every week the on-going economic situation in Scotland. It monitors that situation closely and takes action whenever it is appropriate.

Prosecution of Children Under 12

3. Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): To ask the First Minister whether the Scottish Executive plans to implement the Scottish Law Commission's recommendation that the prosecution of children under the age of 12 in criminal courts be banned. (S1F-1567)

The First Minister (Mr Jack McConnell): The Scottish Executive will consider the recommendations from the Scottish Law Commission in the context of our overall approach to youth crime.

Mr Rumbles: I thank the First Minister for his response. Does he agree that Scotland stands out as having one of the lowest ages of criminal responsibility in the whole of Europe, that in a civilised society we should deal with our children in a civilised way and that this proposed change to take our very youngest children, aged between eight and 11, out of the adult courts is long overdue?

The First Minister: I hear the traditional rumblings on the Tory benches.

This is a serious issue and there is no doubt that if we do not consider it carefully, we will be forced to do so in due course by the European legislative environment in which we now operate. We should consider carefully the recommendations that have emerged this week, but do so in the context of our overall approach to youth crime and the position of young people in Scotland today. The issue is important, but we should not get it out of context. Eleven young people were affected from 1994 to 1999, none of whom committed murders or offences at that sort of level.

However, in communities throughout Scotland, there is concern about youth disorder and youth crime. There is concern among young people themselves that their peers are falling into that sort of lifestyle. I believe that all of us—young people, teachers, parents and the many others who might be involved—need to ensure that we have a strategy that turns around those young lives and makes Scotland a better place for them.

Pauline McNeill (Glasgow Kelvin) (Lab): Will the First Minister note that neither of the justice committees were asked to comment before the Scottish Law Commission came up with its proposals? Does he agree that, unlike many other European countries, Scotland has an excellent framework of criminal justice, which has at its heart, through the children's hearing system, the welfare of children?

Will the First Minister exercise some caution before accepting the Scottish Law Commission's recommendation and ensure that there is wide consultation before we remove the discretion of the Lord Advocate, given the small number of prosecutions in Scottish courts?

The First Minister: I believe that we should always exercise caution in such instances. The

same is true of our pilot project to examine the position of some 16 and 17-year-olds, who might be referred to children's hearings in future. We should exercise caution in those areas, but we should also investigate the possibilities. In this country, as in many other countries, we have a problem with young people who, because they are disillusioned with the society in which they live, because of the circumstances in which they are growing up or perhaps because of their role models, find themselves beginning lives that will eventually end up in adult prisons. We need to stop that happening. We need a strategy that tackles that comprehensively, throughout the criminal justice system and throughout our youth service. I hope that there will be widespread consultation on the proposal before it reaches any further stage of decision making.

Christine Grahame (South of Scotland) (SNP): I associate myself with the remarks of Pauline McNeill, convener of the other justice committee, about consulting with conveners. Given that raising the age of criminal responsibility is somewhat controversial, or even contentious, will the First Minister tell us when the issue will come before this Parliament's justice committees? I hope that he will confirm that he thinks the matter should come to the justice committees and not the Education, Culture and Sport Committee.

The First Minister: I would not want to take away from the important role of the Parliament in deciding which committee should consider which matter. The justice committees have an important role in considering matters of legal reform. However, the Education, Culture and Sport Committee also has an important role in considering our system of justice for children and young people. I hope that the justice committees will consider the specific proposals, but that the Education, Culture and Sport Committee will show a keen interest in the strategy for youth crime that we intend to launch shortly.

Free Personal Care

4. Dennis Canavan (Falkirk West): To ask the First Minister what progress has been made in implementing the Scottish Executive's plans for free personal care for elderly people. (S1F-1559)

The First Minister (Mr Jack McConnell): As Malcolm Chisholm announced on Tuesday, free personal care and free nursing care will both be fully implemented from 1 July 2002.

Dennis Canavan: Was it not rather disingenuous to claim that the three months' delay was for technical rather than financial reasons? Is it just coincidence that three months' funding is approximately equivalent to the £23 million that Alistair Darling is refusing to hand over for attendance allowance? If Alistair Darling gets his way, that will mean that Westminster will have more money to spend because of a progressive policy of this Parliament. Will the First Minister continue to pursue the matter through the disputes procedure that is outlined in the concordat? Can we have an absolute assurance that, despite the opposition of the British Cabinet and some members of the Scottish Cabinet, the will of this Parliament will be implemented and that the Scottish Executive will have no further delay in implementing the recommendations of the Sutherland report for free personal care for elderly people?

The First Minister: This is a serious subject, Presiding Officer, and I hope that you will allow me to answer the three points in Dennis Canavan's question, which he put seriously and, I hope, genuinely and which deserve an answer.

On the financial relationship with Westminster, members will know that I was Minister for Finance when we agreed the statement of funding policy. That statement, which is crystal clear, says:

"where decisions taken by any of the devolved administrations or bodies under their jurisdiction have financial implications for departments or agencies of the United Kingdom Government or, alternatively, decisions of United Kingdom departments or agencies lead to additional costs for any of the devolved administrations, where other arrangements do not exist automatically to adjust for such extra costs, the body whose decision leads to the additional cost will meet that cost".

In other words, if the UK Government makes a decision that has financial implications for us, it should help us to meet that cost. If we make a decision that has financial implications for the UK Government, we should help it to meet that cost. If we make a decision that has financial implications for ourselves—just as we in this Parliament made the decision on free personal and nursing care—we should meet that cost and ensure that the policy is implemented.

On the implementation of the policy, it is arrogant and irresponsible to abuse the legitimate, professional advice of people who work in the system—the front-line staff whom members talk about much in the Parliament. We were given legitimate, professional advice and we have followed it to the letter. We have not squeezed a few extra days or squeezed money out of the budget, but have delivered exactly what was asked for, with an implementation date of 1 July. On 1 July 2002—exactly three years after the Parliament opened—I, for one, will be as proud as punch to deliver free personal and nursing care for Scotland's old-age pensioners. They could only have dreamed of that on 1 July 1999.

The Presiding Officer: We began a little late so I will allow another question. As question 5 has been withdrawn, question 6 may be asked.

Ms Margo MacDonald (Lothians) (SNP): On a point of order, Presiding Officer.

I seek your guidance. I think that the First Minister said that the cost of any decision that is taken by the Westminster Government that leads to expenditure by the Scottish Government will be borne by the Parliament that took the decision. In the case of the new Scottish Parliament building—

The Presiding Officer: That is not a point of order—it is a point of argument.

Her Majesty's Chief Inspector of Prisons for Scotland (Appointment Criteria)

6. Dorothy-Grace Elder (Glasgow) (SNP): To ask the First Minister what criteria are used in appointing Her Majesty's chief inspector of prisons for Scotland. (S1F-1568)

The First Minister (Mr Jack McConnell): I am glad that we have reached this question. I want to put in the *Official Report* our appreciation for Clive Fairweather's good work in his role as Her Majesty's chief inspector of prisons. The chief inspector of prisons is an important public post that requires independent judgment, knowledge, communication skills and leadership qualities.

Dorothy-Grace Elder: I am glad to hear the First Minister's endorsement. I am sure that he agrees that the current holder of the post, Mr Clive Fairweather, fulfils the most important criteria—he is honest and outspoken about the dreadful conditions in Scottish prisons. Perhaps he is so honest that he is being chased out of his job. The First Minister knows that vulnerable lives depend on the integrity of the chief inspector of prisons. Will he assure Parliament that a strong watchdog is needed for prisons and that the chief inspector will not be replaced by an establishment poodle?

The First Minister: Yes. I share some of Dorothy-Grace Elder's concerns about Scotland's prison system. The biggest problem with the system is that more than 50 per cent of those who go through it return at some stage, usually within two years. That is a serious matter. Yesterday, I noticed that one or two members of the Opposition parties were keen to criticise our approach. Before we make final decisions on prison buildings, we will seriously consider the issue of offending and re-offending.

On Monday, I was in Barlinnie prison and Kilmarnock prison. It was clear that what happens inside the prisons is as important as the location and ownership of the buildings.

On the interviewing of a new chief inspector of prisons, this morning, I secured a guarantee that an independent assessor will be on the interview panel for that position. It is important that the position will be independent of the Executive and I hope that we can proceed on that basis.

The Presiding Officer: I have allowed injury time, but we must move on.

Points of Order

15:34

The Presiding Officer (Sir David Steel): I have received notice from Andrew Wilson of a point of order.

Andrew Wilson (Central Scotland) (SNP): On 19 December, in response to a point of order, the Presiding Officer deprecated the Executive's failure to share the publication of the discredited "Government Expenditure and Revenue in Scotland 1999-2000" document with the Parliament before the media. Since then, the Minister for Parliamentary Business has written to the Presiding Officer to apologise—the Parliament should welcome that. However, the issue of the prior leaking of the document by Helen Liddell, the Secretary of State for Scotland in London, is more important. Mrs Ferguson clearly deprecated that in her letter, but it is clear that Mrs Liddell has breached the memorandum of understanding between the Scottish Executive and London on sharing information. The memorandum states:

"Each administration"—

by which it means the Scottish Executive and London—

"can only expect to receive information if it treats such information with appropriate discretion."

What protection does the Parliament have from such breaches of the memorandum of understanding and from party-political politicians who are searching for a role rather than being serious Government ministers?

The Presiding Officer: The questions on the memorandum of understanding are not really for me. The memorandum is between the Executive and the Westminster Government.

I will deal with the point that is for me. As Mr Wilson knows, this matter has been the subject of correspondence between the Minister for Parliamentary Business and myself. I understand that there will, of course, be circumstances in which information will be shared on a confidential basis between ministers and departments in Edinburgh, London and elsewhere, where that will assist policy development and co-ordination of Executive actions. However, information that the Scottish Executive intended, or was required, to lay before the Parliament should not enter the public domain in advance of it being so laid.

That is the point that I made last time, and I am happy to repeat it.

Stewart Stevenson (Banff and Buchan) (SNP): On a point of order, Presiding Officer. Is it appropriate that members of the Parliament learned of the substantial and open-ended delay to the two-year prison estates review via a Scottish Executive press briefing yesterday, rather than hearing of it directly?

The Presiding Officer: I cannot comment on that; I do not know anything about it.

Mr Keith Raffan (Mid Scotland and Fife) (LD): On a point of order, Presiding Officer. I am sorry that I was unable to give you notice of this point of order, which follows on from one that was made yesterday and concerns important policy announcements not being made first in the Parliament. I understand that the long-awaited national plan for alcohol is to be launched tomorrow and not, as it should be, announced to Parliament, where members can question the minister on the various crucial aspects of that plan—not least, the allocation of resources to implement it.

The Presiding Officer: As I said yesterday, the question of which announcements are made in the Parliament and which announcements are made outside, is a matter for judgment by the Executive. I cannot comment on each and every individual case.

I am told that a question on that subject has been lodged today; presumably, members should look for an answer to it tomorrow.

Marriage (Scotland) Bill: Stage 1

The Deputy Presiding Officer (Mr Murray Tosh): The next item of business is a debate on motion S1M-2463, in the name of Jim Wallace, on stage 1of the Marriage (Scotland) Bill. I think that Mr Robson is just about ready to start, so I ask him to speak to and move the motion. The target time for his speech is about 10 minutes.

15:38

The Deputy Minister for Parliamentary Business (Euan Robson): I am pleased to be here to introduce the Marriage (Scotland) Bill to the chamber.

I will briefly summarise the policy objectives of the bill. Those are: to permit civil marriages to be solemnised at locations other than register offices; to authorise local authorities to license locations for that purpose; to charge fees to meet related costs for connected purposes; and to enable the registrar general for births, deaths and marriages to give local authorities guidance on the above.

The bill will extend the choice of marriage venues for brides-to-be and grooms-to-be. The principles of the bill have been widely supported, including by the lead committee considering the bill—the Local Government Committee.

Couples who opt for a religious marriage have long been free to select any location for their wedding, provided that their chosen celebrant agrees to it. As a result, ministers, priests, imams and other authorised celebrants have performed marriage ceremonies in castles and hotels as well as in churches and other religious buildings.

Couples who choose to have a civil ceremony have been limited to picking one of Scotland's 247 registration offices where a registrar is authorised to perform civil marriages. The bill would do away with that anomaly and give couples a wider choice of venue at which to celebrate their special day.

Civil marriages in England and Wales have taken place in buildings other than registration offices since 1995; the bill would go one step further by permitting civil marriage ceremonies in Scotland to be performed in approved places that are not necessarily buildings. That measure increases still further the options for couples.

Perhaps I should highlight briefly what the bill does not do. As I explained when I gave evidence to the Local Government Committee, the bill makes no provision to change either the nature of the civil ceremony or the celebrants. Those matters are beyond its scope.

The bill follows the extensive consultation carried out in 1998 by the registrar general for Scotland; my lodging of a proposal for a member's bill in March 2000—at this point, I thank my co-sponsors; and the publication on 21 June 2001 of the Scottish Executive's proposals and draft legislation in the white paper "Civil Marriages Outwith Registration Offices". The white paper included a draft of the bill and the regulations that might eventually be made under the bill's powers.

The white paper was widely circulated, including to all local authorities, the Convention of Scottish Local Authorities, individual registrars, the Association of Registrars of Scotland, Action for Churches Together in Scotland and the main political parties. Copies were placed in the Scottish Parliament information centre and the document was also made available on the General Register Office for Scotland's website.

A particularly helpful suggestion was that a working group should be formed to consider the detail of the draft regulations and draft guidance that will be introduced once—and if—the bill is enacted. The group is chaired by a representative of the General Register Office for Scotland and includes representatives from COSLA, the Association of Registrars of Scotland and some individual local authorities and registrars with a particular interest in the subject. The working group has met twice so far and is due to meet again next week. It has already done much helpful work to amend the draft regulations and draft guidance to ensure that they fit more closely with local authorities' current procedures. The General Register Office for Scotland has published the latest version of the draft regulations and draft guidance, copies of which are available in SPICe and on the GROS website. Copies have also been sent to the committees that have considered the bill.

I thank the working group members for their efforts and look forward to the final outcome of their work. Much of what they have done will go far to address the points of detail that were raised in the Local Government Committee's stage 1 report.

I will now say something about those matters and about what the Executive is doing to address them. The stage 1 report on the Marriage (Scotland) Bill sets out the views and recommendations of the Local Government Committee—the lead committee—the Equal Opportunities Committee and the Subordinate Legislation Committee. Crucially, the majority of those views and recommendations focus not on the bill or its principles, but on the detail of the registrar general's draft regulations and draft guidance.

Tricia Marwick (Mid Scotland and Fife) (SNP): Does not the minister think that it is wholly wrong that most of the comments that have been expressed concentrate on the regulations? The

committees should not have been considering the regulations but the contents of the bill. Is not it the case that, because the draft bill did not contain important information, we were forced to consider the regulations and make the issue part of our stage 1 report?

Euan Robson: I cannot comment on how the committee constructed its report, but I point out that the draft regulations and draft guidance were provided at the same time as the draft bill to facilitate the committee's discussions and to give members a picture of the whole primary and secondary legislative process. I must move on and address some of the report's detailed points.

The report noted that the consultation on the draft bill had been adequate, but suggested that there could have been more consultation on the draft regulations and draft guidance. The consultation on the draft regulations and draft guidance was not limited to the period of consultation for the white paper and, indeed, is on-going.

An important part of that is continuing consideration of the draft documents by the working group that I mentioned. Versions of both documents will be available on the Executive website. I expect that the draft regulations and guidance will be scrutinised again when the Parliament examines them when, if the bill is enacted, they are made formally this year. To assist the parliamentary process, the Executive accepted what the lead committee and the Subordinate Legislation Committee said. We propose to lodge an Executive amendment at stage 2, which will provide that, the first time that the regulations are made under subsection (4) of new section 18A of the Marriage (Scotland) Act 1977, they will be subject to the affirmative procedure.

The lead committee's report recommended that the Executive consider whether there is scope to amend the bill to remove the need for a separate regulatory framework and to make amendments to enable the regulatory framework of the Civic Government (Scotland) Act 1982 to be used for the purpose of approving places for carrying out civil marriages. We have given the matter thorough consideration and we do not propose to make any amendments to the bill. However, we aim to ensure that, in operating under the draft regulations and guidance, Scotland's local authorities will be able to use existing licensing procedures in committees to approve places for the solemnisation of civil marriages. There is nothing in the Marriage (Scotland) Bill that will prevent that. The joint working group's consideration of the draft regulations and guidance will ensure that there is no conflict in the fine detail.

I turn now to the right of appeal. Both the Local Government Committee and the Subordinate Legislation Committee considered that an applicant should have a right of appeal against any local authority decision in relation to an application for approval of a place as suitable for the solemnisation of civil marriages. There is a provision for appeals in the draft regulations. It is a matter of natural justice that there should be such a provision. However, both committees thought that the bill should contain a provision that sets out the right of appeal and that the procedure should be provided in the regulations. The Executive has accepted the committees' views on the matter and we will lodge an Executive amendment to that effect at stage 2.

The lead committee's report highlighted other matters in the draft regulations and guidance, which have been acknowledged in the latest drafts of those documents. The committee recommended that there should be no statutory duty in the regulations to require a local authority to consult the district registrar. There was no quarrel from local authorities with the fact that it would be good practice for a local authority to consult a suitably qualified registrar, but they expressed dislike at having such a provision in the draft regulations. That requirement has now been removed from the draft regulations and placed in the draft guidance in a form that is acceptable to local authorities and registrars.

The Local Government Committee also considered that the Executive and COSLA should consider special mechanisms to secure conditions and remuneration arrangements for registrars. Although the provision of the registration service in Scotland is a partnership between the GROS, local authorities and local registrars, it is the local authorities that decide on the terms and conditions of service of their employees. Registrars are employees of 32 local authorities; therefore, it would be inappropriate for the GROS and the Executive to intervene in the matter. However, I understand that COSLA is taking a central role in assisting local authorities to determine the remuneration arrangements for registrars who will carry out civil marriages outwith registration offices. The Executive considers that that is the most appropriate way forward and the one that is most likely to yield a satisfactory solution.

The Local Government Committee had concerns about the power of the registrar general to revoke an appeal. It was considered that that power should rest solely with local authorities. The committee called on the Executive to amend the bill to ensure that local authorities are given full responsibility for decisions on the granting and withdrawal of an approval. That, again, is a point for the regulations rather than the bill. The Executive always regarded the registrar general's

power of revocation as a backstop that was unlikely to be used frequently, if at all. After consideration, we are prepared to accept the views of the committee and the joint working group, and the draft regulations have been amended to remove the registrar general's power of revocation.

The lead committee also called on the Executive to amend the bill at stage 2 to include a provision that would allow third parties, such as the neighbours of a place that is to be approved, to object to the application. The joint working group expressed a similar view. We have considered that point and agree that it would be helpful for provision to be made to that effect, although we consider that, for the sake of consistency, such a provision should be contained in the regulations. Such a provision is in the latest draft of the regulations with suitable commentary in the draft guidance. The committee also made recommendations concerning provisions for the suspension, revocation and variation of approvals. The draft regulations and guidance have now been amended to take those matters on board.

The Subordinate Legislation Committee suggested that some provisions that are set out in the draft regulations should appear in the bill. One of those provisions was the right of appeal, which I have dealt with. The committee also asked the Executive to consider including in the bill the definition of "place" but we are not minded to do that. Nor do we think it appropriate to transfer from the draft regulations to the bill conditions on granting of approvals and the duty of the registrar to issue guidance. That would make the bill unwieldy and the Executive takes the view that the proper place for such detailed provisions is in the subordinate legislation.

The committee was concerned about the need for local authorities to interpret and arbitrate on which places may be seemly and dignified and about the requirement that the place have no recent or continuing connection with any religion or religious practice. Again, we want to keep such matters in the regulations as they are currently drafted.

When I sum up, I will be able to answer the detailed points that members want to raise. We considered the draft regulations and guidance because we thought that it was important to do so at the time of writing the primary legislation. I have given undertakings to amend the bill and the Executive will lodge amendments at stage 2.

It is perhaps fitting that I close my speech by reminding members of the key benefits that the bill will bring. The main benefit is that it will extend choice. Members regularly receive letters from couples who are planning their weddings and want to know when it will be possible for them to be married in a civil ceremony in a place of their own choosing. We no longer want to limit such people to using registration offices.

The bill will have incidental benefits. Scotland is promoting its image as a wonderful place to visit. Scotland is also romantically connected with marriage, be it in Gretna Green, a Highland castle or a magnificent hotel in the Borders. There have been a number of celebrity weddings in Scotland and the demand for that might increase after the passage of this legislation. Let us use the opportunity to develop further tourism in Scotland.

The bill will give Scots and visitors to Scotland more choice than they have at present and I commend it to members.

I move,

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

The Deputy Presiding Officer: I gave the minister a little latitude on time in view of his valiant attempt to read his speech as quickly as he possibly could and of the fact that four members who had notified me of their intention to speak in the debate either are not present or have not yet pressed their buttons.

I call Tricia Marwick. You have been allocated seven minutes, but you can treat that with a reasonable degree of flexibility.

15:53

Tricia Marwick (Mid Scotland and Fife) (SNP): There will be a degree of difficulty in reaching seven minutes, Deputy Presiding Officer.

I welcome the last part of the minister's speech, which talked about the reason why we are discussing the Marriage (Scotland) Bill. The bill is designed to allow people to get married in a greater variety of places than they can at the moment. Of course, as I think the minister said, marriage should be a happy occasion and it is only right that people should be able to choose where they get married. That said, no one can pretend that this is a particularly happy debate; indeed, it is a bit boring. Judging by the small number of people in the chamber, I believe that people may wonder what the bill has to do with their lives.

The fact is that the bill has the potential to make a special day an even happier day in the lives of many couples. On behalf of the Scottish National Party, I am pleased to support the general intentions behind the bill.

At the moment, there are clear restrictions on where people can marry. In too many cases, the choice comes down to one between faith and location. In a truly pluralist and multicultural society, the idea that a couple's lack of religious

belief should limit their choice of where they can be married is outdated. When almost a third of people who got married in a religious ceremony would have preferred to have a civil ceremony if a suitable location had been available, it is clearly time for change.

That is why the SNP has no hesitation in supporting the aims of the bill. However, we have considerable reservations about the mechanisms and the specific proposals in the bill and regulations. I will make two points on that.

First, I return to a theme that I mentioned earlier: the use of secondary rather than primary legislation to hoard power, which limits the ability to make necessary amendments at stage 2. It is fundamentally wrong that, when we consider a bill, its important aspects are hidden away in secondary legislation. Although I accept the minister's assurances that the secondary legislation will be subject to the affirmative procedure, I do not think that that is the same as the committees having the opportunity at stages 1 and 2 to give the bill the scrutiny that it deserves and to amend it.

That is significant. The Executive shows a pattern of putting more into regulations. The bill is a bad example of that trend. As James Smith of Dumfries and Galloway Council said in evidence to the Local Government Committee:

"We do not want the paternalistic approach that all the regulation and guidance represents.

Government officials should not issue guidance on matters that are way outwith their remit."—[*Official Report*, *Local Government Committee*, 27 November 2001; c 2421.]

To put it bluntly, the approach is incorrect. Matters of a constant nature, such as the appeals procedure, should be contained in primary legislation. That is also the opinion of the Subordinate Legislation Committee, whose opinion is that the bill does not strike the right balance between primary and secondary legislation.

That was reflected also in the Local Government Committee's consideration of the bill. So many of the powers of the bill are exercised through secondary legislation that it was felt necessary for the committee to examine the draft regulations which, technically, are not part of what we should have considered. It was a useful exercise, not least in highlighting the dangers of the Executive reserving so much power by means of secondary legislation.

If I recall correctly, the minister talked about "seemly and dignified" venues and said that the phrase would not be subject to amendment in the regulations. There was considerable and widespread concern about matters such as the definition of seemly and dignified venues. The Executive's wish to retain that phrase in the subordinate legislation and regulations means, in effect, that there is no opportunity to amend it at stage 2. That is wrong. I ask the minister to go back and think again. The Equal Opportunities Committee, other committees of the Parliament and individuals are concerned about the wording.

There is a considerable body of opinion, including in local government, that says that the approach that has been taken in the bill is incorrect. It has been widely suggested that to use the existing expertise and resources of civic government licensing would be more efficient and cost-effective than setting up a separate framework to regulate the places in which marriages may take place. The Convention of Scottish Local Authorities favoured that model and outlined how it might be done. Dumfries and Galloway Council—which conducts one in four of Scotland's marriages thanks to Gretna Green and the success of the tourism industry there, which brings people from all over Scotland and elsewhere to be married—has outlined how amending the Civic Government (Scotland) Act 1982 would achieve that. It indicated that a minimal amount of legislation would be required if that alternative route was used.

I am pleased to be able to support the policy intention of the bill. I note what the minister said about amendments. I am disappointed that he seems to be suggesting that the Executive will continue down the road of regulations, thereby limiting amendments at stage 2. I am also concerned about the mechanisms by which the Executive is attempting to achieve the policy intentions of the bill. All members support those policy intentions, but we are concerned about the mechanisms. We believe that the Executive has made the bill unnecessarily complicated and has not taken the right route.

I ask the Executive to reconsider seriously its position on amending the bill and the regulatory framework before it comes back to the committee at stage 2. I also ask the Executive to consider carefully how the policy aims of the bill, which we all support, could be better achieved.

The Deputy Presiding Officer: That speech was nicely timed. I call Keith Harding to open for the Conservatives. He has a minimum of five minutes.

16:00

Mr Keith Harding (Mid Scotland and Fife) (Con): Thank you, Presiding Officer—that is generous of you. I applaud Tricia Marwick on achieving her seven minutes, but I am afraid that I will not achieve my five minutes.

I welcome the opportunity to speak in the debate on behalf of the Scottish Conservatives. We support the policy intention of the bill and we believe that the bill, if passed, will increase the choices that are available to couples who wish to marry in Scotland. Like other members, we approve the general principles of the bill. However, we share some of the concerns and reservations that Tricia Marwick expressed. We trust that the Executive will consider and address those reservations as the bill progresses through Parliament.

In the evidence taken by the Local Government Committee, concerns were expressed about the necessity of a new regulatory framework. It was suggested that the powers that local authorities already have under the Civic Government (Scotland) Act 1982 could be extended to include the registration of approved places where marriages can take place. In the circumstances, we question the need for a separate regulatory framework.

We agree with the local authorities that the proposed statutory duty to consult district registrars should not be included in the regulations. I am pleased that the minister has accepted that.

In their evidence, witnesses pointed out that there is no mention in the bill of a right of appeal to a sheriff. That will not be necessary if it is decided to utilise the Civic Government (Scotland) Act 1982, as the right already exists in that act. If the bill progresses in its present form, we will ask the Executive to lodge suitable amendments at stage 2 to ensure that the right of appeal is included in the bill.

We support the Local Government Committee's recommendation that the registrar general should not have the power to revoke local authority approval—we agree that such decisions should be made by democratically elected councillors. Again, we are pleased that that point has been taken on board.

Aberdeenshire Council raised the lack of provision in the proposed regulations for objections to applications from neighbours where approval is being sought for a venue to hold civil weddings. We ask for that to be addressed at stage 2. Venues are an area of concern. The requirement for them to be "seemly and dignified"—which is practically impossible to define—is inappropriate in this day and age and should be removed or reworded. I am disappointed that the Executive has not taken that point on board.

The proposal that local authorities should be satisfied that places have no recent or continuing connection with any religion or religious practice that would be incompatible with their use for the solemnisation of marriage is overly restrictive. We ask the Executive to reconsider the necessity of that proposal.

I trust that the minister will address our outstanding concerns. As I have said, we support the general principles of the bill.

16:03

Trish Godman (West Renfrewshire) (Lab): The Local Government Committee welcomes the objective of the bill, which is to allow marriage ceremonies to take place at locations that have been defined as approved places—in other words, away from register offices. That will appeal to many couples who are planning to marry but who wish to tie the knot outwith a register office.

As the policy memorandum points out, the bill would allow islanders who desire a civil marriage to avoid travelling to the nearest register office and marry in their communities. That is a good thing. The memorandum suggests that some of our beautiful Scottish islands could well become a desirable location for holding civil marriages, which the minister mentioned.

Members of the Local Government Committee—along with colleagues in the Equal Opportunities Committee and the Subordinate Legislation Committee—have serious reservations about elements of the bill. We believe that it would be much improved if the minister took our concerns on board. I am pleased that he has listened and that, in the main, the Executive is responding to our report.

For example, we do not believe that a statutory requirement should be placed on local authorities formally to consult district registrars. Naturally, we would expect an authority to seek the views, advice and guidance of its registrars on certain matters, but there should be no legal requirement. We would not expect registrars to be ordered to officiate in locations that they deemed to be offensive, intimidating or downright embarrassing.

The right of appeal is an issue that was raised with the committee and by members today. I am delighted that the minister has acknowledged our concerns and has accepted the committee's recommendation that the right of appeal should be in the bill. Will the minister assure me that the appeal will be allowed only on a point of law? We do not want sheriffs to be the final arbiter on what is an appropriate location. Given some of the sheriffs that I know, that would be rather bizarre.

My colleagues and I rejected the notion that the registrar general, who is an unelected official, should be given the power to revoke local authority approval of a location. In my view, that

would be undemocratic. I am pleased to hear that the minister agrees with that point. The local authority should be given the legal responsibility for decisions on the granting, withholding or withdrawal of approval of a location. That would be in line with the provisions of the Civic Government (Scotland) Act 1982.

We are of a mind that the Civic Government (Scotland) Act 1982 could be amended, as Tricia Marwick said, to allow its regulations to be employed for the purpose of licensing places for civil marriages. Sylvia Jackson will expand on that point when she speaks later.

We are also concerned that the bill contains no provisions for approvals to be challenged, so we call on the Executive to amend the bill at stage 2 to allow for objections to be made. I understand from what the minister said that the draft regulations have now been amended accordingly.

Although we do not want to lose sight of the significance of the marriage ceremony, we believe that it is near impossible to define what "seemly and dignified" means. We agree with the Equal Opportunities Committee's observation that:

"What is "seemly and dignified" in life, let alone on one's wedding day, is entirely subjective."

I am pleased that the minister agrees that there is a need for further discussion. I look to the regulations for that matter to be resolved. We shall keep our eye on that.

I note the minister's comments on the requirement that venues for which approval is sought should have no recent or continuing connection with any religion or religious ceremonies. It is interesting that both the Local Government Committee and the Equal Opportunities Committee took evidence under a stained glass window in an old church. Had it not been freezing cold, the building could have been a good wedding venue. On reflection, had we had rather a large whisky and a few dances, we might have produced a different kind of report. The place was definitely very cold.

Although we ended the committee's report with the words,

"The Committee agrees to recommend that the Parliament approves the general principles of the Bill",

I still had serious concerns at the time about some of the issues that have been highlighted today. However, as the minister—whose bill this is—and the Executive have moved significantly, I am satisfied that if the promised changes are made, we will have a good bill.

We will still keep an eye on the unresolved issues; they are being discussed. We will again bring people before the committee to cross-examine them, especially on the regulations. I am sure that the minister will appear before the committee again.

I urge the Parliament to support the general principles of the bill.

The Deputy Presiding Officer: We move to the open part of the debate. I have had six requests to speak, so we should get everybody in if members do not take more than five minutes.

16:08

Ms Sandra White (Glasgow) (SNP): Like other members, in principle I welcome the bill, which is basically about equality and choice. As Euan Robson said, couples who wish a civil marriage are at present limited in their choice of location. The bill sets out to rectify that.

Like other members, however, I have reservations about what might be seen as over-legislation. Some witnesses, such as the one from Dumfries and Galloway Council, stated that extending the Civic Government (Scotland) Act 1982 to include within local authorities' licensing powers the power to register approved places would suffice. That could be done without the bill.

Perhaps the minister will correct me if I misheard him when I was trying to listen to his speech, but as the 1982 act is under review I would like him to say whether he knows what the outcome of that review is. When will we know the outcome of that review? I ask that question because speed is of the essence.

I would like clarification on another point the minister made. Did he say that nothing in the 1982 act prevents local authorities approving suitable places?

Euan Robson: I am sorry, but I cannot answer that detailed question just now. I shall try to write to Ms White to answer her point.

What I was trying to say earlier was that procedures under the regulations to be made under the legislation that we are discussing today would be made compatible with the procedures under the regulations in the Civic Government (Scotland) Act 1982. In other words, the practical implications for the local authority committee that might consider the regulations would be, simply, that the committee would meet at the same place and at the same time but would make any approvals under a different piece of legislation. The transition from one set of regulations to another should be seamless. The working group has been trying to ensure that that is what will happen. I hope that that answer has been reassuring.

Ms White: I did not catch all that Mr Robson said first time round, but I think I understood

exactly what he said. That is why I want to ask this pertinent question: why do we need a separate piece of legislation? Local authorities and individuals are asking that question, and I too am asking it now, because I have reservations about what is being proposed.

At the moment, many local authorities are cash-starved or cash-strapped. In evidence to the Local Government Committee, a representative of Dumfries and Galloway Council said that the council might have to use more resources going through the approval scheme under the proposed legislation and that that would be a waste. Why do we need separate legislation if what is being proposed can be incorporated in the Civic Government (Scotland) Act 1982? I have raised that issue before. However, having made that criticism of the bill, I repeat that we support it in principle. I believe in it.

I will be parochial on this point. Everyone who reads the newspapers knows that Glasgow is to become St Valentine's city because St Valentine's bones were found in the Gorbals a number of years ago. There will be a week-long festival, which is absolutely marvellous. Glasgow is already a great tourist attraction, but if the current proposals came into force—through a separate act or as an add-on to the Civic Government (Scotland) Act 1982—they could promote Glasgow's chances of becoming even more of a tourist attraction. If people came over to celebrate what I hope would be an annual St Valentine's week festival, they could perhaps even get married in Glasgow—on Glasgow green, in the botanic gardens, or wherever they wanted.

I approve of the proposals in the bill—it is marvellous that people should have the choices that they will offer—but I wonder whether separate legislation is required.

The Deputy Presiding Officer: I call Iain White. I am sorry—Iain Smith.

16:13

Iain Smith (North-East Fife) (LD): I think, Presiding Officer, that you are making assumptions about marriage that I am not willing to enter into. In fact, I thought that I would start by declaring that I have no personal interest in this subject at all.

I would like to answer Sandra White's question. The bill is needed because we have to amend the Marriage (Scotland) Act 1977. This is not about regulations—those that come under the Civic Government (Scotland) Act 1982 or otherwise. If we are to allow marriages to happen outwith a register office, the Marriage (Scotland) Act 1977 has to be amended—and that requires legislation. That is my reason for congratulating Euan Robson on introducing this legislation as a member's bill and then, when he became a minister, persuading the Executive to take it on as a piece of Executive legislation.

This is a good example of the type of legislative reform that—even though everyone agreed it was a good thing—would never have happened had we not had a Scottish Parliament. Time would never have been found for it in the legislative programme at Westminster. It is one of those small things that could never have happened before devolution.

The bill will bring particular benefits for tourism. As the minister said at the end of his speech, tourism is an important part of all this. I foresee applications coming in for a number of the excellent tourist venues in North-East Fife. Many people will want to get married by teeing off at the first tee of the Old course at St Andrews; or within the grounds of Falkland Palace; or down in the east neuk at picturesque harbours such as the one at Crail; or even on a fishing boat out at Pittenweem; or in the fisheries museum at Anstruther. Close to where I was brought up in the little village of Gateside, the Maiden's bower under the Lomond hills might be an interesting location for a wedding.

Conservation villages such as Collessie and Ceres, and even Kellie Castle, would be suitable venues for weddings. For those who want to be more serious about it, there is Scotland's secret bunker at Crail. The list goes on and would include the many excellent hotels in the area. The bill is a valuable piece of legislation and of particular benefit to the tourism industry.

The Local Government Committee has a reputation for being able, as a result of committee deliberation, to persuade ministers of changes that need to be made to legislation. I congratulate Euan Robson on accepting many of the recommendations of the Local Government Committee's report. Our main concern is the level of regulation. Personally, I think that it is unnecessarily prescriptive and heavy handed. In general, the bill is enabling legislation that should allow local registration authorities the discretion to make decisions about where marriages may be conducted outwith register offices. Instead, we have a fairly detailed set of regulations that will prescribe the way in which local authorities can exercise that discretion. Surely it should be left to the registration authorities and locally elected councillors to determine how to exercise that discretion and what places in their areas are appropriate for marriage ceremonies.

My colleagues have already addressed some of the issues, but I want to draw attention in particular to the regulation on approved places. Regulation 8(2)(a) of the new draft regulations that

were published yesterday refers to a

"seemly and dignified venue for the solemnisation of a marriage".

In the committee, I attempted to get a definition of "seemly and dignified". I put the question to the deputy registrar general, who was responsible for drafting the regulations and guidance. He said that the wording would be left to local authorities to interpret:

"we are content to let them interpret it as they will. To some extent, an elected member of a local authority will have a view on what might be seemly and dignified … We do not want to dictate from Edinburgh what might be regarded as seemly and dignified in the Western Isles or the Scottish Borders."—[*Official Report*, *Local Government Committee*, 27 November 2001; c 2453.]

That is fair enough, but why bother putting it in the regulations? There seems little point putting something in the regulations that has no definition and is going to be left to other bodies to determine in each case.

A similar problem exists in relation to draft regulation 8(2)(b) and religious practice. Trish Godman and I have made jocular mention of the Hub, which was formerly a church. Could one hold a wedding there? COSLA raised a question in its written evidence about a hotel that regularly uses a room for religious marriages. Would the hotel be able to use the same room for civil marriages under the regulations? It seems an unnecessary piece of legislation; such matters should be left to the discretion of local authorities.

The new draft regulations refer to a restriction on successive applications. I wonder what that is for. I envisage Liz Taylor being caught up by that regulation when trying to get through several more marriages in a year. It seems a little restrictive. Regulation 11 says that someone cannot make an application for the same place in one year. The standing orders of most local authorities allow for delaying reconsideration of a decision—usually that is a period of six months. The appropriate time for reapplications should be left to the local authority to determine.

I know that the draft regulations are not part of the bill and are open for amendment. I hope that the minister will take on board the need for a light touch. We require enabling regulations rather than prescriptive ones. There must be an opportunity for the committee to consider the regulations before they are published in a form that requires an affirmative instrument. It is important that we have an opportunity to suggest amendments before the regulations are laid.

We welcome the proposals. They are good for the Scottish tourism industry. This is a good piece of legislation—let us not mess it up by following it with a bad statutory instrument.

16:19

Mr Michael McMahon (Hamilton North and Bellshill) (Lab): I welcome the general principles of the Marriage (Scotland) Bill. Seeking to extend the choice of venue for those who want to have a civil marriage in Scotland is a very worthwhile aim and one that deserves the support of the Parliament. It is high time that the present anomaly was addressed. I congratulate Euan Robson on doing so in the bill. Proposing legislation that will allow couples to get married in the venue of their choice, rather than being restricted to one of Scotland's 247 registration offices, makes perfect sense. People should not be penalised, as they are at the moment, purely because they opt for a non-religious ceremony, so I welcome the modernisation of this aspect of the marriage ceremony in Scotland.

However, there is always a but. By and large, I agree with the bulk of the proposals in the bill, but there are a number of issues that need more clarification. I am pleased that Euan Robson has accepted that to be the case in making many changes to the bill in line with the concerns that were raised during consideration of the bill in committee.

I am disappointed, however, that Euan Robson will not accept the changes that were proposed by the Equal Opportunities Committee, which centre on a local authority's requirement to pass judgment on what is "seemly and dignified" and "morally disreputable". How can it be reasonable to ask a local authority to judge on the suitability of a venue by having to interpret such highly subjective and vague terminology? Those terms are almost impossible to define in a meaningful way that would be acceptable and inoffensive to all. I urge the Executive to reconsider the requirement for that apparently unnecessary, restrictive and downright impractical definitive description. Is it not enough that the ceremony should be conducted in a safe, practical and trouble-free setting?

Furthermore, the requirement that the local authority should be satisfied that the venue has

"no recent or continuing connection with any religion or religious practice"

is also too restrictive. I cannot conceive of a current religious building being used, but I have to question why a former religious building or connected establishment could not be suitable for a civil ceremony. As such buildings would no longer be consecrated, the restriction appears ludicrous.

Trish Godman and Iain Smith mentioned the former church building across the road from this chamber—the Hub, which is a case in point. If it, a former church, can be home to a cafe, bar and

internet facilities, and be a venue for meetings of parliamentary committees, why should it not be a place where civil marriages can take place? Indeed, it could be argued that any parliamentary meetings that took place there would be more immoral. They are certainly likely to be more unseemly and undignified. If we can meet in a building such as the Hub, why cannot a civil marriage take place in a similar circumstance?

The bill should not burden local authorities with omnipotent decisions on what is dignified for a marriage service. A wedding ceremony is an individual and personal event and has different meanings for different people. To provide equality and impartiality, we must embrace cultural diversity rather than endorse the rules that restrict it. The aim of asking local authorities to assess the appropriateness of a venue's moral suitability is worrying and may lead intentionally or unintentionally to discriminatory practices and blinkered decisions.

If considerations are to be objective and avoid bias, the prerequisites in the bill must be revised. The subjectivity of the restrictions defeats the purpose of the bill's aims. Although I agree with the principles of the bill, I hope that the above points will be considered in future scrutiny of it.

16:23

Linda Fabiani (Central Scotland) (SNP): I am not a member of the Local Government Committee, so I have not had the benefit of listening to all the evidence that has been given to it, although I have, of course, read its report closely.

I speak as someone who quickly signed up to Euan Robson's member's bill. I speak to him not in his role as a minister but as a member who feels strongly about the issue, as I do. Like Euan Robson, I have received lots of approaches from people in my constituency—probably as a result of having signed the bill—who are not religious, who choose to get married and who find it unfair that they are restricted as to where the ceremony can be carried out. That is a mark of how difficult it is for people who have no religion and who are not willing to pretend that they have a religious conviction to meet the standards of the society that we live in, which is firmly built on religious institutions such as marriage.

Such institutions also include funerals. It was difficult for my family when my father died unexpectedly: his wishes were that he should have a funeral that was in no way religious. We were not prepared for the event, and it was very difficult to carry out his wishes. Furthermore, some of the things that were said to us as a family when we were trying to arrange the funeral were hurtful. At some point, we must address the issue of people without religion.

I was pleased when Euan Robson published his draft member's bill and was pleased by its intentions, but when the Executive published the bill after Euan Robson was promoted, I found it cumbersome and not nearly as simple as I thought it should be. It seemed to me that the draft bill gave religious celebrants the option of marrying people anywhere, but the bill as introduced will restrict marriage venues to places that a local authority deems acceptable.

I agree with Michael McMahon's strongly expressed opinion that a local authority should not be left to work out whether a place is suitable as a marriage venue. I ask the minister to look again at that matter. After all, one person's meat is another person's poison. If ministers of religion are willing to marry people in such places as mountain-tops, they should be allowed to do so. I believe that this is an equality issue. Why should someone who wants a registrar to marry them not have the same option? Perhaps the person who carries out the ceremony should decide whether they are willing to do so in a particular venue or location.

I was a bit concerned about the views of the Local Government Committee and some councils that it should be easy to amend the Civic Government (Scotland) Act 1982. One council—perhaps it was Dumfries and Galloway Council—said in evidence that that could be done by the insertion of only three words into the 1982 act. I urge caution on that matter, because in a job that I used to have I worked with the Civic Government (Scotland) Act 1982. It is a cumbersome piece of legislation that is not clear. I am pleased that the 1982 act is being reviewed by the Executive, because it should be. Such a review is long overdue.

There was a recent amendment to the 1982 act in relation to houses in multiple occupation, which is an issue that we in the Social Justice Committee have been investigating. I will not pre-empt that committee's decision on the operation of that amendment, but my view is that it was wrong to make such an amendment, whose effects have been terribly cumbersome. It was a bad piece of legislating to amend the 1982 act to take on board something else, so I urge the Local Government Committee to be cautious about the view that it should be simple to amend the Civic Government (Scotland) Act 1982 to take the issue of marriage venues on board.

I err on the side of caution by believing that primary legislation is required on the issue of marriage venues, but I also have great worries about the volume of secondary legislation that will be required. I concur with the Local Government Committee's view: if we are to have primary

legislation, let us have as much as possible in the bill to avoid discrepancies in the future and, indeed, vague legislation. Regulation is fine, but we must have something that can be enforced. I am sure that we can find a compromise between primary legislation and regulation that would allow decisions on the suitability of venues for marriage to be carried out equitably for everyone.

16:28

David Mundell (South of Scotland) (Con): I begin by apologising to you, Presiding Officer, and to members for the delay in my arrival. I was called to a meeting with ministers on a constituency matter that was rearranged at the last minute.

I want to speak because, despite other members' attempts to sell their areas, we cannot have this debate without mentioning Gretna, which is Scotland's marriage capital. Indeed, on the basis of evidence that the Local Government Committee took, Gretna has the busiest registration office in the United Kingdom.

There were 1,062 marriages in Gretna last year, which is more than the adult population of the community. The marriages and their surrounding events are an important business for that community. I am pleased that, following the announcement that the Executive is minded to proceed with the bill, VisitScotland and other organisations are keen to promote that business aspect of the bill, because it will allow current services to be extended.

Dumfries and Galloway Council has made efforts to provide an attractive venue at the register office, but issues remain because the register office also serves the community and other activities are conducted there. The opportunity exists to widen the choice of location to the old blacksmith's shop, for example, which was traditionally a wedding venue. The area has a history of weddings and of people crossing the border for them. Tremendous scope is available for development. I am keen to give encouragement to all who are involved in that.

As members have said, if we are to have a system of designation, it must take into account the needs of those who marry. I have noticed that in Gretna a significant number of those who marry have children, either from a previous marriage or from their existing relationship, and they want those children to be a part of their marriage ceremony. That is where we start to run into difficulties with an expression such as "seemly and dignified", because it probably means "boring". We want to maintain the dignity of the ceremony, but we do not want to restrict how people organise their marriages.

I would be cautious about being over-prescriptive and about people assessing venues or getting bogged down in measuring them and in the regulation that sometimes accompanies such tasks. I agree with Iain Smith—we need to be a bit looser about that and allow local authorities their own approaches.

I do not know whether, over Christmas, any other members saw a late-night television programme called "Extreme Marriages", which I happened upon by chance. In fact, it was not about the extremities of the partners—that is an unfortunate expression.

Tricia Marwick: Does the member agree that he is the saddest person in the chamber?

The Deputy Presiding Officer: I think that the programme was on a subscription channel.

David Mundell: I disagree with Tricia Marwick. The SNP's former leader was a great Ceefax devotee. The pictures that I watched were moving.

The programme gave viewers an insight into the psyche of people who were marrying in the United States, from which we cannot learn much. I was fascinated by the simultaneous marriage of 400 couples on the steepest big dipper in Kentucky. That ceremony was shown along with ceremonies that took place not only underground, but underwater in full diving gear.

The system in Scotland should not encourage some of those American excesses, but it should allow people to have a marriage that is meaningful to them and allows them to celebrate their marriage in the way that they choose. I congratulate Euan Robson on introducing the bill. Having made that move forward, we should not step back by making the system unduly restrictive. Let us hope that the bill provides a basis for more marriages to take place in Gretna and its immediate environs, which are very attractive.

The Deputy Presiding Officer: Before we commence the closing speeches, I call Richard Lochhead to bring the open debate to a seemly and dignified conclusion.

16:35

Richard Lochhead (North-East Scotland) (SNP): Despite someone saying that bigamy is having too many wives and monogamy is the same thing, I will sign away my freedom this July, when I tie the knot. That is why I wished to speak in the debate. I take a keen interest in the bill and say to members that if any of them have tips on how to have a successful marriage, I am all ears.

My fiancée and I have decided to go down the traditional route. We have decided to be married in Cluny parish church, a beautiful old church in

deepest Aberdeenshire where previous generations of my fiancée's family were married. Getting married on a big dipper in Kentucky did not occur to us, but perhaps my fiancée will change her mind when I tell her about it.

I realise that the route that we are choosing is not the one that other people want to choose. That is fine—society moves on and times change. Our legislation has to reflect that. Neither politicians nor anyone else should moralise on marriage or make life difficult for anyone who wants to get married. There should be no restriction on where people get married, or on who can marry them. While some people will go to any lengths to avoid getting married, others go to great lengths to do so—we know that people go to Florida, Hawaii and Las Vegas. I remember seeing skydivers on television tying the knot mid-flight.

The benefit of the bill is that people will be given more choice about by whom and where they get married. It is only right that rather than have to choose between limited options, as is the case at the moment, people who wish a civil ceremony should have a number of locations from which to choose. That option is available to those who choose a religious ceremony. Civil ceremonies could be conducted in hotels, public buildings, historical locations and other venues. That would provide a boost to the economy, particularly in our rural areas, where people often have to travel to get to a register office.

I attended a successful wedding exhibition last weekend at the Aberdeen Music Hall. I confess I had to be dragged along to it. I am preparing to invest in the institution of marriage, but it was only when I saw the price of things at the exhibition that I realised how much we are supposed to invest in a marriage.

A number of people I met at the exhibition wanted to speak to me about the bill, which made the visit worth while. A local hotelier spoke to me, as did the local registrar. Hoteliers welcome the bill: they see opportunities, as the bill would widen the options that they can offer. They think that it would be good for their businesses and would help them meet the requirements of many of their guests. At the moment, they have to keep lists of ministers and help with arrangements for the visiting parties. The bill would save them that trouble, as it would make things a lot simpler. As has been said, the bill would be good for tourism nationally, as people could stay in this country—they would not have to go abroad.

The registrars I spoke to have concerns, many of which have been reflected throughout the debate. Registrars want to retain the dignity of ceremonies and their independence from religious ceremonies. I agree with many of the comments that have been made about that. Registrars take issue with the view, expressed by the Local Government Committee, that the term "seemly and dignified" is subjective, restrictive and should be left out of the bill. However, I agree with the committee on that issue.

We have to listen to the registrars' concerns. In that respect, the legislation should be as lax as possible. We also have to bear in mind that registrars might require time to adapt to the new legislation, as it will put extra pressures on their offices. Once the bill is passed into law, they could be inundated with a flood of applications.

I support the bill. It is a modern piece of legislation and the Parliament should support its general principles.

16:39

Dr Sylvia Jackson (Stirling) (Lab): I must thank David Mundell for his most entertaining speech. It brought back fond memories of the European Committee. I may not be able to do likewise, but I will try.

The bill is one of the most interesting to be dealt with by the Local Government Committee. Many of the thoughts that David Mundell described have gone through our minds. One of the witnesses who came before the committee described how the banks of Loch Lomond might be used for the civil marriage service. I warmed to that suggestion when it was made.

As Iain Smith outlined, there is very little debate. We need the bill to amend the Marriage (Scotland) Act 1977—there is no issue over that. It offers us a choice of venues for civil marriages, which not only brings us in line with England and Wales but goes a lot further because we are dealing with places as well as buildings. That said, there are a number of other issues that require to be aired, if only to encourage further discussion and consultation before we get to stage 2. It is necessary that we highlight those issues so that the working group can move on in its consideration.

The main point I want to discuss relates to the associated regulatory framework—which has been touched on as the main issue here—and the legislation that is needed for those regulations. The first witness, James Smith from Dumfries and Galloway Council, who has been mentioned by a few people, considered that only minor changes were needed—three words in one section and six lines somewhere else—to the Civic Government (Scotland) Act 1982. He spoke of the tremendous over-regulation in the draft regulations before us and said that it was a waste of resources to draft separate legislation. He quoted the example of houses in multiple occupation, which have been licensed recently, and how easily that had been

tied into the Civic Government (Scotland) Act 1982. He added that there is already sufficient law and practice in licensing for us to use easily. It is further argued that there should have been detailed consultation before this stage. That is at the heart of the problem. Dumfries and Galloway Council and the Association of Registrars of Scotland made that point and I am sure that they will welcome the further discussion.

Euan Robson: The official that the member mentioned is now a member of the working group, so the suggestions that he is making are being taken on board by the group.

Dr Jackson: I take on board what the minister says, but if it had happened earlier we would have been further down the road and may well have had a slightly different way of approaching the problem.

The proposed regulation essentially came from the registrar general. It was the non-inclusiveness at that earlier stage that could have been changed. The Local Government Committee was told by the General Register Office for Scotland that a short-term working group was considering the regulations and guidance, the purpose of the group being to improve the initial draft. The minister has told us that that is now on the website—that is welcome.

We look forward to the final changes that will be made. I welcome the affirmative order that the minister mentioned, so that the regulations can be debated. Having said that, I have to go back to Tricia Marwick's point, which was very much, "Are we going down the right road?" We may have to take more evidence on how the regulations have been addressed by the bill. In paragraph 21 the committee questioned whether there was a need for separate regulations. The committee also said that it thought that there could be changes to the Civic Government (Scotland) Act 1982. We will have to go back and address that issue. There have been changes to the draft regulations but there may be more fundamental issues that we will have to consider again. Nonetheless, I welcome the bill and the general principles and have no hesitation in agreeing to them.

16:44

Alex Johnstone (North-East Scotland) (Con): I was beginning to think that I had dropped off the end of the speakers list.

It is not unusual in a chamber that is predominantly left of centre to hear the greats such as Marx, Lenin and Mao Tse-Tung being quoted. I am surprised when I hear certain of my colleagues, including, on one occasion, Brian Monteith, getting up to that game. I would like to take the opportunity to begin my speech today by quoting Marx, for it was Groucho who said, "Marriage is an institution, but who wants to live in an institution?"

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): That is an old one.

Alex Johnstone: It is extremely old.

The Conservatives have always tried hard to recognise the significance and importance of marriage. We have learned to accept a whole range of human relationships and their significance, but the pre-eminence of marriage is something that we will continue to speak out in favour of.

Marriage has become extremely popular in this Parliament. My colleague Ben Wallace recently got married and we have now heard that Richard Lochhead intends to make that same—

Mr Harding: Sacrifice?

Mr Rumbles: Journey.

Alex Johnstone: Let us say that he intends to make the same journey in months to come.

We must recognise the fact that marriage is important. Anything that we can do in this Parliament to encourage people to get married in a way that they see as appropriate is well worth the effort.

The bill satisfies a proven demand. I congratulate Euan Robson on having introduced it, but I would like him to clarify in his closing remarks one or two points that have been raised in the debate. In particular, the question of whether what is contained in the bill could be achieved by the Civic Government (Scotland) Act 1982 was raised by Tricia Marwick and Keith Harding early in the debate. Iain Smith addressed that issue when he suggested that it was definitely necessary to amend the Marriage (Scotland) Act 1977 in order for that to happen. I ask the minister to clarify the situation when he winds up the debate.

We cannot leave the debate without going over some of the less serious points that have been made. Perhaps they are in fact serious in the sense that there are many benefits that can accrue to local economies as a result of providing the opportunity for civil ceremonies to take place in a range of other places. We heard Iain Smith's advert for the Fife tourist board, which was very effective. Perhaps Fife will begin to steal some of the business that is currently and deservedly held by Gretna, but I am sure that David Mundell will not give up without a fight. David was a late arrival to the debate, but he was certainly worth waiting for, as he introduced one of the lighter moments.

The Scottish Conservatives will, with others, ensure that the Marriage (Scotland) Bill receives appropriate scrutiny at stage 2 so that it meets the

objectives set out in the policy memorandum. We broadly welcome the bill and will do all that we can to ensure that it succeeds in providing appropriate legislation.

16:48

Tricia Marwick: Iain Smith spoke eloquently about the joys of North-East Fife, but not about the whole of Fife. One of the absolute pleasures of being a regional member is that I can speak for the whole of an area, as I can for God's own kingdom, Fife. If we do not stop at Falkland and look beyond that border, we find wonderful locations, not the least of which is Balgonie castle in Markinch. Dunfermline glen, although it is not perhaps a marriage venue, has certainly been the place for courting or winching couples for a long time. I am quite sure that Dunfermline glen might want to be considered as a place for marriages. I shall stop at that point, in case my youthful indiscretions come tumbling out.

The debate was brightened considerably by the contributions of David Mundell and Richard Lochhead. I am sure that all my colleagues join me in wishing Richard all the best in July. Having been married for 26 years, I am happy to give him all the advice he needs.

There is great willingness on all sides of the chamber for the Marriage (Scotland) Bill to become law. We are all very much committed to it. I thank Euan Robson for introducing it, both as a member's bill and as an Executive bill, but there are still problems. There is no desire on anyone's part to delay or try to destroy the bill that he has introduced.

I know that members can get precious about their own bills, but I do not want the minister to be precious about this bill. We should ensure that we pass a bill with a framework to take into the 21st century. Perhaps we can attract tourists from all over the world, who might want to marry in our glorious country.

I congratulate Euan Robson on the bill, but much work is still to be done. I am sure that, following discussions with the Local Government Committee and others, there can be a fine bill.

The Deputy Presiding Officer: I call on Euan Robson to wind up for the Executive. He has nine minutes, although my script says that he has only eight.

16:50

Euan Robson: The debate has been interesting and fruitful. I hope that members recognise from what I said that the Executive has been prepared to take into account the committees' views. The Executive will also take into the account the views expressed in Parliament today.

I record my grateful appreciation of the support for the general principles of the bill throughout the chamber. Before I respond to points that members have made, I will repeat what we have already done to meet concerns that have been raised.

We have set up a joint working group comprising the General Register Office for Scotland, local authorities and registrars to amend the draft regulations and draft guidance. That work is continuing. I say to Tricia Marwick that the intention was never to hide the regulations away—I think that she used those words. Our intention is to make the regulations open and subject to extensive parliamentary scrutiny. The bill referred to them and we thought that it was good practice that they should be there when the bill was being considered. The General Register Office for Scotland will be interested in members' comments during the debate and any additional comments.

The Executive has listened to what the lead committee and the Subordinate Legislation Committee have said. As I said, we propose to lodge an Executive amendment at stage 2 to provide that the regulations will be subject to the affirmative procedure the first time that they are made. I will see what I can do to ensure that the committees have an opportunity to comment on the final drafts of the regulations and the guidance. I hope that that will be helpful.

I also said that the Executive will lodge an amendment at stage 2 so that there will be a right of appeal against a decision made by a local authority. On Trish Godman's point, the appeal to the sheriff is limited. Details are in the draft regulations, but the right of appeal will be in the bill.

We have removed the statutory obligation on a local authority to consult the district registrar. The draft guidance now contains a form of words that is acceptable to local authorities and registrars alike.

The draft regulations have been amended to remove the registrar general's power of revocation and they now contain provisions to allow third parties to object to an application. There are also provisions for the suspension, revocation and variation of approvals.

I congratulate Richard Lochhead on his forthcoming marriage. It would be neither seemly nor dignified to comment on David Mundell's marital extremities, as he put it. On Sandra White's important point about the Civic Government (Scotland) Act 1982, we need to amend the Marriage (Scotland) Act 1977, as Iain Smith made clear. He made the key point that we cannot proceed without doing that. I am grateful to him for doing so. I am also grateful to Linda

Fabiani for her initial support and her comments today.

Iain Smith spoke about a bar on successive applications. In fact, that was requested by the local authorities, but his comments will be taken on board. He also made a point about overregulation. It is necessary to set a framework to allow registrars to carry out civil marriages safely in places where they do not have direct control. We must ensure safety for them in their activities.

Michael McMahon and other members talked about the requirement that the venue must be "seemly and dignified". The Executive feels that it is appropriate for local decisions to be taken on that. We will bear in mind what was said about that and about the use of venues with a religious connection. We will consider those matters again. Although some members seem to think that those issues are dealt with in the bill, they are in the regulations. It is appropriate to discuss them when the regulations are discussed.

The balance between primary and secondary legislation gave considerable cause for concern among members. It was hoped that an appropriate balance had been struck. Again, that is something that the Executive will consider and review during stage 2 and when the regulations are considered further.

The requirement for local authority approval will ensure consistency of approval in local council areas. It is appropriate for local councils to have discretion to consider their localities, about which they know best. A requirement for approval by individual registrars might risk inconsistency in local authority areas.

It is worth remembering that the concerns that have been raised in the debate were primarily about the draft regulations and guidance, not the bill or its principles. I reiterate my thanks to members from all parties for their support for the general principles of the bill.

I will conclude with the issues of choice and tourism. It is important and welcome that the bill extends choice. On tourism, it is interesting to note some recent figures, which show that in 2000, 8,426 marriages took place in which both contracting parties did not reside in Scotland. That is 27 per cent of marriages. That demonstrates that people will come to Scotland to get married. The bill will build on a trend that has been evident for a number of years. Although in some ways the bill is modest, it is important because it will give Scots and visitors to Scotland more choice than they have at present.

I commend the bill to members and the chamber.

Point of Order

16:59

The Presiding Officer (Sir David Steel): We have a little time before decision time so I will raise a point of order that arises from today's question time. One or two members were ruffled because I had to interrupt them. I remind members that, according to the standing orders, supplementary questions must be brief. Members who insist on adding to a supplementary question extra words or points in the form of a speech cut out fellow members. Today we reached only question 12, but usually I like to get as far as question 14. It is in everyone's interest to abide by the standing orders and try to keep supplementary questions as short as possible.

That has filled a useful amount of time. There are no Parliamentary Bureau motions, which means that at 5 o'clock we will come to decision time.

Decision Time

17:00

The Presiding Officer (Sir David Steel): There are three questions to be put as a result of today's business.

The first question is, that motion S1M-2274, in the name of Jim Wallace, on the general principles of the Freedom of Information (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
Canavan, Dennis (Falkirk West)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Cunningham, Roseanna (Perth) (SNP)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Elder, Dorothy-Grace (Glasgow) (SNP)
Ewing, Dr Winnie (Highlands and Islands) (SNP)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Finnie, Ross (West of Scotland) (LD)
Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
Gibson, Mr Kenneth (Glasgow) (SNP)
Gillon, Karen (Clydesdale) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Grahame, Christine (South of Scotland) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (Edinburgh Pentlands) (Lab)
Hamilton, Mr Duncan (Highlands and Islands) (SNP)
Harper, Robin (Lothians) (Green)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, Mr John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
Jackson, Dr Sylvia (Stirling) (Lab)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Lochhead, Richard (North-East Scotland) (SNP)
MacAskill, Mr Kenny (Lothians) (SNP)
Macdonald, Lewis (Aberdeen Central) (Lab)
Macintosh, Mr Kenneth (Eastwood) (Lab)
MacKay, Angus (Edinburgh South) (Lab)
MacLean, Kate (Dundee West) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Matheson, Michael (Central Scotland) (SNP)
McAllion, Mr John (Dundee East) (Lab)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
McCabe, Mr Tom (Hamilton South) (Lab)
McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
McGugan, Irene (North-East Scotland) (SNP)
McLeod, Fiona (West of Scotland) (SNP)
McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)
McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
Morrison, Mr Alasdair (Western Isles) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Mulligan, Mrs Mary (Linlithgow) (Lab)
Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
Murray, Dr Elaine (Dumfries) (Lab)
Neil, Alex (Central Scotland) (SNP)
Oldfather, Irene (Cunninghame South) (Lab)
Paterson, Mr Gil (Central Scotland) (SNP)
Peattie, Cathy (Falkirk East) (Lab)
Radcliffe, Nora (Gordon) (LD)
Raffan, Mr Keith (Mid Scotland and Fife) (LD)
Reid, Mr George (Mid Scotland and Fife) (SNP)
Robison, Shona (North-East Scotland) (SNP)
Robson, Euan (Roxburgh and Berwickshire) (LD)
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
Scott, Tavish (Shetland) (LD)
Simpson, Dr Richard (Ochil) (Lab)
Smith, Iain (North-East Fife) (LD)
Smith, Mrs Margaret (Edinburgh West) (LD)
Stephen, Nicol (Aberdeen South) (LD)
Stevenson, Stewart (Banff and Buchan) (SNP)
Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
Sturgeon, Nicola (Glasgow) (SNP)
Swinney, Mr John (North Tayside) (SNP)
Thomson, Elaine (Aberdeen North) (Lab)
Ullrich, Kay (West of Scotland) (SNP)
Watson, Mike (Glasgow Cathcart) (Lab)
Welsh, Mr Andrew (Angus) (SNP)
White, Ms Sandra (Glasgow) (SNP)
Whitefield, Karen (Airdrie and Shotts) (Lab)
Wilson, Andrew (Central Scotland) (SNP)

AGAINST

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

ABSTENTIONS

Sheridan, Tommy (Glasgow) (SSP)

The Presiding Officer: The result of the division is: For 90, Against 17, Abstentions 1.

Motion agreed to.

That the Parliament agrees to the general principles of the Freedom of Information (Scotland) Bill.

The Presiding Officer: The second question is, that motion S1M-2602, in the name of Andy Kerr, on the financial resolution in respect of the Freedom of Information (Scotland) Bill, be agreed to. Are we agreed?

Motion agreed to.

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Freedom of Information (Scotland) Bill, agrees to the following expenditure out of the Scottish Consolidated Fund–

(a) expenditure of the Scottish Administration in consequence of the Act; and

(b) increases attributable to the Act in the sums payable out of that Fund under any other enactment.

The Presiding Officer: The third question is, that motion S1M-2463, in the name of Jim Wallace, on the general principles of the Marriage (Scotland) Bill, be agreed to. Are we agreed?

Motion agreed to.

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

Europe's Energy Capital (Aberdeen)

The Deputy Presiding Officer (Mr Murray Tosh): The final item of business is a members' business debate on motion S1M-2472, in the name of Richard Lochhead, on promoting Aberdeen as Europe's energy capital.

Motion debated,

That the Parliament recognises the City of Aberdeen's role as Europe's oil and gas capital and the long-term contribution that the offshore sector will continue to make to the Scottish economy; believes that every effort should be made to ensure that the city evolves into Europe's "Energy Capital" thereby benefiting from the industry's enormous economic and environmental potential that can place Scotland in the vanguard of renewable energy business internationally; considers that the Scottish Executive should produce specific strategies aimed at supporting Scotland's oil and gas sector and renewable energy sector that also promote Aberdeen as Europe's energy capital, and further considers that the Executive should promote measures to ensure that, as far as possible, the new energy revolution is driven by indigenous interests.

17:03

Richard Lochhead (North-East Scotland) (SNP): First, I thank the colleagues who supported my motion and the many companies, academics and agencies that sent me their views for this debate. The motion's aim is to secure Government support for the oil industry's long-term future and to help Europe's oil capital, the city of Aberdeen, move with the times, diversify and evolve into Europe's energy capital.

Scotland possesses expertise in all aspects of energy and much of the world's leading offshore expertise is based in Aberdeen. The city is already considered to be Europe's oil capital. A number of offshore-related indigenous companies have acquired international reputations and many multinationals have based their European headquarters in the north-east. Aberdeen founded the world energy cities partnership with Houston, Stavanger and Calgary and is the only UK member. Furthermore, the city hosts "Offshore Europe", which is a premier event on the international industry calendar, and was attended last year by 77 countries. Finally, in June, the internationally respected and Aberdeen-based Alex Kemp will host the annual conference of the International Association for Energy Economics.

With Government support, the North sea will have a secure future for decades to come. There is no better illustration of that than this week's news that Argyll, the province's oldest field, will again produce oil after local company Tuscan Energy was awarded the licence. The discovery of the magnitude of reserves in the Buzzard field that will come on-stream in 2004 is more good news.

There are 121 fields in production in the North sea with nine under development, and in the next 10 years up to 110 more fields will be developed. The head of an oil major recently told me that the North sea will produce oil and gas for at least another 60 years.

Looking to the long term and the impact of the province's maturity and of new technology on job levels in the oil and gas sector, the north-east is rightly looking overseas for new business and is beginning to diversify. Renewable energy is the logical next step for the region. Aberdeen is increasingly being viewed as an energy city and has the critical mass to evolve into Europe's energy capital. "All-Energy Opportunities 2002" is an event being held in Aberdeen to stimulate diversification by the industry into European renewable energy opportunities alongside the continuation of its existing core business. The event's organisers said that Aberdeen is the ideal location, because of

"the skills of SMEs developed over many years of service to the offshore industry. Their expertise will be vital in the development of renewable technology and will help to maintain Scotland, and Aberdeen in particular, as the epicentre for the R&D, manufacturing and maintenance requirements of this growing industry."

A renewables action plan is now being developed in Aberdeen. Positioning Aberdeen as a vibrant, multi-energy centre is the key to unlocking environmental and economic opportunities for the whole of Scotland, as illustrated by Aberdeen-based AMEC's involvement in the ambitious wind farm project on the island of Lewis. Renewable energy is a 21st century opportunity that Scotland must grasp and hold on to. North-east companies have all the skills and experience that are required to build a renewables industry. The universities house some of the finest brains in renewables technology. The Robert Gordon University is recognised as a world leader in marine energy research and is now collaborating with the University of Aberdeen to develop renewables technology. More than 40 years' experience of taming the North sea and extracting oil and gas will be vital in developing offshore wind, wave and tidal energy projects.

There are several ways in which the Government can support Aberdeen's bid to become Europe's energy capital. All the correspondence that I have received refers to the desperate need to improve the region's transport infrastructure. There is enormous frustration over the slow progress in the building of a western peripheral route around Aberdeen and in the expansion of the region's rail and air services. Patience is running out, and those issues must be catapulted to the top of the Executive's agenda.

Another area where the Parliament has power is in training and skills development. Ensuring that development is one of the biggest challenges that faces the industry, and many people have suggested that they want more intervention from the Government to complement the work that is being done through industry initiatives such as the Offshore Petroleum Industry Training Organisation, to attract engineering students to the industry. That links in with the demand for more effort to promote research and development in partnership with the industry and with local further and higher education sectors.

A campaign throughout the past decade has brought some UK oil and gas directorate jobs north of the border. Now that we have our own Government, it is time for us to step up that campaign to bring the jobs that remain in London to Scotland. The Scottish Government can set an example by transferring its energy section to Aberdeen, in line with its policy to disperse civil service jobs. The Government should explore ways in which locally-owned companies can be given more opportunities to benefit from existing and new offshore opportunities. The minister should throw his weight behind local efforts to officially designate Aberdeen as a centre of excellence for energy. The Executive could illustrate its support by offering to chair a summit in the near future, involving all stakeholders, to drive forward the city's bid.

My colleague, Brian Adam, would have been here to develop that case but for a family funeral.

The Scottish Government should express support for, and offer assistance towards, the establishment of a Scottish energy institute in Aberdeen, which would bring together all the relevant public sector, academic and private sector players under the same roof. That concept has widespread support and would provide a focal point for international business. It would establish a one-stop shop for overseas businesses and governments that wanted to access the industry's expertise. There would be no better illustration of the Government's commitment to Aberdeen and the north-east.

Supporting those initiatives with ministerial backing and investment would bring enormous benefits to the north-east and Scotland for decades to come. We must turn vision into reality so that, in years to come, when people around the world think of energy, they will think of Scotland and Aberdeen. That will benefit the economy and the nation's international standing.

Since 1965, the industry has reinvested £200 billion of its surpluses in the sector. In the same period, the Government in Westminster has acquired nearly £170 billion in taxation. Perhaps it is now time to reinvest some of that cash in the economy of the north-east.

The United Kingdom Offshore Operators Association, the industry body, told me that, although 90 per cent of UK oil production is in Scottish waters, as is 52 per cent of gas, the reason why 26 per cent of oil jobs are located in the London area is because the decision makers are down there. If we moved the decision making to Scotland, thousands of jobs would follow.

Of course, for that to happen, Scotland needs independence. If we do not have independence, we will not hold the key to the economic benefits of the energy industry. Until that day comes, it falls on the Parliament and the Executive to take every action to make the most of any opportunities. I urge the minister to respond positively to the many ideas that will be raised in today's debate.

The Deputy Presiding Officer: Twelve members wish to speak. That might require the debate to be extended but we can review the situation later on. I ask members to keep their speeches under four minutes.

17:11

Elaine Thomson (Aberdeen North) (Lab): Given this week's excellent news, this is a timely debate. I thank Mr Lochhead for securing it.

The UK oil and gas industry is a huge and continuing success story. Today, we heard about the discovery by PanCanadian Energy of twice the expected oil reserves in the Buzzard field and yesterday, Brian Wilson, the UK Minister of State for Industry, Energy and the Environment, announced the reopening of the Argyll field—an excellent example of small UK companies using innovative drilling and production technologies that allow the extraction of previously inaccessible oil reserves.

The past year has seen increasing optimism as the oil price has risen, with increased investment across the UK continental shelf. Plans such as BP's rebuilding of its Aberdeen headquarters send clear signals about the long-term future of the oil and gas industry that is evolving into an energy industry in Aberdeen. The North sea is a mature and relatively high-cost province with the remaining 50 per cent of oil reserves in smaller fields. However, it remains globally competitive and is an attractive place for continued investment. We need to be clear about why that is.

Shona Robison (North-East Scotland) (SNP): Will the member give way?

Elaine Thomson: No, thanks.

One reason is an attractive fiscal regime and another is the fact that the UK has the most stable political environment in the world. That is a powerful inducement for the oil industry. Also important is the decisive and successful action taken by UK and Scottish ministers in establishing the oil and gas task force, which is now called Pilot, during the oil price downturn in 1998-99. Pilot has been widely recognised by the industry as being an extremely effective Government and industry collaboration with a clear strategic vision. I welcome the commitment of the Minister for Enterprise, Transport and Lifelong Learning and her deputy to Pilot and their support of the industry. So successful has the Pilot strategic model been that it was recently used as a template for a similar body for the electronics industry.

Other factors continue to favour the UK. One is the extensive infrastructure that we have in the North sea, together with the expertise on and offshore and the service industry that, although it is based across the UK, is focused on Aberdeen. The oil and gas industry will continue to be important to Aberdeen, Scotland and the UK for several decades to come.

Stewart Stevenson (Banff and Buchan) (SNP): Will the member take an intervention?

Elaine Thomson: No thanks.

Aberdeen is the pre-eminent location for oil and gas in the UK and Europe. However, it must continue to build its reputation globally. That effort will include building international alliances and I congratulate Margaret Smith, the lord provost of Aberdeen, on being a superb ambassador for Aberdeen in her role as president of the world energy cities partnership, a position that she uses to help secure Aberdeen's long-term future.

Of course, we must diversify into renewable technologies. Some, such as tidal stream, fit with the skill set that we have in the oil and gas industry in Aberdeen. As Richard Lochhead said, key research is taking place in places such as the Robert Gordon University. Developing technology institutes in emerging sectors—which has already taken place in areas such as Wales—will play a vital role in developing Scotland's economy. I hope that we will have one on energy. I support the proposals from the universities and the industry to develop specialised institutes in Aberdeen.

17:15

Tavish Scott (Shetland) (LD): I share the broad sentiments of Richard Lochhead's motion, which, I noticed, was well trailed in *The Press and Journal*, that very well-informed local newspaper in the north-east, last Saturday. I have it in front of me. It was a useful introduction to this evening's debate.

I also agree with the point about "Offshore Europe". I have attended a number of those exhibitions. There is nothing better than a night out in Aberdeen with the Shetland contingent. One

would be advised not to go on a night out with the Shetland contingent after "Offshore Europe", but it is still an important lesson, not only in the night life of Aberdeen, but in matters to do with oil.

I will sweep up Elaine Thomson's remarks about the good things that have happened of late. From my constituency point of view and from a general Scottish and UK point of view, the announcement of the development of the Clair field is one of the more important announcements in the past few months.

I will pick up on one aspect of the motion—renewable energy—and follow on to some extent from Alasdair Morrison's debate last night, which considered renewable energy from his constituency point of view. I will raise a further matter of oil and gas development in the North sea—the medium-term and long-term decommissioning of oil rigs. There is a great deal of activity in the decommissioning industry, particularly in oil companies, engineering companies and marine operators. In my constituency, the Shetland Decommissioning Company Ltd is determined to get a hold of that work as it develops. I take some personal satisfaction from that, because from the time that I was the chairman of the Lerwick Harbour Trust, we have worked hard at home on reinvestment and reinvestment again in deepwater quays, heavy lift facilities and other necessary shore-side businesses to ensure that, when that development of policy arrives and the oil industry starts to take strategic steps on decommissioning, Shetland will be able to catch part of that work.

Progress has been slow, but some projects are now beginning to move—as the cross-party group on oil and gas, which Elaine Thomson chairs, will know. The Phillips Petroleum Company UK Ltd's Maureen platform was recently refloated and towed to Norway for interim storage until disposal begins in the early part of next year. Aker Maritime, the main contractor on that job, provides not only expertise, but an opportunity for links with companies such as the Shetland Decommissioning Company, which can then build its experience in executing such works.

Similarly, Kerr-McGee North Sea (UK) Ltd's Hutton tension-leg platform is due to be removed from site by 2003. The decommissioning of that platform is expected to be based around subsea structures, pipelines and tethers. The Shetland Decommissioning Company is also heavily involved in that work. That is an illustration, if Richard Lochhead's wider point is to be made, of the need for ministers in Scotland and in London to be well apprised of that work and for the ability of domestic and indigenous companies to seek to grab some of that work.

Phillips's vast Ekofisk platforms are likely to be removed using the new-generation heavy lift platform techniques. I understand that a feasibility study into that technology was commissioned. If the minister is up to speed on that point, I ask him to tell us how that is proceeding and to develop the argument in his closing speech.

The other important offshore development concerns TotalFinaElf's Frigg field, which is now subject to public consultation. It is a vast development. Six platforms are being decommissioned, three of which are in the UK sector and three of which are in the Norwegian sector. Platform removal is expected to commence in 2006. That is some time away, but the point is that domestic Scottish companies, including the one that I mentioned in my constituency, need to be up to speed with contacts and ensure that they are aware of the opportunities so that they can build up that work.

The dependence in my constituency, in Aberdeen and in the north-east generally on the oil and gas industry is heavy. I urge ministers to take full account of the decommissioning opportunities so that Scottish businesses can take advantage of the renewable options that Mr Lochhead mentions in his motion.

17:19

Dr Winnie Ewing (Highlands and Islands) (SNP): As Scotland is the only European Union member that is an oil producer, of course Aberdeen qualifies to be the European oil capital. There can be no competition, surely.

I will talk about access, as someone who spent 24 years trying to get to the European Parliament.

When direct flights between Inverness and Heathrow were stopped, Aberdeen was the obvious alternative. I live in Elgin and the journey there from Aberdeen takes only an hour and a half at night. However, the journey to Aberdeen takes two and a half hours in the morning, which means that I may not even have got there in time for the early plane. I had to leave at about half past four in the morning, because of the singularly dreadful road and the amount of traffic on it. The delay in the early morning is phenomenal. When one considers the wealth that has been generated by the oil industry, is not it rather sad that the access road should be in that state?

The flight connections were such that it seemed that no one had worked out a way in which people who wanted to travel on from their first port of call in Europe could connect to other airports in Europe. For example, if my early morning plane arrived in Amsterdam late—that is, if I managed to make that flight at all—I might not get the next connection, which was very tight. I had to do a four-minute mile, which is not easy at my age. If I

missed that connection, I had to wait six hours in Amsterdam airport, which was not a pleasant experience. Perhaps I was not meant to live in the north of Scotland and be a member of the European Parliament. When I went home at weekends, I had to give up my Sundays, although I do not suppose that anyone is going to weep for me over that. However, Sundays are very precious to MEPs, who have little leisure time, and giving up my Sundays to get to the European Parliament was one of the worst things.

To make matters worse, recently the road between Elgin and Aberdeen was blocked, on and off, for a week. I know that that is true because my neighbours' children, who are at university in Aberdeen, could not get back. They tried several times but were stopped by the police at Keith. Aberdeen is the European oil capital, but it has such awful road maintenance and roadblocks that people cannot even reach it.

Over the years, people have often predicted, with a lot of doom and gloom, that the oil supplies will run out, yet we have been reading good news recently about the Argyll and Buzzard fields, which are 75 miles north-east of Aberdeen. It is ironic that the transport infrastructure in our oil capital is not better, despite the hundreds of millions of pounds that have been generated.

Like my party, I sometimes look with envy over the sea at independent countries with Governments. At the moment, I am thinking of Norway, which is on the same sea—the North sea—and has the same oil companies as Scotland. In the Norwegian sector, all the companies recognise unions. That is not the case in the Scottish sector, which in my view is tragic. In Norway, a substantial oil fund was created to benefit Norwegians and there was a policy of slow extraction. Our oil wealth—as we all know—is squandered to keep bankrupt Britain from going bankrupt. If ever there was a good reason for independence, our energy sufficiency must be it.

17:23

Mr David Davidson (North-East Scotland) (Con): I congratulate Richard Lochhead on securing an important debate. I will focus on the topic at hand rather than drifting off into other things. I thought that it was a bit of a shame—when we seek to encourage outside investment instead of relying wholly on a possible build-up of the indigenous base—that the Scottish National Party threw independence into the debate.

I want to encourage the minister and his colleagues to remind the Chancellor of the Exchequer that we need fiscal stability for the oil sector in the UK. It is a vital way of encouraging investment and confidence. In Aberdeen we have some of the building blocks to make the city truly the energy capital of Europe. So far we have had the critical mass of the oil and gas industry, there is an excellent offshore support base in the harbour and the development of the UK bases of many multinational companies in and around Aberdeen has already taken place.

In response to Richard Lochhead's comment about jobs going to London, I remind him that London is a financial centre that has good communications. Only the corporate affairs people tend to be based down there; the people who do the business are in the city of Aberdeen. We want to improve the city's skillsbase. There has been a great advance in the number of small to medium enterprises that are involved in the technology that has developed on the back of oil and gas. Our software sector is also doing well.

I give way to Fergus Ewing, provided that he is brief.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): Following the recent release of information under the 30-year rule, we learned that Prime Minister Heath's Cabinet in 1971 rejected the proposal to set up an oil fund to benefit future Scottish generations. Does David Davidson regret that decision?

Mr Davidson: Well, I was not aware of the decision at the time, but there are more ways of doing things than just by taxing everything.

The city already has the building blocks. As has been said, we have two excellent universities, which are very active in their sector, but the Executive needs to change the rules for the funding of research and development in universities. We need to allow a mix of funding, as has been called for by the oil companies. I believe that, in this chamber, Wendy Alexander has agreed with me that that issue should be considered. There is a need to be able to mix the two lots of money to ensure that universities are involved, not only in consultancy work but in active research and development for the industry.

Aberdeen is a wonderful area in which to live. We have wonderful education both in our public and private schools. We also have a further education sector. However, one of our problems is a difficulty in encouraging apprenticeships to provide the new skills base that is needed for the oil and gas industry. Money follows students into colleges but, although the money can go to the colleges, it does not go to the people who provide expensive apprenticeship and training facilities within their own companies.

Let me turn briefly to the problems. I am keen on renewable energy, but the proper provision of that is not so much about where as about whether things can actually be built. It is important that we

realise that there is now a shortage of engineers for oil and gas. If we are to make the most of renewable energy development—be that the creation of subsea turbines or the building of wind farms or whatever—we need more engineers, as we certainly do not have enough to go round. The Executive must take that issue on board as part of its responsibilities on skill development.

I echo Winnie Ewing's comment that Aberdeen does not have enough direct international flights. As the city is so important to the Scottish economy, it needs a sustainable and developing economy. Sustainability is the name of the game—and I do not say that simply to suit Robin Harper, who is present. We need to examine the costs that prevent companies from landing aeroplanes directly into Aberdeen. If the Executive is able to help Inverness airport by examining that situation, perhaps it might care to become more actively involved with Scotland's airport operators and flight providers to further develop Aberdeen's airport.

That Scotland's third city lacks a modern transport infrastructure is beyond a joke. The place is clogged up. The lack of a peripheral bypass is preventing access to development land that needs to be freed up. I have a further plea, which is that the railhead at Guild Street that is adjacent to the harbour must be maintained and developed. If our oil industry is to move into other aspects of engineering, people need to be able to move freight by sea and have direct access to the port. I hope that the minister will respond to that.

I am delighted to support the motion to promote the city from which I came. In many ways, I just wish that the exterior world realised that Aberdeen is a good base to come and do business. I hope and pray that the Executive begins to realise that the city is one of the drivers of the Scottish economy.

17:28

Nora Radcliffe (Gordon) (LD): I want to pick up where David Davidson left off by saying a little about Aberdeen and the north-east. One of the area's strengths is the breadth and the depth of the expertise that it has available.

The area has always been vibrant. Perhaps people became aware of Aberdeen only with the coming of oil, but long before that, since the middle ages, Aberdeen and the north-east has been a vibrant and prosperous area. Our industries have included fishing, farming, whaling and trade across the North sea to the Baltic, not to mention textiles, paper, granite and marine engineering. We supplied half of the country's clippers in the days when the tea trade was one of the major economic drivers. We have also had a tremendous pool of academic expertise: Aberdeen had two universities when the whole of England had only two universities.

Aberdeen's universities combined, but we again have a second one now since the Robert Gordon's Institute of Technology became a university. So we have an ancient university and a modern, technical university. In the Macaulay Land Use Research Institute, in the Rowett Research Institute, and in the marine laboratory, we have world centres of excellence. One of those daft statistics that is not generally known but that sometimes crops up is that the percentage of PhDs per capita is higher in Aberdeen than in any other place in the UK, outwith Cambridge. We have a huge pool of expertise in the north-east to draw on. We had that before oil came.

Oil has been good for the north-east. It has brought prosperity and an influx of new blood. It has created new partnerships for what has always been an outward-looking city. It is calculated that we will have another 40 to 60 years of North sea oil. However, Aberdeen is already exporting the technical expertise that it has built up in the industry—in oil exploration and development.

It is striking how well such expertise can transfer to the renewable energy sector. Last night's debate highlighted the fact that renewable energy is the industry of the future and is about to move from anorak status to big-business status. Aberdeen has the technical, managerial and academic capacity to cope with the potentially huge developments in the renewable energy sector.

A whole industry, centred on Aberdeen, has spent 30 years making things work in the North sea, supporting and supplying offshore installations. We have—on tap, as it were—design, process and structural engineers; fabrication, piling, drilling and construction skills; and lifting equipment, control systems and cable connections. You name it, we know about it. We also have management skills—in project management and risk analysis in an offshore environment.

What has to be added is the support and encouragement of Government. There has to be an awareness of the potential in the north-east, and a willingness to direct resources to exploit that potential to the full—not only to the benefit of the north-east, but to the benefit of all Scotland and the UK.

17:32

Stewart Stevenson (Banff and Buchan) (SNP): It seems to be a convention that motions for members' business debates are relatively uncontroversial. It is good that there is support for

the motion across the chamber. Or is there? Not one Labour member—members would not expect ministers to be included in my criticism—has signed the motion and the only Labour member who has so far contributed to the debate did not indicate whether she supported it. That is a shame. She represents an oil constituency and is convener of the cross-party oil and gas group in the Parliament. The Labour response may tell us more about Labour whips than about anything else.

Elaine Thomson: Will the member give way?

Stewart Stevenson: No. The member would not take my intervention when I wished to make that point to her, so I will not take her intervention now. In future, Labour members should consider the merits of a motion and then sign or not sign.

Let us turn to the substance of the motion. When I went to Aberdeen in the 1960s as a student, it was a very different place from the place it is now. When I first flew from Aberdeen, the airport consisted of two Nissen huts. In the hour and 40 minutes that I spent at the airport, only one flight other than mine departed.

This debate is not only about Aberdeen. The prosperity that oil and gas have brought to Aberdeen spills out across Aberdeenshire and further into the north-east. My constituency is a big beneficiary of the oil and gas industry in Aberdeen. Fifty per cent of the UK's oil and gas comes ashore at St Fergus; Peterhead is the biggest oil service base in Europe and perhaps the world; a large amount of the UK's oil comes ashore at the Cruden bay terminal at Whinnyfold; and Transco has just completed a major upgrade to the gas infrastructure with a pipeline from St Fergus to Garlogie, just outside Aberdeen. Energy success in Aberdeen is success for an area much larger than the city. This year, the industry may contribute £3.3 billion to public finances.

Richard Lochhead talked about independence and immediately the cry went up that that was an irrelevance. Curiously, the more independence is ignored, and the more we fail to act independently in defence of our industries, the more compelling is the argument for independence. One of the little wrinkles of the settlement that was made in the UK Parliament's legislation is that Scotland gets no guaranteed share of the revenue. Curiously enough, however, the Isle of Man does—those are the benefits of an independent legislature that is determined to stand up for its economy at a time when it really matters.

What do we need to ensure that Aberdeen continues to grow in importance as Europe's energy capital? We need investment, not just warm words. For example, my constituency is one of the few mainland constituencies with no railway—Peterhead is the biggest town in Scotland with no station and Fraserburgh may be the second biggest. There are 20 lorries a day, carrying 10 to 20 tonnes, on the road between Peterhead and Aberdeen—we have no railway and no other option.

The western peripheral route is important not just to Aberdeen and the continuing prosperity of the city as an energy capital, but to the hinterland. Aberdeen's prosperity can lead to Scotland's prosperity. The motion neatly encapsulates what we require in Aberdeen and the north-east. I commend Richard Lochhead for bringing it to our attention.

17:36

Mr Alasdair Morrison (Western Isles) (Lab): I am happy to endorse the sentiment expressed in the motion on the city of Aberdeen. As Winnie Ewing pointed out, Aberdeen's place as Europe's oil and gas capital is assured—it has no rival. The city of Aberdeen is known right across the world as a centre of excellence, as Elaine Thomson and other members have suggested.

For about 10 months, I was vice-chair of Pilot, the oil and gas industry and Government task group. At that time, I met a great number of oil representatives from a whole host of companies. They reinforced several points. First, oil and gas are not sunset industries. The industry representatives made a series of points specifically about training. They have grave concerns about the average age—47—of technicians in the oil industry and expect the Scottish Executive and our colleagues at Westminster to work through Pilot in order to unravel those challenges.

I warmly embrace consensus politics, as Andrew Wilson well knows. I can assure Stewart Stevenson that, in those 10 short months, I did not meet one oil executive who mentioned independence. People wanted us to tackle and unravel several issues. In particular, they wanted to promote opportunity in the industry and to work with colleges and universities to ensure that the brightest and best embrace a sensational industry that affords many opportunities to many people.

In that respect, the oil and gas industries could learn a lot from the people who promote the merchant navy. The years from 1979 to 1999, when recruitment stagnated, were bleak for the merchant navy. Thankfully, the change in the taxation regime means that young men are now going into lucrative and challenging careers in the merchant navy. The oil and gas industry can learn from that.

I want to move away from the east coast. I make no apology for that. My colleague from the

Shetland isles, Tavish Scott, rightly highlighted the success of his constituency over many years. The technology is improving greatly and oil fields that would have been overlooked are being exploited. Thankfully, the technology is advancing and exploration is moving further west, particularly west of Shetland and off the Hebrides. I urge my friend the minister, the next time that he visits Lewis—the island of his birth, which nurtured him during his formative years—to meet the Western Isles oil group. That group, along with several colleagues, has been working to learn from Shetland how the Western Isles can play a part in the development of oil and gas fields west of the Hebrides. I need not remind the minister that there are two airports in the area—one in Stornoway and one in Benbecula. There are other facilities, such as the Arnish yard, which featured prominently in last night's debate on renewables.

Finally, I invite the minister to visit us as soon as possible. I remind him—although perhaps he does not need reminding—that many of my constituents travel through the wonderful city of Aberdeen to work in the North sea. I hope that many of them will soon be working west of the Hebrides.

The Deputy Presiding Officer: At this stage, I am minded to accept a motion to extend the business to 6.10 pm, if anyone is willing to move such a motion.

Motion moved,

That the debate be extended until 6.10 pm.—[*Richard Lochhead.*]

Motion agreed to.

17:40

Andrew Wilson (Central Scotland) (SNP): I, too, congratulate Richard Lochhead on securing this timely and important debate. The north-east of Scotland is well served by many of its representatives who, like Richard Lochhead, are strong advocates for the area in the Parliament.

Before I move on to my substantive comments, I will address one or two points that have been raised in the debate. The first is Elaine Thomson's important point about the need for tax stability in the oil and gas sector, which has a high-cost regime and is sensitive to movements in oil taxation. The industry was not well served in the first two years of the London Labour Administration by Gordon Brown's first budget. That budget set up a review of North sea oil and gas taxation, which led to great uncertainty and investment problems. We welcome the fact that the issue has been resolved.

Secondly, Elaine Thomson commented that Britain had the most stable political regime in the world. I will not contradict that, but I would like that boast to be substantiated. Perhaps she means that, regardless of the fact that Governments change, policies do not. If that is stability, she can keep it.

On the substance of the debate, it is important that we secure long-term benefits from the oil and gas industry in Scotland, not just for Aberdeen and the north-east, but for the nation. A curious and, for me, frustrating part of Scottish public and political life over the past three decades has been that we have employed a strange Scottish cringe, so that, whenever anything good happens to us, 70 per cent of the political class jumps up and denies that that thing exists.

The idea was that a windfall such as North sea oil would give us the crazy idea that we might be well positioned to govern ourselves. Fergus Ewing made some important points. The revelations of recent weeks under the 30-year rule are also important. The former Labour leader, the late John Smith, was a strong advocate in Cabinet and in opposition of the argument for a Scottish oil investment fund. Cabinet papers are explicit about the fact that such a fund was rejected on the ground that it would stoke the argument for Scottish independence. It is absolutely shocking that the obsessions of the London parties put a halt to the constitutional advance of Scotland and got in the way of the best interests of long-term stability and benefits for the people of Scotland.

No one who did what I did in spring 2000—I went to Norway and spent time with the officials who are in charge of the Norwegian oil fund—could fail to come away with the sense that objections to such a fund are a no-brainer. Such a fund should and must be created. As Nora Radcliffe said, there are significant oil and gas revenues still to be enjoyed. There is at least as much resource to be extracted as we have taken out, so it is not too late. At worst, we are at the halfway stage. We should be arguing for what we can do.

Richard Lochhead's motion is excellent for Aberdeen, but let us look beyond the city to the national tax benefits that we can draw from the windfall of North sea oil. The simple idea of the fund is that in good times we take oil-driven surpluses and invest them rather than spend them—we invest rather than consume. In the longer term, we would be able to draw an income from what is effectively a national pension fund from oil. The idea is so simple that it has been copied almost everywhere in the world, with the one exception of Britain, which has squandered and consumed in one generation a resource that took millions of years to build up. That is an unforgivable piece of Britain's post-war history. Historians will not look kindly on the Governments of the time for allowing that to happen.

We have an opportunity to prosecute an argument that can reverse the failures of the past and invest the oil-driven surpluses for the future. No one can predict what oil prices will be next week, let alone next year, so we have to protect our public finances from the vagaries and variations of those prices. That is why we prosecute the idea of an oil investment fund. No one else has the solution to the problem. I hope that mine is a useful contribution to the debate.

In summation, Richard Lochhead and others are to be congratulated on their strong advocacy of the needs of the north-east, and Aberdeen in particular. As with Alasdair Morrison's motion last night, the Parliament has shown its worth in representing all parts of Scotland, which people in London would do well to recognise.

17:44

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I thank Richard Lochhead for securing this worthwhile debate. It is absolutely right to say that Aberdeen is the energy capital of Europe.

A great many of my constituents in West Aberdeenshire and Kincardine work in the energy capital of Europe. Every day they commute in and out of the city. Before being elected to the Parliament, I did so myself—from west Aberdeenshire every day, by car, in and out of the city of Aberdeen, the energy capital of Europe.

Much is needed to change the ideal of what we should have as the energy capital of Europe into a reality. There are a lot of things that Aberdeen does not have as the energy capital of Europe. As has been said, Aberdeen does not have a proper transport infrastructure. Aberdeen City Council, Aberdeenshire Council, the chamber of commerce and Scottish Enterprise Grampian have a plan for an integrated transport system. There is cross-party co-operation for that plan among all the political parties in the north-east.

However, we do not have action. The motion says:

"the Scottish Executive should produce specific strategies aimed at supporting Scotland's oil and gas sector and renewable energy sector that also promote Aberdeen as Europe's energy capital".

One thing that the Scottish Executive could do to promote Aberdeen as the oil and energy capital of Europe is to ensure that there is a proper integrated transport system. I am not just talking about the western peripheral route; I am talking about a modern rail commuter link that runs from Inverurie in the north to Stonehaven, in my constituency, in the south. I am also talking about reopening stations such as the one at Laurencekirk. It is a crying shame that Laurencekirk station was closed in the first place; it is ridiculous that we cannot get it reopened.

All those measures are necessary and we need more than warm words from the minister. In Lewis Macdonald, we have a minister who represents part of the city of Aberdeen. We expect a great deal from him as the Deputy Minister for Enterprise, Transport and Lifelong Learning. He is the ideal man in the ideal position to produce the goods. If the goods cannot be produced now, something is wrong. I am sure that nobody needs to persuade Lewis Macdonald of the rightness of Aberdeen's case, which I am sure he will argue vociferously in the Cabinet. It is not as though the north-east gets more of its fair share of Scottish expenditure in the first place or is crying out for something that it should not get. Places such as Glasgow and Edinburgh have their problems, but none has such a bad transport infrastructure as Aberdeen has.

We do not get a fair proportion of Executive funding. Lewis Macdonald was not present to hear my comments on that in last week's debate on the Executive's priorities, when I said that the north-east gets only 90 per cent of average funding on health, only 88 per cent of average funding for local government and only 85 per cent of average funding for its police service. The north-east does not get its fair share, no matter how one looks at it. All political parties in the north-east ask for a major initiative from the Executive. We have the plan, but we need action.

17:49

Robin Harper (Lothians) (Green): I will talk briefly about three things: research, renewables and a long-term strategy for Aberdeen. We had good speeches about what services Aberdeen needs to become, and sustain a position as, an energy capital, but I want to talk about what should happen in Aberdeen in the immediate and distant future.

Richard Lochhead, whom I congratulate on lodging the motion, talked about renewables. I have been up to Aberdeen. In fact, when I first went to Aberdeen to go to university in 1958, the train fare from London cost me £4 17s 6d and the journey took 16 hours.

The long-term future for oil companies is in becoming energy companies. That will help Aberdeen to become an energy capital. The figures that I have show that oil production is peaking. In the next 30 to 40 years, it will decline. That is not because not much oil will be left, but because it will become less economic to extract it.

I will not mention names, but I have talked to several oil companies. At one company, I addressed 60 engineers who were interested in

becoming involved in renewables. The technical people in oil companies wish to become involved in developing renewables and would be delighted if their companies moved in that direction.

The Executive is not giving renewables full-scale backing and must speed up. The centre for economic renewable power delivery in Glasgow is funded mainly by British Energy and Scottish Enterprise. The Executive puts in £20,000 a year—the salary of one person—to that so-called energy centre.

Not a penny from the Executive goes into the renewables obligation Scotland. Everybody thinks that it has Government funding, somehow or other, but it does not. It is funded from our pockets—from our electricity bills.

The Executive could do much more to encourage research on renewables. I put in a word for Heriot-Watt University's centre on Orkney. Continuing development of renewables should take place on Orkney.

David Davidson talked about engineers. Throughout Scotland, every engineer to whom I have spoken in the past couple of years has said that it is terribly difficult to interest Scottish children in engineering courses. I know that from my time as a school guidance teacher. The Executive must address that. It must help universities to recruit students to study engineering and show how important that will be to Scotland.

David Davidson also talked about the structure for research applications and the way in which research grants are awarded. It is difficult to obtain money for blue-sky research, but we must keep that avenue open. Research cannot always be conducted into established matters to which we are beginning to know the answers. Our universities must have the opportunity for creativity with renewables.

17:52

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): Not for the first time, I thoroughly endorse the sentiments that Robin Harper has expressed. I recently met an engineer who received his training in John Brown's shipyards and who has now, like many, diversified into the oil industry. He mentioned the point that Robin Harper made: the low number of engineers who are being trained will mean a serious shortage. Scottish engineers have a reputation that is second to none.

I congratulate Richard Lochhead on securing the debate and on the coherent and comprehensive way in which he put the case, as did many members of all parties. Benefits and work spread from Aberdeen to all parts of Scotland. In Grantown-on-Spey in my constituency, McKellar Engineering has had a period of terrific growth and success that has made it one of the largest private sector employers there. It operates in high technology. The problem for the company's staff is travelling from Grantown-on-Spey to Aberdeen. A slight difficulty is caused by the interposition of the Cairngorm mountains, which make the journey challenging, and by the use of a road that can charitably be described as a goat track. I wonder whether Houston, Texas is restricted to a two-lane carriageway. Somehow, I doubt it.

Nothing has happened for decades about that matter. It beggars belief for any of the unionist parties to defend their pathetic record of consistent betrayal of Scotland's interests by failing to invest in Scotland's youth and infrastructure. I appreciate that that point may be considered slightly partisan, but that does not make it untrue.

Alasdair Morrison attempted to deal with that point. He said that oil executives do not talk about independence. I wonder whether he has asked them about it. Quite a few oil executives have expressed private concerns to me. The truth is prosaic and simple. If oil companies operate in countries such as Iran, Iraq and Azerbaijan, does the member think for one nanosecond that they would hesitate to operate in a peaceful, democratic, modern, middle-sized and wealthy European country?

Elaine Thomson: Will the member give way?

Fergus Ewing: I will follow the member's honourable precedent of not taking interventions.

Do we think that gentlemen like John D Rockefeller, Calouste Gulbenkian or T Boone Pickens are going to be the slightest bit worried if they have to deal with the Chancellor of the Exchequer of an independent Scotland, as I hope will soon be the case?

Mr Davidson: Will the member give way?

Fergus Ewing: I am happy to reciprocate.

Mr Davidson: Thank you.

Perhaps it is time for Fergus Ewing's party to come clean on its future policy on oil taxation and distribution?

Fergus Ewing: Every oil-producing company has a policy of securing the maximum possible advantage from oil for its country. In the second part of the 20th century, the politics of oil shifted. The power shifted from the oil companies to the oil-producing and exporting countries. An organisation was set up, not by an Arabian country, but by Venezuela. That shows that Scotland could play its part in that organisation.

The answer to Mr Davidson's question is that Britain extracted a fairly high marginal tax rate. In

1985, Saudi Arabian oil production fell below that of North sea production. A senior oil executive told me that it was the Tory chancellor of the time who struck a very tough deal with the oil companies. That is the approach that I would advocate for the Scottish Government and for every Government. I hope that that answers Mr Davidson's question.

I am happy to endorse the motion.

17:57

Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab): In as much as any parliamentarian can be an interloper, I might seem to be one in the debate. However, I would like to scotch that early on. A large number of my constituents are involved in oil and gas-related industries, which are industries that are of vital strategic importance to Scotland and the rest of the United Kingdom.

As a young solicitor, before being called to the bar, I was honoured to act for what is now Amicus but was then the Amalgamated Engineering and Electrical Union. My duties involved me frequently haring up—in case anyone is listening, driving at major speed up—the A9 to McDermott at Ardersier. I was conscious of the real significance of jobs to workers in that work force and for the retention of skilled jobs in the area and for the future of the industry.

One of the most depressing aspects of my professional life was giving advice to survivors of the Piper Alpha tragedy and to widows and dependants of those who suffered in that tragedy. At that time, a large number of members of our union had to keep their membership secret. They carried their union cards in their back pockets. That was because some of the oil companies, encouraged and abetted by the attitudes of our own Government and others towards trade unions, required them to keep their membership secret. I am thankful that we are beginning to put that behind us. We see increasing offshore recognition agreements, not least with the AEEU and MSF, which are the constituent components of my trade union.

I was pleased to hear almost all speeches. In particular, I was pleased to hear Robin Harper's mention of renewables and efficiencies, as they are aspects that were missing in the debate. Perhaps we do not give sufficient attention to the importance of energy efficiency and technology. Renewable energy is perhaps one of our biggest energy sources, although not one that is going to displace supply.

In meetings of the Enterprise and Lifelong Learning Committee, I am constantly ear-bashed by Elaine Thomson about skills and training. I am astonished that I have not been ear-bashed today, but I suspect that she feels that she has given us enough on that front. I was struck by the evidence on skills and training that was given recently to the committee by Amanda Harvie, from the Aberdeen and Grampian Chamber of Commerce. Much of what Amanda said could apply throughout Scotland, but her expertise was on skills shortages in Aberdeen and its region. She made a cogent and compelling argument for getting children acquainted with the notion of engineering as a future career and getting universities, and society generally, to validate and improve the status that we give to those entering engineering. That is an important point.

Although I endorse the sentiment of the motion, when we consider only places we forget the importance of people. We need to consider what can be done. That is a matter for constituency members and others who are interested in what can be done to make Aberdeen and its region a vital and interesting place for skilled workers and jobs.

I commend the work that was done by Alasdair Morrison as vice-chair of Pilot; I am sure that he will find a sterling continuation of his work by Lewis Macdonald. We are constantly reminded of London Labour. Brian Wilson spends some time in London, but we should not overlook that he has the interests of the industry at heart and is happier to make his way back over the border, weary and having done the work on behalf of the people in the task force.

18:01

The Deputy Minister for Enterprise, Transport and Lifelong Learning (Lewis Macdonald): I congratulate Richard Lochhead on securing the debate. I am grateful for the opportunity to address some of the ways in which we can secure a continuing, prominent role for Aberdeen and its people in global energy industries, now and for a long time to come. A number of members have reminded us of the importance of that role over the past 30 years. Aberdeen is the acknowledged oil and gas capital of Europe. About 40,000 people are directly employed in the oil and gas industry in the north-east. As has been made clear this week, there is still as much oil and gas under the North sea as has been exploited already. There is no doubt that the industry will continue to make a major contribution to the economy of Scotland and the UK for many years to come.

A number of members dwelt at length on their views on the devolution settlement and made some suggestions on that. They are entitled to those views, which are well known, but I want to focus on the issues that arise in areas for which Scottish ministers are responsible.

I agree that modern transport and telecommunications are of great importance to the

future of Aberdeen and the oil and gas industry. I have no doubt that many of those in the chamber will gather again to debate those issues at more length in future—I will be happy to respond to such a debate. Suffice it to say that ministers will continue to work with NESTRANS—the north-east Scotland transport partnership, which comprises the north-east's local councils and businesses—as the partnership takes forward its proposals for a modern transport system. The Executive will continue to recognise the importance of the link between energy and transport.

Focusing on energy issues, there is no doubt that there are challenges ahead—in particular the challenge of skills shortages—as the technology of the industry develops. That has been mentioned by a number of members. The role of OPITO—the Offshore Petroleum Industry Training Organisation—has been mentioned and I am sure that members will be aware that proposals are being developed for a new sector skills council for the oil and gas sector to address some of those issues. The council, worked out jointly by the Executive and the UK Government, is trailblazing the new provision of training organisations throughout the UK. The point of that is to attract the new recruits that are required in an industry that has a long-term future and is in transition, but not in decline. Everyone who spoke tonight recognised the fact that this is an industry with a long future.

Mr Rumbles: On the transport infrastructure and NESTRANS, the minister said that he looked forward to having a debate at the proper time. When does he think that that opportunity will present itself?

Lewis Macdonald: I had moved on from that point, but no doubt there will be many opportunities to address precisely those points in future.

Robin Harper: Surely 30 to 40 years is not a long time? Is there no sense of urgency about the idea of getting Aberdeen to be a renewables capital rather than an oil capital before halfway through the next century?

Lewis Macdonald: Absolutely. I will move on to that point, but I do not want to diminish any of the other issues that are important.

Aberdeen companies, large and small, have demonstrated that they are capable of rising to the challenges of developing the oil and gas industry and developing some of the technologies into other areas of opportunity. They are well placed and highly capable of diversifying into the exciting new opportunities that are offered by those renewable energy technologies.

Companies such as Shell and BP have been clear about their commitment to such diversification as a way forward. Many other Scottish-based companies are also showing a strong interest in investing in, and diversifying into, renewable energy. Several Aberdeen-based companies are on board for those things and renewable energy developments are already in the planning process in the north-east, both onshore and offshore. That augurs well for the future.

The Executive is pursuing a number of distinct strategies. Responsibility for oil and gas is reserved to Westminster, but we work closely with the Department of Trade and Industry on a range of issues. As Alasdair Morrison said, he used to sit—as I now sit—as vice-chair of Pilot, the joint Government and industry working group that is helping the industry to maintain momentum.

Richard Lochhead: This is the first debate in the Scottish Parliament on the oil and gas industry and on Aberdeen's potential to evolve into an energy capital for the whole of Europe. Does the minister accept that it is within his power to work to designate the city as a centre of excellence for energy and to establish a Scottish energy institute?

Lewis Macdonald: I will say more on both those points in a moment.

It is worth noting at this stage that the north-east's fiscal stability, to which a number of members have referred, has been one of the main achievements of Pilot. That is a product of the strategy that was worked out by the UK Government in association with the Scottish Executive.

Robin Harper: Will the minister give way?

Lewis Macdonald: If Mr Harper does not mind, I want to make a little progress with my speech and respond to some of the points that have been made.

It is also worth noting that, in the past two or three years, there has been a significant shift in jobs in the industry to Aberdeen from elsewhere in the United Kingdom, in both the public and the private sector. I have no doubt that that trend will continue.

Let me turn to the opportunities that are presented by renewable energy. Under the Scottish climate change programme, we plan a big increase in renewable energy to help meet the UK goal of reducing greenhouse gas emissions. We will introduce the renewables obligation Scotland, which we expect to come into force in April, to implement that big increase. The prospect of the renewables obligation is creating a strong demand for renewable energy, which is good for the environment and good for business. It is creating demand for new goods and services in what will be an industry of the future. Aberdeen and

Scotland are well placed to exploit that demand.

A good example of that is the potential to convert end-of-life oil fields to offshore wind farms. That may be what Mr Harper had in mind when he intervened. My officials have been in discussion with oil company executives who are considering ways of exploring that possibility. Some of those plans are already at a well-developed stage and there is good expectation that they will become a commercial reality in the not-too-distant future. It is the prospect of the renewables obligation Scotland that is making those plans so commercially attractive.

Robin Harper: Does the minister agree that, because renewables come under the responsibilities of the Scottish Parliament, the more we move towards renewables the more control we will have over our energy policies and the less control Westminster will have over them?

Lewis Macdonald: It is not often that the Green party responds to points from the SNP, but I welcome Robin Harper's important comment, which exemplifies the fact that the areas for which we are responsible are the areas in which we are seeking growth and development. We work through the Scottish Enterprise energy group in Aberdeen to ensure that our companies can compete for the resulting manufacturing opportunities.

Nora Radcliffe: The minister mentioned offshore wind power and technologies that are already developed. What is he doing to encourage the UK Government to put research money into developing what Robin Harper described as blue-sky research into tidal and wave power, which has the potential for expansion and development?

Lewis Macdonald: I want to use the remainder of my time to address that important issue, which a number of members have raised. We must take the opportunities that exist in renewable energy and diversification. Energy research and development are critical to that.

It has been said that Scottish companies and universities already lead in research on, and development of, subsea technology and in maintaining structures that are able to withstand the worst offshore weather. The successful exploitation of offshore renewable energy potential will depend on developing such ideas. The Executive is determined that those ideas are commercialised here and generate prosperity for Scotland—that is why we support the marine energy test centre in Orkney and why we are exploring new mechanisms to maximise the return on research and development investment.

Scottish Enterprise is considering intermediary bodies around the world that assist with technology transfer to enable research to be commercialised locally. It is also considering how we can learn from them to develop schemes here. Scottish Enterprise's aim is to quantify the benefit of such institutes and focus on key market areas, such as energy, in which Scotland has a strong research and commercial base.

The proposals are still at an early stage, but if they proceed, an energy intermediary technology institute could be established as an invaluable resource for energy companies throughout Scotland as they seek to maximise the remaining North sea reserves and diversify into the renewables sector. We are considering such proposals closely. Should they go ahead, they will send out a clear message to manufacturers and suppliers about the long-term prospects for the energy economy of Aberdeen and Scotland and will lead to continued financial benefits for the communities involved. There will be continued business opportunities for energy companies and a more sustainable future energy supply for all of us.

Without the Executive's intervention, there would not be such diversification. In partnership with energy companies and the UK Government, our efforts will be directed to continuing to diversify and develop potential.

There is great potential in Scotland for the renewable energy sector and we can build on the strengths of oil and gas. Aberdeen and Scotland are well placed to exploit that potential and will continue to do so. In that way, Aberdeen's position as the recognised energy capital of Europe will be continued.

Meeting closed at 18:12.

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