

# **MEETING OF THE PARLIAMENT**

Thursday 9 January 2003

Session 1

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## Scottish Parliament

*Thursday 9 January 2003*

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

### Draft Scottish Parliament (Disqualification) Order 2003

**The Deputy Presiding Officer (Mr Murray Tosh):** Good morning. The first item of business is a debate on motion S1M-3744, in the name of Euan Robson, on the draft Scottish Parliament (Disqualification) Order 2003.

09:30

**The Deputy Minister for Parliamentary Business (Euan Robson):** I wish to highlight the unusual nature of this item of business, which relates to a wholly reserved matter that, under the Scotland Act 1998, must be considered and approved by the Scottish Parliament. Members might have noted that the draft Scottish Parliament (Disqualification) Order 2003 is a statutory instrument, which means that a minister of the Crown will advise Her Majesty the Queen on the making of the order. However, by virtue of schedule 7 to the Scotland Act 1998, it falls to me, as a Scottish minister, to invite the Scottish Parliament to approve the draft order before it is made by Her Majesty in Council.

The order seeks to update, in advance of the elections that will be held later this year, the list of office holders who are to be disqualified from membership of the Scottish Parliament. Members might be aware that section 15 of the Scotland Act 1998 sets out the circumstances in which a person is disqualified from becoming a member of the Scottish Parliament. Certain categories of people are disqualified automatically, including judges, civil servants, members of the armed forces and members of foreign legislatures.

In addition, section 15 provides an order-making power to disqualify specific office holders from membership of the Parliament. Only one such order has been made under that power, in March 1999. That order needs updating to take account of developments since then, particularly the creation of new bodies and the abolition of existing ones. The draft order for approval is designed to ensure that proper account is taken of such developments. Without the new order, there would continue to be reference to bodies that no longer exist and members of new bodies, who should be disqualified from membership under existing criteria, would be eligible for membership of the Parliament.

The Minister for Parliamentary Business wrote to the Presiding Officer, the chairman of the Electoral Commission and the leaders of the main political parties on 3 December 2002 to draw their attention to the Executive's laying of the draft order and, in particular, to its effect and scope. Patricia Ferguson made it clear in those letters that the promotion of the draft order did not represent a wish to change the criteria against which an office holder is assessed for disqualification from membership of the Scottish Parliament.

As before, the same criteria will apply as apply to membership of the House of Commons. Those criteria are: offices of profit in the gift of the Crown or ministers; positions of control in companies in receipt of Government grants and funds; offices imposing duties that would prevent their holders from fulfilling parliamentary duties satisfactorily; and offices whose holders are required to be seen to be, and to be, politically impartial. Those criteria are set out in the Executive note that accompanied the draft order on laying and remain unchanged from those that were used in 1999.

The purpose of the order is to update the 1999 order by applying the same disqualification criteria to new offices that have been vested since 1999 and by removing offices that have been abolished. We have also taken the opportunity of updating the Scottish order to include corresponding office holders in England, Wales and Northern Ireland.

The draft Scottish Parliament (Disqualification) Order 2003 is essentially in the nature of good housekeeping. I hope that the Parliament will join me in approving the order with a view to having it in force in time for the Scottish parliamentary elections on 1 May this year.

I move,

That the Parliament agrees that the draft Scottish Parliament (Disqualification) Order 2003 be approved.

09:35

**Fiona Hyslop (Lothians) (SNP):** I do not think that anyone in the chamber will be surprised to learn that the Scottish National Party considers that questions relating to who is entitled to stand for election and to be elected to the Scottish Parliament should be decided here rather than in London. Scotland's Parliament is the most appropriate place to decide on the issues that matter to Scotland, which include who is entitled to be a member of the Scottish Parliament.

It is interesting and welcome that only the Scottish Parliament can consider and approve the statutory instrument, although it is clear that the issue is one that will be considered in the Scottish Parliament alone when we take control. We should take control of housekeeping measures at least.

No doubt other members will come to agree with me on that in time. We want the Parliament to take control of a range of issues, such as the economy, the number of MSPs, who we welcome as refugees, how we tackle poverty and how our nation is represented abroad. Even if members do not agree with me on those matters, it would be helpful if our Parliament could make its own decisions on certain housekeeping matters.

We should consider how the Scottish Parliament is being asked to deal with the statutory instrument and the tortuous route by which the instrument came to us. The subject matter of the instrument is reserved, as the minister said. Despite the fact that the instrument is about who is entitled to sit as a member of the Scottish Parliament, the order was written by Helen Liddell, the Secretary of State for Scotland.

The order is subject to type D procedure under schedule 7 to the Scotland Act 1998 and can be considered only by members of the Scottish Parliament. That means that the minister who is responsible for the secondary legislation is not answerable to the Scottish Parliament and cannot be called to account for the content of the instrument. In addition, those to whom Helen Liddell is answerable—elected members in London—cannot call her to account for the instrument because it can be considered only by MSPs. I am sure, as I look at the faces of some members, that they acknowledge that the scenario is rather bizarre.

It is interesting that some lone voices in the Scottish Parliament want us to consider the unicameral nature of this legislature. However, what we have before us amounts to a bicameral, if not tricameral, approach to legislation and I am not sure that that represents proper scrutiny of the instrument. We cannot amend this piece of legislation; we can only accept or reject it. It was written by a minister who is answerable to another Parliament, which will not be scrutinising the order. Where else in the world would there be such a ludicrous arrangement? What other country would allow legislation about its Parliament and who may be represented in it to be made in such a manner?

Instead of being able to scrutinise the legislation about who can take a seat in the Scottish Parliament, we have only a nuclear option. The order defines specific offices that are compatible or incompatible with membership of Parliament and we can either accept it as a whole or reject it. What we cannot do, as the minister said, is amend it. That is no way in which to legislate to protect the democratic process in Scotland and we should consider that in the future.

I will now consider the subject matter of the instrument. The claim of right in 1689 sought to

separate the legislature from the Crown and disbarred from the legislature those holding an office of profit that was in the gift of the Crown. In that vein, most of the quangos that we—certainly the public, anyway—pay for day and daily will have their members disqualified from becoming members of the Scottish Parliament. However, there are several discrepancies and there seems to be a tendency to have over-zealous restrictions at a time when everyone is calling for a wider pool of people from which we can select prospective MSPs. For example, would our world collapse if the chairman of the Women's Royal Voluntary Service were to stand as an MSP? Under the order, that individual would be restricted.

If one is a member of the Advisory Committee on Dangerous Pathogens, one must wonder why one can stand as an MSP whereas a member of the Advisory Committee on Dangerous Substances cannot. What can Helen Liddell have meant by omitting the Advisory Committee on Historic Wreck Sites? I am not sure whether there is any connection between the post of Secretary of State for Scotland and historic wrecks, but is there anything that we should know about?

More important are the discrepancies in relation to public services. It is interesting that a member of the Scottish Prison Service board, with responsibilities for the running of Saughton prison, among others, will be disqualified from standing as an MSP whereas the director of the company that runs the private finance initiative jail in Kilmarnock can become an MSP. Public sector workers and civil servants are excluded from the Scottish Parliament, but fat-cat privateers who have their rates paid for them while they strip money from our public services are being allowed to stand as MSPs. On the railways, members of the Strategic Rail Authority and members of the rail passengers committee are disqualified from being MSPs, but the directors of franchises can stand as MSPs. I am not saying that any of those people should be able to stand, given their state involvement, but the discrepancies in relation to the validity of the underlying principles make it quite clear that the process is starting to unravel.

Today, the Scottish Parliament has little choice but to approve the statutory instrument. However, in future, all such issues should come back to Scotland, where sensible decisions can be made in the interests of Scottish democracy. I suggest that we examine the criteria by which decisions are made about who can and cannot stand for the Scottish Parliament. The criteria must be sound and consistent and should be based on inclusiveness and common sense rather than on exclusion and historic anomalies.

We are prepared to support the order on the basis that we must do so. We need the order to be

passed so that we can progress to the elections on 1 May. However, I hope that the minister agrees that we should examine the process by which people are included on the list and the principles on which our democracy rests.

09:41

**Johann Lamont (Glasgow Pollok) (Lab):** I thought that we were discussing a non-controversial matter this morning so I was amazed to find myself on the point of intervening on Fiona Hyslop.

I welcome the opportunity to speak on behalf of the Labour party in this debate on the draft Scottish Parliament (Disqualification) Order 2003. I note that the SNP is so enthused about constitutional issues that Fiona Hyslop has been left to be enthusiastic almost on her own. Her attempt to make a connection between a technical order and the broader arguments around independence was, perhaps, a jump too far for most of us.

Members will appreciate that I have had to fight hard to secure the privilege of speaking on this issue on behalf of the Labour party and I am honoured that I have been allowed to do so. *[Laughter.]* We all realise that, even though not all debates in the chamber are glamorous and attract attention, they are all important and have to be taken seriously. There are some things that just simply have to be done.

At the heart of the order is an important issue that relates to our wish to strive for the highest possible standards in public life and to ensure that MSPs do not have any conflicts of interest. I accept that technicalities relating to that issue must be worked through and I believe that any contradictions that arise can be worked out in this Parliament or Westminster. It is important that MSPs can focus on the various elements of their responsibilities. It is particularly important that they have the time to work on behalf of their constituents, who need a voice in the systems, institutions and organisations that are often insufficiently responsive to people's concerns. The Labour party is fully committed to achieving those standards and is happy to support the order, which updates and clarifies the situation.

The order deals with technical issues but, obviously, the principles of democratic accountability, probity and commitment to providing the best possible service to our constituents go far beyond anything that an order can deliver and we need constantly to reflect on how we operate. The Labour party is committed to being part of that important process, as are all members of the Parliament. I do not believe that there is dispute in the chamber about those

principles. Occasionally, during policy debates, it is tempting to impugn the motives of those against whom we are arguing even though they simply disagree with us. We have to be cautious about the language that we use when we debate with one another. If we imply that members of the Parliament are operating deceitfully, the Parliament will be damaged.

The Labour party supports the order and I hope that the rest of the Parliament will do so as well.

09:44

**Lord James Douglas-Hamilton (Lothians) (Con):** I commend the order to the Parliament. The order is more than a good housekeeping measure; it represents good administration. Will the minister tell us how many years will elapse before the next such order is likely to be introduced?

We are all aware that, in the old days, the three groups of people who were automatically disqualified from participating in the democratic process were criminals, lunatics and peers. However, with the exception of the first two categories, even that has been amended in the light of changing circumstances by the Scotland Act 1998.

The Conservatives welcome the order.

**The Deputy Presiding Officer:** Perhaps Lord James should have declared an interest.

09:44

**Donald Gorrie (Central Scotland) (LD):** Fiona Hyslop made an important point when she said that we do not want to discourage well-informed people from entering public life. Issues of political neutrality and the need to involve people in the Parliament should be considered in a more leisurely fashion in due course, but can the minister assure us that the people listed in the order will still be allowed to stand for the Parliament and will have to give up their posts only when they are elected? We should not discourage someone who knows about pensions or the Child Support Agency from standing for the Scottish Parliament, as it would be useful to have them here.

09:45

**Paul Martin (Glasgow Springburn) (Lab):** I welcome this piece of housekeeping and the technical aspects of the statutory instrument. Housekeeping is important to the Parliament, although, having said that, I must say that I am not an expert in other forms of housekeeping.

The principle that is raised by the debate is that clarity on such issues is important. We are setting

an example, especially to quangos, which should consider the clarity that the statutory instrument provides.

09:46

**Euan Robson:** It is important to reiterate the fact that the order seeks only to update the list of office holders who should be disqualified from becoming members of the Scottish Parliament. I take Lord James Douglas-Hamilton's point that the order is about slightly more than good housekeeping and I welcome the fact that peers can stand for the Scottish Parliament. Indeed, I think that the contribution that is made by the three or four peers in the Scottish Parliament is valuable.

I cannot possibly comment on Fiona Hyslop's remark about historic wrecks, although the observation was interesting. I also cannot comment in detail on the issue that she raised in relation to the chair of the WRVS, but I will examine the matter and write to her in due course.

Fiona Hyslop also made substantive points about the criteria by which people are included on the list. However, we are not in a position to change those within the context of today's debate. One might or might not agree with what she said on the matter, but today's debate relates only to the updating of the order.

Lord James Douglas-Hamilton asked when there would be a further update. This is the second time that such an order has been made and I imagine that a similar revision will have to be made during the next parliamentary session.

The order includes not only people who hold offices in Scotland, but those who hold equivalent offices in England, Wales and Northern Ireland. That is a substantial difference from the 1999 order.

In response to Donald Gorrie's question, I can answer from my own experience. In order to stand for the Scottish Parliament, I resigned my public office before the close of nominations. I was not discouraged from standing for the Scottish Parliament, but I was not able to be employed by the organisation for which I worked, which was covered by the disqualification rules, when I submitted my nomination papers. I imagine that that is still the position in relation to office holders. The situation might need to be reviewed but, again, as this debate is merely about updating the order, I do not think that we can make any changes today that would answer Donald Gorrie's interesting point, which was that the office holder should remain in post until the day of election. I will follow the matter up and write to Donald Gorrie in due course.

I do not wish to go on for long. Scottish Executive officials had considerable involvement in looking through the list of people, department by department, whom the order might cover. It is not fair to say that the order came solely out of the Scotland Office. There was considerable Scottish Executive involvement in preparing the list.

I need add nothing further, other than that I welcome the support from all parties. I thank members for their interest in the order.



## Council of the Law Society of Scotland Bill: Stage 1

**The Deputy Presiding Officer (Mr Murray Tosh):** Our next item of business, to which we come early, is a debate on motion S1M-3743, in the name of David McLetchie, on the general principles of the Council of the Law Society of Scotland Bill.

09:51

**David McLetchie (Lothians) (Con):** I will open the stage 1 debate on the Council of the Law Society of Scotland Bill by making two preliminary points. First, I declare a personal interest as a solicitor, and consequently as a member of the Law Society of Scotland, and draw members' attention to my entry in the Parliament's register of interests. Secondly, I record that, although I am the principal sponsor of that member's bill, it was co-sponsored by Pauline McNeill, Roseanna Cunningham and Donald Gorrie to signify the degree of cross-party support that the initial proposal enjoyed. I am grateful to them for their support and to the other members who assented to the proposal.

In its stage 1 inquiry, the Justice 1 Committee has rigorously examined the bill's principles and provisions. In so doing, it took evidence from the Scottish Consumer Council, the Scottish legal services ombudsman, the Minister for Justice on behalf of the Scottish Executive and, of course, the Law Society of Scotland itself. I record my thanks to the committee members and the committee staff for their diligence and efficacy in producing the stage 1 report within a commendably short time scale. I welcome the committee's support for the bill's general principles. I also acknowledge and welcome the Scottish Executive's support for the bill, as intimated to the committee by the Minister for Justice.

The Law Society of Scotland is a statutory body corporate governed by the Solicitors (Scotland) Act 1980. A number of statutory functions are therefore conferred on the council of the Law Society, including determining and dealing with complaints against the profession. That function has been the major focus of interest in the committee's consideration of the bill and in its wider inquiry into the regulation of the legal profession. The report on the inquiry into the regulation of the legal profession was published on 27 November and, not surprisingly, the recommendations that the committee made in its stage 1 report on the bill reflect recommendations in the inquiry report.

The genesis of the bill is that, in 1999, questions arose as to whether the council of the Law Society had power under the 1980 act to delegate or arrange for the discharge of its statutory functions by some other person or body. No express provision in the 1980 act enables the council to delegate functions even to its own committees or sub-committees or to a member of the staff of the Law Society.

In response to that, having taken counsel's opinion, the council decided that until the situation could be rectified by amending legislation, the safer course would be to make arrangements for functions to be discharged by the council. However, the burden of doing so is adversely affecting the council's ability to regulate the profession effectively. In particular, it is a source of delay in dealing with complaints about the conduct of and services rendered by solicitors in Scotland.

**Tavish Scott (Shetland) (LD):** Does Mr McLetchie share my concern about the profession regulating itself per se and in principle? Given his declaration of interests, he probably will not share that concern. There have been a number of cases in which the Law Society has not covered itself in glory in dealing with complaints from individual constituents of mine. What will the bill do to improve matters and address the concerns that exist about the principle and practice of the Law Society's handling of complaints?

**David McLetchie:** The term "self-regulation" is something of a misnomer. It is more appropriate to say that there is a measure of co-regulation—indeed, a substantial measure of external regulation—where the Law Society is concerned. For example, the Law Society is ultimately accountable to the Parliament. It is also responsible to the courts. Indeed, many of its rule-making powers are subject to court approval. In respect of professional misconduct, solicitors are subject to the Scottish Solicitors Discipline Tribunal, which is a separately constituted statutory body. We also have the legal services ombudsman and, of course, the general civil and criminal law of the land, which deals with cases in which there has been criminal conduct on the part of solicitors or negligent conduct founding the basis of an action. It is therefore not appropriate to say that the matter is purely one of self-regulation.

I cannot deal with the specifics of the concerns that Tavish Scott's constituents have raised with him. I cannot comment on specific cases, nor would it be appropriate for me to do so. However, I suggest that the bill will improve matters. In conjunction with the Law Society's implementation scheme, it will ensure equal representation of lay and professional members on the Law Society's complaints committees, which will make the system more transparent and increase public

confidence. It will also ensure that complaints are delegated to committees with such a balance of representation, whereas the present requirement is that all complaints be referred to the council. That should speed up the process of dealing with complaints, which is one of the major sources of concern.

There are broader aspects to the situation. The committee highlighted those in its stage 1 report and the report on the inquiry into the regulation of the legal profession. A number of other recommendations were made in that context. The bill does not address those wider issues, partly because we did not have the inquiry report before us when the bill was first drafted and introduced to Parliament. I am sure that that is a subject to which the Scottish Executive, the committee and perhaps Parliament would like to return at some point in future.

I will summarise the bill's purpose, which is threefold: to enable the council to delegate statutory functions to a committee or sub-committee or some other person, albeit subject to certain exceptions; to provide for the appointment of sub-committees in the scheme for the constitution of the council; and to provide for the appointment of lay members to a committee or a sub-committee of the council and, as appropriate, for such lay members to form a majority in the committee or sub-committee to which they have been appointed.

The bill is an empowering rather than a prescriptive measure. Accordingly, the committee properly focused attention on the implementation plan that the Law Society is to draw up in exercise of the new statutory powers of delegation and appointment that the bill, if enacted, will confer on it.

It might be helpful for me to summarise briefly the bill's empowering provisions, which command widespread approval, and then consider the committee's recommendations in light of the decisions that the council of the Law Society has subsequently taken on its implementation plan.

Section 1 of the bill inserts a new section 3A into the 1980 act. That proposed new section makes provision for the discharge of the functions of the council. Proposed new section 3A(1) enables the council to delegate any of its functions to any committee or sub-committee of the council or to an individual. However, certain functions cannot be delegated. Those are called "excepted functions" and are defined in proposed new subsection (10). Those are the legislative functions of the council under the 1980 act, which consist of the council's power to make rules or regulations under that act and to prepare a constitution.

Proposed new sections 3A(3) and 3A(4) deal with powers of sub-delegation to sub-committees

and individuals, the approvals required to exercise such powers and the restrictions or conditions that may be imposed on the delegate committee or individual. Under proposed new subsection (5), certain functions cannot be delegated to an individual. The functions concerned are to investigate and determine complaints that a solicitor has been guilty of professional misconduct or has provided inadequate professional services.

However, it is envisaged that a case manager should ascertain whether correspondence received by the Law Society meets the criteria for a conduct complaint. An amendment clarifying that will be lodged at stage 2 if Parliament approves the general principles. That amendment will result in the case manager determining such questions as whether the information is provided by a person with a relevant interest, and whether the information amounts to a complaint that a solicitor has been guilty of professional misconduct or has provided inadequate professional services. If it is not considered to be a complaint, the correspondent will be so advised by the society's case manager, but they will also be advised that if they are dissatisfied with the decision, they may refer it to the Scottish legal services ombudsman.

Under the 1980 act, some functions require to be carried out by the council in its own right, while others are to be dealt with by the society, but are, in practice, exercisable by the council. Thus, proposed subsections (7) and (8) provide that the powers of delegation apply to functions of both types.

Proposed subsection (9) makes it clear that delegation of a function by the council does not affect the responsibility or liability of the council, does not prevent the council from exercising the function that has been delegated, and may be revoked at any time.

The effect of new subsection (11) is to preserve whatever arguments there may have been for saying that the council may already have powers to delegate its functions.

Section 2 seeks to amend schedule 1 to the 1980 act to the following effect: to provide for the appointment of sub-committees in the scheme for the constitution of the council; and to allow the scheme to provide for the appointment of lay persons as members of a committee or sub-committee, and to allow such lay persons to form a majority on the committee or sub-committee to which they have been appointed. The provision is necessary because the council is required by the 1980 act to prepare a scheme providing for various matters, including the constitution, election and proceedings of the council, as well as the appointment and constitution of committees.

The existing scheme for the constitution of the council will require to be amended to remove finally any doubt about the power of the council to provide for the appointment of sub-committees, and to enable the scheme to make provision for the appointment of lay members to a committee or sub-committee. It should be noted, however, that lay members—who are not solicitors—feature as members of the society's committees at the moment but, to avoid any element of doubt, it is thought appropriate to provide a statutory basis. It also allows non-solicitors to form a majority of the members of a committee or sub-committee.

Section 3 is the short title and commencement provision of the bill. It is proposed that if the bill is enacted, it should come into effect one month after royal assent is received. That period will enable the council to prepare final arrangements for the delegation of functions that will come into force when the act is in force.

I return to the report on the bill by the Justice 1 Committee. The report and its recommendations were considered by the council of the Law Society at its meeting on 20 December, which I attended as an observer. The following conclusions were reached by the council in its deliberations. First, paragraph 18 of the stage 1 report, in line with the recommendation in paragraph 23 of the Justice 1 Committee's report on the regulation of the legal profession, seeks a commitment that lay representation on complaints committees will be at least 50 per cent. At the 20 December meeting, the council agreed to 50 per cent lay representation on such committees. That will be provided for in the implementation scheme.

Secondly, at paragraph 19 of the stage 1 report, the Justice 1 Committee recommended that the society should consider paying an honorarium to lay members of its committees. I confirm that that is being actively considered by the council.

Thirdly, at paragraph 25 of the stage 1 report, in line with the recommendation in paragraph 21 of its regulation of the legal profession report, the Justice 1 Committee recommended that the power to determine the outcome of all complaints should be delegated to committees of the society. It was not considered necessary for that to appear in the bill, but it should be part of the society's implementation plan.

**Christine Grahame (South of Scotland) (SNP):** When will the implementation plan be published?

**David McLetchie:** I think that it is intended that the draft should be available to the Justice 1 Committee within the next couple of months, before the conclusion of the parliamentary proceedings, but I will get an update on that and give Christine Grahame a definitive answer in my winding-up speech.

In relation to the recommendation in paragraph 25 of the stage 1 report, it would be appropriate to point out that the outcome of professional misconduct cases is by law decided by the Scottish Solicitors Discipline Tribunal, and not by the council of the society or any committee of the society. Accordingly, the council of the society interpreted that recommendation to mean that the decision whether to refer a complaint of professional misconduct to one of the society's fiscals, with a view to prosecution before the Scottish Solicitors Discipline Tribunal, should be delegated to a complaints committee and not be taken by the council. On that basis, the council accepted the recommendation in the stage 1 report. Thus, tribunal cases aside, the council has agreed that in its implementation plan the final determination of complaints of professional misconduct and inadequate professional service will be delegated to its complaints committees.

Fourthly, at paragraph 30 of its stage 1 report, the Justice 1 Committee sought an assurance from the society that adequate safeguards will be in place to ensure that complaints are properly considered in the first instance. The council of the society has agreed to endeavour in its implementation plan to ensure that more than one person will consider complaints where there is a difficulty over jurisdiction, while being mindful of the need to avoid undue delay in dealing with such issues. It should be noted, as I indicated earlier, that a refusal to proceed can be referred to the Scottish legal services ombudsman, and that complainers are to be advised of that right of referral.

Finally, in paragraph 33 of its stage 1 report, the Justice 1 Committee indicated its support for an oversight committee to co-ordinate an approach to dealing with complaints. It also sought clarification from the society on how it proposes to provide for such oversight, and on whether it intends to create a committee to fulfil that role.

The society is of the view that it already has an oversight committee that performs that function, in the form of its client care committee, which has the following remit: to consider and promote initiatives to improve client care standards within the profession; to give guidance and directions to committees handling complaints in relation to procedures to ensure transparency, consistency and balance; to give direction and guidance to the client relations office in relation to the determination of procedures for handling complaints; and to consider and deal with points of policy and principle arising from specific cases, and to give guidance as appropriate.

In adopting the recommendations in the Justice 1 Committee report on the bill, the Law Society is signifying that it is open to change. The limited

scope of the bill does not enable it to address all the recommendations made by the Justice 1 Committee in its wider report on the regulation of the legal profession nor, in my opinion, would it be appropriate for Parliament to legislate on those recommendations until the policy and financial implications have been fully considered by the Scottish Executive and other interested parties. However, I firmly believe that the bill, coupled with the commitments that have been made by the society relative to its implementation plan, is a significant step forward that will improve the efficiency of the system for dealing with client complaints, be more transparent and increase public confidence in the system.

The Justice 1 Committee recommends that the general principles of the bill be agreed to, and I commend the bill to members.

I move,

That the Parliament agrees to the general principles of the Council of the Law Society of Scotland Bill.

10:09

**Roseanna Cunningham (Perth) (SNP):** I say at the outset that Scotland has one of the best justice systems in the world—that extends to the legal profession—but that does not mean that any of it is perfect, hence this bill. As with any measure that refers to legal technicalities, I know that there will be a temptation for those members who are not lawyers or members of the justice committees to allow their eyes to glaze over and simply leave it to those in the know. I advise the chamber that sometimes even lawyers' eyes glaze over. We are not immune from that reaction. I urge members not to let their eyes glaze over today, because the bill is one of those rarely sighted beasts—a truly cross-party bill. David McLetchie proposed it, but it is no accident that Donald Gorrie, Pauline McNeill and I support it.

Before the bill was introduced, much work was done to ensure that there would be cross-party support for it and that bodies such as the Scottish Consumer Council and the Scottish legal services ombudsman would welcome the bill in the main. Much of the credit for that work goes to Michael Clancy, who is a director of the Law Society, and to his colleagues. He is well known to all of us and I applaud him for his work on the bill.

The bill's genesis was in three proposals by the council of the Law Society of Scotland to amend the council's powers, which it requires legislative action to do. The bill will promote awareness, improve efficiency and formalise non-lawyers' involvement in the council's decision-making process. If the wider public think about the matter at all, they want non-lawyers to be involved in the processes.

Through the bill, the Law Society seeks to be open about the regulation process. The Law Society views the bill as part of that process. The bill will allow the council's functions to be delegated to committees, sub-committees or individuals and will provide for the appointment of sub-committees. It will provide for the appointment of lay persons to committees or sub-committees of the council and for such lay persons to form a majority on the committee or sub-committee to which they have been appointed. That is important, because it means that committees and sub-committees of the council might have a majority of lay members. Non-lawyers might be surprised to hear that, in general, lawyers want the regulation of their profession to be considered as fair and as open as possible. The bill is one small way to achieve that better.

I emphasise that, as David McLetchie said, the Law Society is legally bound in its present operations. Perhaps that is not widely known. It is assumed out there that the Law Society operates on the basis of rules that it made up itself. In fact, the Law Society does not operate in that way. Much of what it does is dictated by statute and it cannot move outside those statutory boundaries.

Because the council is barred by law from delegating various functions, it gives the impression of being a closed-shop, star-chamber kind of operation and the council as a whole must decide on almost every quasi-judicial function that it has. That slows the process considerably and makes it unwieldy. That matter needs to be addressed. If we allow the council to delegate its functions, it will be able to devolve its decision-making power to committees, which will speed up the process and make it more consumer friendly. That is what the bill is all about.

With the aim of making the council's processes more consumer friendly, one of the bill's most important aspects is that it will enable the Law Society to involve non-lawyers more widely in its decision making in a more formalised way than is currently permitted. The society has lay members on some committees. Even at present, it is not the case that no lay members are involved. With the bill, the society wants to expand its ability to appoint more lay members and to allow lay members to form majorities on some committees.

Each of the society's five client relations committees has 10 members, four of whom are lay members. Non-lawyers are also members of the society's mental health and disability, tax law, intellectual property, law reform and admissions committees and of its pensions law working party. The society greatly values non-lawyers' contributions to the decision-making process. If the bill is passed, it will provide a solid basis in law for the further deployment of non-lawyers in the

society's committees. Crucially, it will also allow lay persons to form a majority on any Law Society committee to which they are appointed.

It is probably the Law Society's consideration of complaints that causes most people concern about the way in which the society discharges its business—that has been mentioned. The legal services ombudsman has argued strongly for the majority of members of complaints committees to be lay people and recommends 75 per cent as the ideal figure for lay involvement. The Scottish Conveyancing and Executry Services Board has 75 per cent lay representation in its complaints procedures, and as the board is soon to be abolished, with its functions transferred to the Law Society, it would be incongruous and unacceptable if the practitioners who are registered with the board were subject to a different regime simply because of an administrative change, as the board has said.

The Scottish Consumer Council was clear in its evidence to the Justice 1 Committee that the council should not consider conduct complaints and it shared the legal services ombudsman's view that they should be a task for a specialist committee or sub-committee. The Scottish Consumer Council supported the bill, because it will mean that complaints are dealt with more quickly. The ombudsman's view in supporting the bill's general aims was that, as things stand, the council could not manage its amount of work without the power to delegate. That alone should be enough to convince anyone of the bill's necessity.

**Helen Eadie (Dunfermline East) (Lab):** I am one of the members who is not a lawyer and who has had many complaints about the Law Society, so I have not glazed over—I have taken a keen interest in the bill. The papers that I read the other day on the issue said that the legal services ombudsman had continuing concerns. Will Roseanna Cunningham expand on them? I got the impression that he was not satisfied that his views were being taken on board.

**Roseanna Cunningham:** The legal services ombudsman has concerns about the way in which the Law Society operates. David McLetchie explained that other discussions are being held. The bill was produced before the Justice 1 Committee had finalised its report on the regulation of the legal profession, so it might not be fair to say that the bill fails to deal with some of the criticisms. The legal services ombudsman—who is a she—has made some fair points, which I am sure that the Law Society is examining carefully.

The bill is not the end of the process. In effect, it is the start of a process. We should welcome that, but not imagine that we can change everything

overnight so that everybody is satisfied. All members are approached by people who have concerns and complaints about solicitors or how the Law Society operates. Some of those complaints might be justified and some might not be. It is often difficult for us to ascertain where the initial fault might have lain, particularly with situations that might have continued for more than 10 years. A bigger issue needs to be considered carefully. I am sure that the Law Society will do that.

The bill is a useful and welcome small measure. It is not the be-all and end-all of changes. It will permit the Law Society to function more effectively, more speedily and more openly. I think that we all welcome that, however small the changes might seem. It is almost inconceivable that we could have introduced the bill at Westminster, because it would never have been considered a legislative priority. Perhaps it is not considered a legislative priority even here, but because it has widespread support, we can get it through our parliamentary process. It would not have reached even the starting blocks at Westminster. We must remember our ability to undertake smaller but nevertheless important measures speedily.

I commend the bill to Parliament. I hope that its initial cross-party support and the consensus in the debate will result in overwhelming support for the bill at decision time.

10:19

**Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab):** I refer to my entry in the register of interests anent my membership of the Faculty of Advocates. I intimate that my wife is a member of the Law Society of Scotland and is in full-time practice as a partner in a Glasgow law firm.

I welcome David McLetchie's for once gainful and purposeful employment in the Parliament. I commend him for attaching his support to the bill; I, too, attach my support for the bill's general principles.

Having given a kind of admission of guilt in respect of my association with the legal profession, I want also to associate myself with the views of members who find themselves dealing with correspondence from constituents who are aggrieved or upset as a result of their dealings with members of the legal profession. We are also not unused to having people coming to us with complaints about their dealings with other politicians.

We have to be aware of how difficult the relationships involved in the provision of professional services can be at times. People are often distressed because of the difficult

circumstances in which they find themselves. It is often the case that parliamentary involvement comes at the end of the process, when Parliament can appear to be the final court of appeal. That difficult relationship has been referred to as having the nature of a distressed purchase. It is therefore not surprising that people will come away from their interactions with either a solicitor or a professional body and find themselves aggrieved as a result. Anything that can be done to speed up the procedure is to be welcomed.

In the nature of many complaints is the fact that delay in and of itself becomes a feature of the complaint. The delay might be caused first by the agent who is pursuing or investigating a matter properly, or who is asserting a claim or seeking to find some sort of remedy to it. In the event that the matter proceeds, a reporter for the Law Society obtains a report on it.

One of the difficulties that was uncovered sometime around 1999 was that what might be described as a sclerosis set in around the functions of the council of the Law Society in respect of its acting on the findings of reports that were made by its committees or sub-committees. That situation is not right and the fact that the bill seeks to remedy it and remove part of that sclerosis has to be welcomed.

We are not talking merely about having tame members of the public coming along. Some of the submissions from individuals who gave written evidence to the Justice 1 Committee are extraordinarily pitched. The notion that lay members will come along and sit in on committees as patsies who will not open their mouths or take part in proceedings is misconceived. Even at present, that does not seem to be a feature of lay participation in the Law Society's proceedings. The important point is to ensure that there is openness in relation to the council's proceedings; we need to see that lay people are involved and that they have a statutory role.

I read with interest the Justice 1 Committee's 12<sup>th</sup> report. I know that that committee will revisit and review the implementation programme that the Law Society will adopt. That is very much to be welcomed. Without offering too many welcomes, I think the fact that the Law Society is ready to welcome the Justice 1 Committee's oversight of that is an important feature of how we go forward.

The context of the bill is that we have had various run-ins regarding regulation of the profession and handling of complaints. In 1980, the Royal Commission on Legal Services examined the circumstances of the Law Society's proceedings in England and Wales and those of the Law Society of Scotland. It is interesting to note that that commission's review reflected some of the issues that we have heard about today. We

need to ask what is the proper balance between the Law Society as a professional organisation and statutory regulator—it acts, in effect, as a trade union for lawyers—and its role on behalf of the interests of the public. That relationship is changing as people's expectations of their dealings with the profession change.

We revisited the subject in the early 1990s in respect of various interventions on the workings of the legal profession; the fact that we have returned to the matter is not the end of the process. There is the wider work that is being undertaken in respect of regulation and the Law Society, and those who are charged with overseeing the actions of solicitors take a continuing interest in the matters that are under discussion.

I look forward to the fuller detail of the Law Society of Scotland's implementation plan—Christine Grahame also raised that important point. I do not detect any unwillingness or slowness of pace in that connection. With those remarks, I lend my support to the general principles of the bill.

10:25

**Donald Gorrie (Central Scotland) (LD):** I am not sure whether I have to declare an interest as one of the signatories to the bill, but I do so. With other colleagues, I carry the weight of being one of the non-lawyers on the Justice 1 Committee. That is a two-way street: first, one does not understand a lot of what goes on and is confused—deliberately or otherwise—by those who do, or think that they do; and secondly, the public sees us as being on the committee to keep the lawyers in check.

One interesting aspect of the bill is that more than half of the pages in the Justice 1 Committee's report are taken up with representations from people who have had a very raw deal from lawyers. Many of those people believe that the legal profession is a huge plot, but in my view the profession is not sufficiently well organised to represent a plot. I do not think that the profession is a plot; neither is the profession collectively corrupt. There is no doubt that, as is the very nature of life, lawyers often make tragic mistakes, but we have to be protected against those lawyers who are grossly incompetent and against the few who are dishonest.

The bill is a useful step forward in improving the machinery. As other members have said, greater lay representation on committees that deal with complaints will reduce delays. It is important to stress that the bill is not a pre-emptive strike; neither will the Parliament abandon its efforts to re-examine regulation of the legal profession. Indeed, the Justice 1 Committee has set out to

report on that. I hope that the next Parliament, and those of us who are lucky enough to be elected to it, will pursue the issue.

It is clear to me that the unanimous view of the Justice 1 Committee is that more far-reaching improvements to the system must be made. That includes having a genuinely mixed method of dealing with complaints in which the final say lies with an external person, who we propose should be the legal services ombudsman. The bill is an improved form of sticking plaster on the wound; it is not the solution, which will be the medicine that will heal the wound. The bill is, however, a step forward.

I spent a morning with other colleagues listening to evidence from the council of the Law Society of Scotland. It was obvious that its members take the issue of complaints seriously. In respect of complaints, however, it is unfair that the legal firm against which a complaint is made can have spokespersons at council meetings, although that is the case with some firms only. It seems that if a firm has friends at court, it gets a better deal. That the people who make complaints do not have a spokesperson is a fault in the council system. The meeting produced one of the most bizarre arguments that I have ever heard, which was that if someone was given a pamphlet it was assumed that the person would read it. That is quite the daftest proposition that I have ever heard, although I have to say that it was defeated.

Although the council of the Law Society does its best in a conscientious fashion, it is not the way to deal with complaints. The use of committees, including some sort of regulatory committee, is the way forward. David McLetchie said that he thought the existing regulatory committee was adequate, and we can examine that issue, but there has to be some sort of consistency. One possible disadvantage of committees acting with greater powers is that one committee might take issues more seriously than another.

I repeat that the bill is not the answer to the problem. Some of the provisions in the bill can be improved, but the points that David McLetchie said had been agreed by the Law Society of Scotland represent a considerable step forward. I am happy to be one of the sponsors of the bill.

**The Deputy Presiding Officer:** We move to the open part of the debate. I call Christine Grahame to be followed by Lord James Douglas-Hamilton.

10:29

**Christine Grahame (South of Scotland) (SNP):** As every politician knows that no one reads their leaflets, Donald Gorrie's remarks about pamphlets were very apt. I declare an interest as a member of the Law Society of Scotland and

mention that I have been a non-practising solicitor since I entered the Parliament.

I should say in passing that pretty well every reasonable solicitor I know has even less time than the general public for bad and corrupt solicitors, who bring the profession into disrepute in the same way that bad and corrupt people bring disrepute to the plumbing and brickie trades, to farming and so on. None of us feels differently about that.

I speak as convener of the Justice 1 Committee and will refer both to the committee's report on the bill and to our legal profession inquiry, which should address some of the questions that Helen Eadie asked. After all, the larger issues in question centre on the disaffection of people who have been treated in a certain way by the legal profession's complaints procedure, or who have a certain perception of that procedure. I include in that the Faculty of Advocates, because I see some members who are former advocates.

The Justice 1 Committee's report on the bill does not usurp or pre-empt the committee's very full report on the legal profession. Although our inquiry concerned regulation of the legal profession, it also focused on the complaints procedure. The larger issue, which was the one that the public was understandably most concerned about, was too great for the committee to address at one step. However, committee members and I believe that our inquiry prompted the bill and that it oiled the wheels of this enabling change within what one might call the constitution of the Law Society's functions.

I should point out that the Justice 1 Committee had no hand in the bill or in the procedures that it proposes. Those who believe that there is a conspiracy in that respect might wonder why the bill was referred to the Justice 1 Committee—after all, its convener is a former solicitor. I declare that I had nothing to do with the bill. It is a member's bill, and the procedures for such bills and their allocation are matters for Parliament. The committee just did the same job with this bill as it does with any other bill that comes before it. Indeed, I sometimes think that committee members who were previously in the legal profession bend over backwards to attack our former colleagues and to ensure that we are seen to do justice.

Perhaps I defend myself too rigorously in that respect. As a result, I will abandon that line of argument to say that I am grateful to David McLetchie for picking up and addressing some of our recommendations, for example that it should be stipulated that 50 per cent of the membership of complaints committees be lay representatives and that it should be ensured that honorariums are paid to lay members, among other matters.

It is also terribly important to point out that the bill's enabling measures will speed up the complaints procedure. Perhaps Mr McLetchie will assist me, but I understand that the introduction of the procedures will knock some six to eight weeks off the time that it takes to proceed with a complaint. That must be a good thing, because many substantive complaints are directed at that matter. Some people think that the Justice 1 Committee can act as a court of final appeal in individual cases, which it cannot. However, the committee is aware—because of cases that have been raised with it—that the time that it takes to proceed with a complaint is one of the general problems that has arisen.

That said, we want certain other matters to be addressed in due course. Brian Fitzpatrick quite rightly drew, as I do, attention to the implementation plan. If the full plan cannot be submitted to the Justice 1 Committee before stage 2, the committee would at the very least wish to see the firm principles of the plan at that point and see the full plan itself before stage 3. That is essential, because the plan will deal with many important issues.

As far as lay membership of the council is concerned, I think that we should consider representatives from the Scottish Consumer Council, Citizens Advice Scotland and so on. Such people understand what is happening at grass-roots level and are articulate about matters, so they could represent at the complaints committees clients who are ordinary people. However, that will be a matter for the Law Society.

As I said, the report on our inquiry into the regulation of the legal profession deals with the complaints procedure and in fact recommends a single gateway for complaints. After all, a complaint is a complaint because ordinary people say so. People do not understand the difference between professional misconduct and inadequate professional service. As a result, those matters should be simplified. Furthermore, we want the role of the legal ombudsperson—who, as Roseanna Cunningham pointed out, is a woman—to be strengthened to ensure that they can consider the substance of complaints as well as the complaints procedure itself. He or she should also be able to nip in and out of cases if he or she feels that they are not being adequately dealt with.

However, that issue will be our legacy to the next Parliament's Justice 1 Committee, who will no doubt proceed with it. The bill is a first stage in that process and is welcomed by the committee.

10:35

**Lord James Douglas-Hamilton (Lothians) (Con):** I should mention at the outset that I am a non-practising QC.

I welcome the opportunity to speak in support of the bill, which was introduced by David McLetchie. Although the bill is largely technical, and has the aim of improving the workings of the Law Society of Scotland, it has received cross-party support and the Justice 1 Committee supported its general principles.

The bill should clear up several doubts surrounding whether the law as it stands allows the council of the Law Society of Scotland to delegate its statutory functions to committees and sub-committees. That lack of clarity led to the council suspending such delegation in 1999. Although the suspension of delegation did not wholly prevent the use of committees in advancing the council's work, it had a negative effect on the council's speed and effectiveness.

In his remarks, Donald Gorrie said that he had visited the Law Society council. I was pleased to accompany him on that occasion. The council appeared to handle affairs and complaints with efficiency, dedication, fairness and thoroughness. However, it is arguable that the council as it now exists is overburdened with too much business, so its ability to delegate will be important.

Donald Gorrie raised the issue of conflicts of interest. That was addressed by the Justice 1 Committee in its 11<sup>th</sup> report. Page 15 of that report includes the following recommendation:

"The Committee recommends that the Law Society consider the creation of firewalls, namely by establishing procedures where there is a clear separation of interests and demarcation between the interests of the complainer and the solicitor subject to the complaint."

I am glad that the Law Society of Scotland, through a letter from Mr Michael Clancy to all its members, sent a positive reply in which attention was drawn to the recommendations of the committee. In the letter, dated 7 January, Mr Clancy said:

"The Law Society is working to meet those recommendations."

That is a positive and hopeful reply.

I believe strongly that the bill will speed up the process of handling complaints, and that it will allow the involvement of lay people in that process. That will greatly increase consumer confidence in, and transparency of, the way in which complaints are handled.

On the issue of lay involvement, it was recommended that the membership of the Scottish Solicitors Discipline Tribunal should be 50 per cent lay people. That would be a considerable change.

The bill is a good bill, which will be of benefit to clients throughout Scotland by speeding up the legal process. As Christine Grahame said, we have given thorough consideration to the bill, and



it should be welcomed. Perhaps it would assist members if the minister, when he replies, will say whether he will give a response to the Justice 1 Committee report, and what the time scale for that might be.

The bill is an efficient, fair and comprehensive measure and I commend it to the Parliament.

10:38

**Mr Kenny MacAskill (Lothians) (SNP):** I declare an interest at the outset: I am a former practising solicitor. I have ceased to practise and have no financial or business interests in my former firm. Indeed, I think that my membership of the Law Society has lapsed, although I was a member for 20 years.

Most of our debate has dealt with complaints. However, as other members have said, the bill is about more than that. To some extent, it is about addressing anachronisms. Roseanna Cunningham was right to say that one of the benefits of this Parliament is that we are able to address a gap or oversight more speedily than could have been achieved were we still required to go through Westminster. The downside is that the bill will receive much more public scrutiny and will, to some extent, be more in the public glare. We can argue that we should accept that that is a much better situation.

However, some matters clearly require to be dealt with, such as the inability of the Law Society to delegate. It might be that that preclusion has come to the society's attention belatedly, but it requires to be addressed because the bill requires to deal with more than complaints.

The bill is about enabling provisions—we must wait to see whether the Law Society deals with matters in a way that the Parliament and the public regard as satisfactory. I have always believed that the position of the Law Society was to try to ensure that matters are dealt with on the basis that, if it does not address matters adequately, others will. The driver has been the knowledge that if the Law Society fails to deliver what is acceptable to the public and to parliamentarians, other measures will be brought in over and above its head, whether the society likes it or not. That is the imperative that drives the Law Society.

Lay membership is to be welcomed, as Lord James Douglas-Hamilton and others mentioned. There are arguments for and against it, but the bottom line is that justice must be done and must be seen to be done. In the circumstances, it is necessary that we accept lay membership.

On a more general note, it is perceived that lawyers belong to only one genre, but it was not simply our political affiliations that divided David

McLetchie and I before 1999; the Law Society is a broad church. The clientele who graced Mr McLetchie's offices were unlikely ever to darken the door of my offices and vice versa. Lawyers tend to associate with others and I have no doubt that practising solicitors in Mr McLetchie's offices were as likely to associate themselves with accountants as the solicitors in my offices were to associate themselves with procurators fiscal or social workers. The legal profession is deep and wide. In the latter part of my career, I was represented less by the Law Society of Scotland than I was by the Edinburgh Bar Association and, perhaps more important, the Glasgow Bar Association, which stood up for legal aid lawyers, although I remained a member of the Law Society of Scotland.

My final point was touched on by Helen Eadie. There is a perception among the public that if we make sure that we take away the complaints procedure from the Law Society and give it to an independent body, things will be much better and fairer. There is an argument in favour of that proposal, but there is an equally valid argument against it. The reason for taking that action is that the Law Society would change.

At present, if a complaint is made against a solicitor, the Law Society is duty bound to investigate it, irrespective of whether the complaint appears to be entirely spurious and nonsensical. The Law Society is required to give the complaint due consideration, to inform the lawyer, to ask the lawyer for comments and views and to process the complaint as if it were fundamentally correct. If that process were taken out of the hands of the Law Society and given to an independent tribunal, we would find that the Law Society would change.

If I were a practising solicitor against whom a complaint was made—I may return to practice at some stage, perhaps following the upcoming elections in May, depending on what happens—I would be the first to go to Douglas Mill and Michael Clancy to say, "I pay your wages, so whether the complaint has any legitimacy, you represent my interests and I want you to stand up for me." At present, the Law Society is impartial in such matters. If that were to change, the Law Society would veer more towards the position that is taken by the Medical and Dental Defence Union of Scotland. As somebody who has dealt with that union through representation of clients and constituents who have made complaints against doctors and dentists, I say that if people think trades unions are formidable, they should see the powers that are brought to bear when a complaint is lodged against a doctor or dentist: the shutters come down and it is difficult to gain access.

The nature and ethos of the Law Society would change if the complaints process were removed.

We are heading towards the correct balance—complaints should be dealt with in-house, but with the provision of including lay representatives in the majority to ensure the problem is dealt with. The grass would not be greener if we removed control of the complaints process from the Law Society and the Law Society was to change. It would still process spurious complaints, but not by dealing with every complaint and not by subjecting every matter to the laws of defamation. If that were the case, I would be saying to the likes of Douglas Mill and Michael Clancy, for example, that such a letter of complaint was potentially defamatory and that I want it dealt with as opposed to having it considered with all due scrutiny.

I am more than happy to support the bill and to see matters develop within the domain of the Law Society.

10:44

**Maureen Macmillan (Highlands and Islands) (Lab):** I agree with Kenny MacAskill that the Law Society is impartial, but that it also has to be seen to be impartial. That is a crucial point.

I have an interest to declare: my husband is a practising solicitor and a former member of the council of the Law Society of Scotland.

I welcome the member's bill because it removes any doubt that the council of the Law Society is able to delegate its statutory functions to a committee or sub-committee, to appoint sub-committees and to provide for lay persons to be members of such committees.

Those matters are more than technicalities. Douglas Mill, the chief executive of the Law Society of Scotland, said they are an essential part of the Law Society's modernisation programme to make it more accountable and streamlined. A great deal of debate in committee centred on how far we should consider the bill as a technical bill and how far it should be used for the Law Society to state explicitly how it proposes to use those delegated powers. For example, how many and what percentage of lay people should be appointed to its committees? As we have heard today, that is particularly relevant for its complaints procedures because it is on those that the public focus and it is on the reputation of the society's handling of complaints that the public base their assessment of the profession.

I was pleased to hear David McLetchie say that the Law Society has accepted the committee's 50 per cent recommendation. As Christine Grahame did, I ask the Law Society to consider whether those lay people should include representatives of bodies such as the Scottish Consumer Council.

Public scrutiny is not confined to the Law Society; the public expects independent scrutiny of

all professions and, in the matter under discussion, perception is paramount.

Douglas Mill's point about streamlining was raised in the committee's inquiry into the regulation of the legal profession. Individuals expressed concerns about the inordinate amount of time that it takes for complaints to be dealt with. The ombudsman told us that the average time it takes for a complaint to be dealt with is 90 weeks, which is nearly two years. The six or eight weeks that the Law Society believes would be saved by delegation of powers will not make much impact on those 90 weeks. I accept that the reduction is a start, but the Law Society must consider further how the complaints process can be speeded up because such delays are unacceptable in today's society where consumers rightly expect to have their complaints dealt with quickly and transparently.

The need for transparency and the need for the public to perceive that complaints are dealt with properly in the first instance will oblige the Law Society to consider how complaints are sifted initially and the definition of complaints, and to set standards against which each complaint can be assessed. Despite the helpline and the well-produced leaflets from the Law Society, there is a great deal of public confusion over what is a bona fide complaint. What exactly is professional misconduct as opposed to inadequate professional services? There is confusion in the public mind about when a solicitor can be prosecuted in the criminal courts as opposed to being sued in the civil courts. That confusion was evident in the committee's inquiry into the regulation of the legal profession when we took evidence from Scotland Against Crooked Lawyers, a group we have come to know well during the years and whose legal jokes we appreciate in its pamphlets. The initial decision about what is a complaint should be taken out of the hands of the Law Society and be given to the legal services ombudsman's office. That would reassure the public that complaints are being considered properly in the first instance before being passed on to the Law Society to be dealt with.

Concerns have been expressed recently, albeit anecdotally, that it is not always possible to find a lawyer who will sue another lawyer. That is the case in some parts of Scotland. The Law Society is aware of such issues and it is discussing how to address them. I note what David McLetchie had to say about the decisions that were taken recently in response to the Justice 1 Committee's report. I am also aware that the Law Society does not feel that those issues should be addressed in the bill; I concur with that. However, I have sympathy with what the ombudsman said when she made the point that lawyers are creatures of statute who will do only what they are required to do by law.

It is now up to the Law Society to prove that it is able to raise its eyes from the statute book and consider how it can institute the best possible procedures for customer care. That is why the committee awaits with interest the Law Society's implementation plan, which will give us an indication of how the delegated powers are to be used to increase transparency and promote consumer confidence.

I realise that such details cannot be included in the bill—much as we would wish them to be—but it is an enabling bill and I support its general principles.

10:50

**Michael Matheson (Central Scotland) (SNP):** I feel a bit unusual in this debate, because I have nothing to declare. Just about all the members who have spoken so far have had something to declare in their opening remarks. However, like most members who have contributed to the debate, I very much welcome the bill. As David McLetchie said, the bill is not controversial and, as Roseanna Cunningham said, it has cross-party support.

Like Donald Gorrie and Lord James Douglas-Hamilton, I had the pleasure of sitting in on a council meeting of the Law Society of Scotland, as well as on a complaints committee meeting. I was impressed by the way in which complaints are handled and rigorously investigated. I was particularly impressed by the role that is played by the lay members who take part in the process. There is a general view that the lay members are there, to some extent, as a token gesture. However, in my experience, the lay members were probably the most outspoken and were driving the process more than the legally qualified members of the complaints committee were. I was somewhat reassured by being able to witness that process taking place.

When I attended the council meeting, I was struck by the fact that the process is extremely bureaucratic. There seems to be paperwork galore, and cases are referred to constantly, with members having limited time to consider the papers in great detail. Like Donald Gorrie, I was concerned about the way in which the council of the Law Society is able, in effect, to overturn a recommendation of the complaints committee of the Law Society, which has often examined an issue in considerable detail and discussed for some time the decision that has been arrived at. In the course of a half-hour meeting of the council of the Law Society, a complaints committee recommendation can be overturned because someone is there to make representations on behalf of the solicitor or practice against which the complaint was made.

I welcome the fact that the Law Society has decided to accept the majority of the Justice 1 Committee's recommendations on the bill. I believe that that will enhance some of the bill's provisions. Like some of my fellow members of the Justice 1 Committee, I would welcome the opportunity to consider the implementation plan at the earliest possible stage, so that we can consider how it would work in practice.

A number of members have highlighted how the bill will probably speed up the process of handling complaints against solicitors. One of the most common complaints that I receive from constituents is about the time that it takes to deal with a complaint about a specific solicitor. Enhancing the system to shorten the time in which complaints are dealt with is something that I would welcome.

As Tavish Scott, Helen Eadie, Maureen Macmillan and Donald Gorrie have said, the bill by itself will not address the wider public concern about the way in which self-regulation of the legal profession operates, particularly when it comes to dealing with complaints. When the Justice 1 Committee started its inquiry into the regulation of the legal profession, my personal view was that I would like to end self-regulation of the legal profession. In the course of considering the evidence that we received, I was reassured that self-regulation actually has merits and should remain. That is why the committee was able to make the unanimous recommendation that self-regulation should continue, but that there should be an improvement in the role of the ombudsman. The ombudsman should be given greater powers to examine the way in which complaints are handled and, if necessary, to deal with the complaints.

There is little doubt that there will continue to be concern and a public perception that the Law Society is, to some extent, a law unto itself and a closed shop that will not investigate complaints against its members properly until it accepts further reform. As members have said, the bill is the start of the process. Given the Law Society's willingness to accept into the bill the recommendations of the Justice 1 Committee, I hope that the society will see fit to accept a number of the recommendations in the committee's report on the regulation of the legal profession. I believe that that would enhance the professional reputation of lawyers in Scotland, if that is possible. It would also be an important step in signifying that the Law Society is prepared to reform yet further to ensure that the clients whom its members serve are properly protected and that their complaints will be investigated rigorously.

I welcome the bill. Like all the members who have spoken so far, I will support its general principles.

10:55

**The Deputy Minister for Justice (Hugh Henry):** I am grateful for this opportunity to confirm to the Parliament the Executive's position on the Council of the Law Society of Scotland Bill. The Executive fully supports the principles of the bill. Its enactment will remedy a defect in the Solicitors (Scotland) Act 1980, which has meant that the council of the Law Society of Scotland has been unable to delegate its functions under that act. That constraint has disrupted the efficient discharge of the council's business in the past two years and has imposed a heavy and unnecessary burden on council members. The bill will relieve those pressures and provide the Law Society of Scotland with powers to delegate its functions. The English Law Society already enjoys such powers under the Solicitors Act 1974.

The bill will increase the speed at which the society can handle its business. In the context of complaints handling, faster processing will be of substantial benefit to complainers. The society anticipates that the average time taken to resolve complaints about inadequate professional service will be reduced by up to two months. From the perspective of the complainer, that will certainly be a significant gain. Members will be aware that the bill is supported by the Scottish Consumer Council.

We want to ensure that David McLetchie's bill, which has cross-party support, has safe and certain passage to the statute book in what remains of the current parliamentary session. It is significant that the Justice 1 Committee reported at the end of November on its inquiry into the regulation of the legal profession. There is, of course, some common ground between the subject matter of the bill and the recommendations that were made by the Justice 1 Committee in that report. The bill has the simple purpose of remedying a statutory defect and, for that reason, its scope has been narrowly defined in the long title. The Executive's view is that we should guard against the bill's being regarded as a suitable vehicle for implementing the wide-ranging agenda that was raised by the committee's report on its inquiry into regulation.

The detailed recommendations that flow from the committee's inquiry require full and careful consideration, and I share the views that were expressed by David McLetchie about the need to separate the two. It would be inappropriate to seek to take on board in the bill some or all of that agenda and doing so could jeopardise the safe passage of the bill in what remains of the current session. Lord James Douglas-Hamilton asked when the Executive would respond to the committee's report. The report is a comprehensive and thorough piece of work, which deserves

careful consideration. We intend to give our initial response within the next month to six weeks, and a more detailed reply will follow thereafter.

The Executive supports lay representation on the society's complaints committees, which ensures that consumer interest is kept to the forefront, and the bill confirms that the society's committees can include lay representation. Indeed, the bill expressly provides that lay representatives can form the majority on the committees. Lay representation on committees helps to boost public confidence in the transparency and fairness of committee processes. We were pleased by the society's ready agreement on 20 December to increase lay representation on its complaints committees from 40 per cent to 50 per cent, as recommended in the Justice 1 Committee's stage 1 report.

As members have said, it is possible to debate exactly where the optimum balance should lie. The Executive's view is that it is best to avoid a prescriptive approach to the matter if the resulting statute is to stand the test of time. We consider that the council should have flexibility in this area and that the bill should not fix a required ratio.

**Christine Grahame:** To which of the committee's reports was the minister referring when he mentioned the timetable for responding? Did he mean the Justice 1 Committee's report on the regulation of the legal profession or our report on the bill?

**Hugh Henry:** I am sorry. I meant the report on the regulation of the legal profession. That is what I understood Lord James Douglas-Hamilton to be referring to.

Over the past few years, the Law Society has responded positively to recommendations made by the Scottish legal services ombudsman on increasing lay representation. The society has progressively raised the level of lay representation from 20 per cent to 50 per cent over that period.

The bill will be enabling legislation and therefore avoids an unduly prescriptive approach. We are aware that the Justice 1 Committee has identified some detailed issues that the Law Society has been asked to address regarding an implementation scheme that will be considered at subsequent stages of the bill. Those detailed issues include whether the council of the Law Society should delegate all decision making to committees, as recommended by the Justice 1 Committee, including decisions in cases of serious professional misconduct that have previously been taken only by the council; whether an individual should be able to decide whether a complaint should be investigated by the Law Society; and how the handling of complaints by the Law Society's client relations committees should best be co-ordinated.

At later stages of the bill, it will be relevant to consider how the Law Society plans to exercise the discretion that the bill provides. However, for the purpose of this debate, I confirm that the Executive fully supports the principles underlying the bill.

11:00

**David McLetchie:** I thank all members who have contributed to the debate. The bill meets all the criteria for an ideal piece of legislation emanating from the Scottish Parliament. It is short, to the point and is desired by the body that is directly affected—in this case, the Law Society of Scotland. It is of public utility and will not spawn a plethora of subordinate legislation. Last but not least, it will not cost the taxpayer a penny.

It is a rare experience for me for one of my proposals to meet with such accord in the chamber. I suspect that it will remain a rare—if not unique—experience, but I genuinely welcome the fact that colleagues from different political parties and perspectives support the bill.

I will deal with some comments that have been made. Christine Grahame, in her role as convener of the Justice 1 Committee, asked about the implementation scheme—Michael Matheson and Hugh Henry also mentioned it. Before stage 2, it is intended that a paper setting out the principles of the implementation scheme will be provided to the Justice 1 Committee and that a draft scheme will be made available to the committee and the Parliament before stage 3. I hope that that will assist.

**Euan Robson (Roxburgh and Berwickshire) (LD):** Will there be provision in the implementation scheme for the training or induction of new lay members? Complaints should not be handled ad lib—certain skills are involved.

In that context, I note that the financial memorandum says that costs to the council will be minimal. That might be the case if there is some in-house training, but the buying-in of training provision might not have been considered in the financial memorandum. Could that matter be considered in relation to the implementation scheme?

**David McLetchie:** That is a fair question. I will ask the Law Society about the training of new members and training costs, and ask it to advise the committee before stage 2 consideration. Lay members are, of course, already on the committees and I will try to ascertain what induction and training processes they undergo before they set to work and deal with complaints.

A number of members, including Christine Grahame, made the point well that the bill does not pre-empt consideration of the Justice 1 Committee's recommendations in its wider report on regulation of the legal profession. That report will require further careful study by the Executive and other interested parties, not least the Law Society. I hope that the willingness that the Law Society has demonstrated in responding to the committee's recommendations on the bill will herald an equal responsiveness in respect of some proposals in the wider inquiry and report.

Roseanna Cunningham appropriately drew attention to the advance work on consultation on the bill's proposals and the support that that enjoyed across the spectrum, particularly from the Scottish Consumer Council in respect of consumer interests. Roseanna Cunningham, Christine Grahame and Kenny MacAskill made the wholly appropriate point that the legal profession, like other professions, is jealous of its reputation. The profession demands high standards of conduct and integrity from its members and it is as much in the interests of the profession to root out those who fall short of and do not live up to such standards as it is in the interests of members of the public.

Helen Eadie referred to the concerns that the legal services ombudsman expressed. I think that she referred to a specific concern about a desire to increase the compensation that is payable for inadequate professional services. The Justice 1 Committee's report on the regulation of the profession also refers to that matter, which would be best dealt with in a wider review.

Brian Fitzpatrick made the important point that complaints often arise from a consultation with a solicitor—he spoke of a “distressed purchase” whereby a person might well be unhappy with the outcome of a litigation or transaction. In such circumstances, many people, convinced of the justice and merits of their case, naturally look around for someone to blame when things do not turn out as they had expected or anticipated. That is only human nature and we must respond to such problems. Brian Fitzpatrick pointed out, rightly, that a complaint about the initial conduct of a case—whether it is well founded or not—is often compounded on the part of the solicitor complained of by a delay in dealing with the client's concerns. It is further compounded when it reaches the Law Society by complaints about delays in the process of dealing with complaints. Delay is a major source of complaints and a major complaint about the complaints process. In a modest way, the bill endeavours to rectify and accelerate the process.

As Brian Fitzpatrick pointed out, there has been a wider, on-going debate about the role of the Law

Society since the 1980 Royal Commission on Legal Services—Kenny MacAskill and Maureen Macmillan also drew attention to that debate. There has been a debate about self-regulation and the dual role of the Law Society. By statute, the society is required to represent the interests of the profession as well as the interests of the public in relation to that profession. There is a balance. I think that Kenny MacAskill pointed out that the perception of that balance is changing over the years. Measures must be taken to reaffirm the public interest in relation to the profession and provide for more transparent procedures to improve public confidence in how the Law Society fulfils its statutory role.

I was interested in the experiences of Donald Gorrie, Michael Matheson and Lord James Douglas-Hamilton—they spoke about attending meetings of the council of the Law Society. Michael Matheson also mentioned attending a meeting of one of the Law Society's complaints committees.

I think that Donald Gorrie and Michael Matheson said that, in respect of a decision on whether a solicitor should be prosecuted for professional misconduct, it is inappropriate that there should be a perception that a solicitor who is complained of should have a friend at court in the council of the Law Society, whereas a complainer will not have an opportunity to put his or her point of view. I hope that the fact that a decision on whether a solicitor should be prosecuted for professional misconduct will be delegated to a committee of the Law Society on which there will be equal lay and professional representation under the implementation scheme will address the concern about friends at court, which both members highlighted.

That covers most of the issues that members have raised. I welcome the Scottish Executive's support for the bill, which Hugh Henry re-emphasised.

The bill will improve the Law Society's working procedures and the service that it can render to the public in respect of regulation of the profession. The complaints process should be expedited and the bill will improve the transparency of the system and increase public confidence in it. The bill will also enable the council of the Law Society of Scotland to focus, in the time that it spends on its affairs, on wider policy issues in relation to the profession in Scotland and the legal system—of which solicitors are an important part—that we in this Parliament cherish as one of the distinct features of Scotland and for which we, as a legislative body, are responsible.

I invite members to support the bill. As I said, when the bill is taken in conjunction with the

implementation scheme, to which the Law Society of Scotland is now committed, it will represent a modest but nonetheless significant step forward.

## **Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill: Preliminary Stage**

**The Presiding Officer (Sir David Steel):** The next item of business is the debate on motion S1M-3728, in the name of Tom McCabe, on the Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill.

11:11

**Mr Tom McCabe (Hamilton South) (Lab):** As members know, this is the first private bill to be considered by the Scottish Parliament. The bill was introduced on 27 June 2002 by the promoters, Offshore Energy Resource Ltd and Solway Offshore Ltd. The promoters are, in this instance, commercial organisations, but private bills can be introduced by an individual, a company or a group of people who seek powers or benefits that either add to or conflict with the general law.

The Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill Committee was established in October 2002 and consists of five members, none of whom lives in the area that is directly affected by the bill and none of whom has any connection with the promoters of the bill. I present the report to Parliament today as convener of the committee, on behalf of the members, and not as the member in charge of the bill. As previously explained, private bills are introduced by a promoter and not by a member of Parliament. As such, the bill cannot have a member in charge.

It may be helpful to members if I take a few moments to outline the procedure that our standing orders dictate should be used to consider private bills.

After a bill has been lodged, any person who believes their interests to be affected by the bill has 60 days in which to make their objections known to the Parliament. Preliminary stage consideration consists of hearing evidence from relevant objectors and considering the general principles of the bill. The consideration stage is similar to stage 2 of a public bill, but it takes place in two parts. First, further evidence can be heard from objectors and the promoters and thereafter the committee can question both the promoter and the objectors. The promoters and the objectors can, uniquely, cross-examine one another. Secondly, the committee considers any amendments to the bill. Possibly the most fundamental difference in all this is that the proceedings for a private bill are quasi-judicial. Each person who gives evidence does so under

oath or affirmation and the proceedings could be the subject of judicial review if any person is aggrieved over their outcome or conduct. The third stage is broadly similar to that for a public bill.

The committee took evidence during November 2002—the main evidence session was held in Dumfries—and we published our preliminary report on 19 December 2002. Today's debate provides the Parliament with a welcome opportunity to consider the first preliminary report on a private bill.

The procedures were new to all members of the committee and I record my thanks to them for their work and their assistance. The same is true for our support team in the non-Executive bills unit. On behalf of the committee, I record our thanks and appreciation for the work that was done on our behalf.

We considered a large amount of detailed written material and we heard oral evidence from the promoters, from expert witnesses and from objectors during the preliminary stage. Once again, I offer our thanks for the manner in which all those people offered their thoughts and views.

If, after today's debate, the Parliament is minded to agree to the general principles, we intend to hold a further meeting in the area that is affected by the bill, with Kirkcudbright being the most likely venue.

I will now deal with the detail of our report. It is important to emphasise that the bill does not confer any authority to construct a wind farm or to generate electricity. A series of permissions are required from various authorities before that can happen.

The bill seeks to create the authority to interfere with public rights of navigation and fishing during the construction and operation of a wind farm. Without the bill, irrespective of any other permissions that are granted, there would still be a common-law right to navigate and fish in the area of the wind farm.

The bill ensures that the promoters would be required to comply with directions from the Commissioners of Northern Lighthouses with regard to safety markings, lights and buoys around the wind farm. The promoters would commit a criminal offence if they failed at any time to comply with directions from the commissioners.

A major part of the bill concerns the creation of three exclusion zones: first, exclusion during construction; secondly, exclusion from trawling and anchoring around the wind farm; and thirdly, a 50m exclusion around each individual turbine. The promoters believe there to be a danger from nets, lines and anchors and a danger of collision between vessels and individual turbines.

The memorandum that accompanies the bill explains the background to the application and the actions that were taken by the promoters to consult interested parties.

In 1996, the Department of Trade and Industry embarked on a competitive tendering process for the establishment of a number of wind energy projects. In 1998, the Crown Estates issued licences to potential developers and in 2001 the successful bidders were announced.

Two of the successful sites were adjacent to each other on the Robin rigg sandbank; each site is limited to 30 turbines. The sites have been promoted jointly and therefore offer the possibility of 60 turbines in total. The number of households that could be served with electricity by those sites is dependent on the type of turbine that is eventually selected, but the range is between 100,000 and 178,000 average households.

The promoters provided information on the local and national consultations that took place in both Scotland and England. A series of expert groups were established and stakeholders were invited to comment on the community and environmental impacts of the proposal. A series of public meetings took place, as did two public exhibitions. One of those exhibitions attracted more than 500 people, 240 of whom completed a questionnaire; 67 per cent of the responses expressed favourable comment on the proposal. The promoters indicated that those initiatives led them to expand the scope and methodology of the research that supported the environmental statement and led to substantial modification of the proposal.

Finally, the promoters said that the advice that was available to them was that there was no other way to obtain the necessary statutory permissions other than by means of a private bill in the Scottish Parliament.

As I said, if the Parliament is minded to agree to the general principles of the bill, we will move to the consideration stage. At that point, the committee will take further evidence from both the promoters and the objectors, to build on the evidence that has already been given and to give further consideration to objections. We will inquire further into several specific matters: the minimum clearance between the lowest point of any rotor blade and the level of high water; the navigational risk assessment, with particular regard to the risk of collision with leisure craft; the potential impact, if any, on the operation of global positioning systems and radar; the need for exclusion zones and any possible alternatives; the practicalities of enforcing any exclusion zones; and the significance of fishing in the affected area. We will also seek views on how to ensure proper decommissioning of the site at the end of its useful life.

The committee will consider the objections from the Royal Yachting Association and the Solway Yacht Club, as their interests are clearly affected by the proposal. Having exercised the discretion that is open to us, we also intend to hear a late objection from the Solway Shell-Fishermen's Association.

I ask, on behalf of the committee, that the Parliament agree to approve the general principles of the bill.

I move,

That the Parliament agrees to the general principles of the Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill and that the Bill should proceed as a Private Bill.

11:20

**The Deputy Minister for Environment and Rural Development (Allan Wilson):** I thank Tom McCabe for lodging the motion and for the scrupulous work that the Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill Committee has undertaken to bring us to this point, which concludes the preliminary stage. The bill is the first private bill to come before the Parliament and I am sure that the historic nature of the debate is not lost on you, Presiding Officer, or on the other members who are present. The situation reminds me of what Otto von Bismarck said about his experience of forming legislation. To paraphrase his words, he said that private bills are like sausages—it is better not to see them being made. I suspect that those were wise words, but at this stage of considering the private bill we are beyond that advice.

At this juncture, I want members to be clear that the bill is principally a matter for the Parliament and not for the Executive. It is for members to consider the committee's report and to decide whether to accept the recommendation that the bill should proceed to the next stage. The Executive takes a neutral position on the bill, although it might lodge amendments, should that prove necessary. My role is to provide members with the policy and procedural background to the bill so that they can arrive at an informed decision.

I will touch on the policy background that led to the proposal for the Robin rigg wind farm. We believe that Scotland has a key role in tackling the effects of climate change. To that end, the Executive is committed to the promotion of all renewables technologies. Last year, we introduced the Renewables Obligation (Scotland) Order 2002 (SSI 2002/163)—or ROS—which compels all electricity suppliers to account for an increasing percentage of their electricity from renewable sources and will stimulate growth in clean forms of electricity generation. ROS has provided a



tremendous incentive for development. As members are aware, applications to build new renewable electricity generating stations have flooded in to our consents team as a result of the opportunities that the policy has created.

I think that there are about 50 such applications at different stages of consideration, but of them, the Robin rigg wind farm is the first offshore wind farm to be proposed for Scottish waters. It comprises two adjacent developments, each of which comprises 30 wind turbines, and the proposed combined output will amount to around 200MW, which will make the wind farm Scotland's largest renewable development to date. The promoters will require consents under the Electricity Act 1989 and the Coast Protection Act 1949, and a licence under the Food and Environment Protection Act 1985. Those consents will permit the developer to construct and operate a power station; to undertake works that lie below the high water that might endanger or obstruct navigation; and to undertake civil engineering works that involve deposits in the sea or under the sea bed. The developers have applied for those consents, all of which will be determined by the Executive and, in the case of the Electricity Act 1989 consent, by ministers.

I stress that the proposal is subject to those consents, which are still to be determined by the Scottish ministers, and that the merits or otherwise of the wind farm are not a matter for the debate. Time scales for offshore development are largely driven by leasing arrangements that the Crown Estate puts in place. The Crown Estate has entered into leasing arrangements for a period of 22 years for the first round of wind farms. The arrangements cover everything from rent to maintenance requirements and the lease will be signed only when the statutory consents to which I referred are in place. While that process is under way, the Crown Estate has entered into an agreement for lease with the developers.

In assessing the developers' suitability for lease, the Crown Estate considered their financial standing and expertise in both offshore and wind technologies. In promoting the private bill, the developers aim to put measures in place which, as Tom McCabe said, will ensure as far as possible that the wind farm operates without interference and that it generates—if members will excuse the pun—sufficient revenue to make the project commercially viable from the developers' perspective. Our next policy step is to streamline the processes.

I will not burden members with the intricacies of the bill, but it might be useful if I outline what the bill seeks to achieve. The debate concludes the preliminary stage of the bill's parliamentary passage. Prior to the introduction of the bill in June

2002, the promoters had to comply with a rigorous set of demands. In focusing on the parliamentary procedures, I am mindful of the promoters' commitment in bringing us to this stage.

Following the introduction of the bill, a committee was established and charged with producing a report on three issues: whether the Parliament should agree to the bill's general principles, whether it should agree that the bill is appropriate to proceed as a private bill and whether objections should be heard at the consideration stage. In considering the bill's general principles, the committee had to consider the bill in the round without focusing unduly on points of detail, which, as Tom McCabe pointed out, are properly a matter for the consideration stage. The committee is content that the Parliament should agree to the general principles of the bill.

In deciding whether it is appropriate that the bill proceeds as a private bill, the committee had to satisfy itself on two points. First, that the bill conforms to the definition of a private bill and secondly that the bill's accompanying documents are adequate to allow proper scrutiny. The committee is of the view that the bill meets the definition and that the documentation will allow the said scrutiny.

The third and final role of the committee at the preliminary stage was to consider any objections lodged and to decide on the objectors' right to be heard at the subsequent consideration stage. The committee's role at that stage was not to decide on the admissibility of objections—that is settled when objections are lodged—to consider the substance of the objections or to hear the objectors' arguments against the bill. That is for the consideration stage. During the preliminary stage, the committee was limited to satisfying itself that each objection is based on a reasonable claim that the bill would adversely affect the objector's interests. The committee has carried out the preliminary consideration of objections and has rejected one objection, allowed one objection and allowed one late objection, but limited its scope.

As Tom McCabe pointed out, the bill does not confer powers to build the wind farm, nor does it allow the developer to generate electricity. Those powers will be conferred only if the Scottish ministers decide that the requirements for the consents to which I referred have been met. The question whether the bill should receive the Parliament's support is solely for the Parliament to decide.

The committee's report concludes that a statutory remedy is necessary to achieve the promoters' aims and recommends to the Parliament that the Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill

should proceed as a private bill. If the Parliament agrees to the motion, the bill will proceed to the consideration stage. If the motion is not agreed to, the bill will fall.

11:28

**Alasdair Morgan (Galloway and Upper Nithsdale) (SNP):** I suspect that we will have enough time for the debate, although I was a bit surprised that the previous debate ran on for so long. Never was it more obvious that lawyers are paid by the minute.

I welcome the Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill Committee's report, which, as the minister said, is the first private bill committee report. I congratulate the committee on its work. I particularly welcome the report because it relates to an area of my constituency, albeit rather a wet area and one that I do not normally visit in the course of canvassing or my normal activities. I also welcome the convener's intention to hold a further evidence session, probably in Kirkcudbright.

Between the wars, Galloway hosted an early example of the development of renewables in the Galloway hydro project, which still generates electricity today and will continue to do so for many years to come. That is in contrast to many of the other ways of generating electricity that we hear about. It is particularly appropriate that Galloway is the potential location for Scotland's first offshore wind farm.

A question was raised about the Scottish Parliament's competency to deal with the proposal. I am glad that the committee did not agree to that objection and I am sure that that decision was correct. Anyone who reads the appropriate paragraphs of the committee's report—paragraphs 9 to 12—will agree with the committee's logic. Although I disagree with the existence of reserved powers in the Scotland Act 1998, it is clear that a certain logic applies to the distinctions that were drawn between reserved and devolved powers. It was never intended that the detail of proposals such as that for the Robin Rigg project should be reserved to the Westminster Parliament.

Although the bill is fairly narrow, as has been explained, it is important that we get it correct. The promoters said in evidence that one of their reasons for adopting what they called a precautionary approach was because it was the first such development. I am sure that their anxiety to reassure the public on every aspect on which they require reassurance is correct.

The objections that have been accepted for hearing at the consideration stage are genuine objections in the sense that certain people would

have their rights removed at common law. The committee will have to investigate whether such loss of rights, or impediments to the exercise of rights, would be significant. I am glad that the Solway Yacht Club and the Royal Yachting Association said that they did not object in principle to the bill.

My reading is that the bulk of the substance of the objections could probably be removed by further negotiations between the promoters and the objectors. Ultimately, the objections might well be withdrawn. I hope that that will be the case, because it is clear that it would be better for such a proposal to proceed by consent, as that would avoid the need for the committee to make the final judgment.

Leisure sailing in the Solway is an important aspect of the economy and is a growing area. Given that tourism is the first or second biggest business in Dumfries and Galloway, the proposed wind farm development is an important issue.

On fishing, I am slightly surprised that the Solway Shell-Fishermen's Association put in a late objection. Anyone who reads the newspapers on the northern side of the Solway would have been in no doubt about the fact that the proposal was going ahead. Perhaps the local papers around Sillioth are not clued in to what is happening.

I understand that a large part of the objectors' fishing is done elsewhere and that it is only at certain times of the year that a significant amount of fishing is done in the general area of the proposed wind farm. It is clear that there remains some dispute about the extent of the fishing that is done within what will become the exclusion zone around the completed platform. I hope that that objection can be resolved.

The objection about the possibility of stirring up radioactive silt in the Solway was not taken forward. Although it is correct that that was not a proper objection in the narrow context of the bill, I am glad that the bill's promoters are re-examining the methodology that they employ to assess how much radioactivity exists in the Solway. It would be a bitter irony if the legacy of non-clean and non-green energy were that it stopped the development of clean and green energy. I object to the amount of radioactivity that has been put into the Solway from Windscale, but I do not believe that that will prove to be an insuperable problem.

A successful Robin Rigg project will have substantial benefits and will serve as the starting point for significantly greater development of all types of renewable energy, not just renewable energy that comes from wind farms. Potential for significant job benefits exists. Such benefits will arise not just from one project, but from Galloway

and Scotland becoming a centre for clean and green energy.

There is a downside. If we do not grasp the nettle of renewable development in a serious way, the increase in electricity generated from carbon fuel will continue to pose grave risks.

It is clear that local benefits are necessary, because we cannot expect local people to sign up to a national benefit if they believe that there will be a detrimental effect locally. If the project receives approval, I hope that the developers will consider what they can contribute to the local community. Developers elsewhere have followed that line, for example, by contributing to the local community a certain amount per megawatt generated.

Going ahead with the Robin rigg project will not mean covering every hill in Scotland and every inch of coastal water with turbines. National grid constraints and natural constraints mean that few good sites are available. However, not going ahead with the project will mean missing the bus on renewable energy. That bus will leave, one way or another. The question is whether we will be on it.

As the committee and the minister have indicated, the bill is only a small part of the process, as several other permissions must be obtained. We should examine whether, as with many other planning matters, the process of going ahead with a wind farm requires developers to jump through too many hoops. I am not saying that the Robin rigg project should go ahead automatically and I realise that, because of its location on the border, it is even more complex than other projects. Even if the project were entirely in Scotland, one private bill and three separate permissions from the Scottish ministers would be necessary. As things stand, I think that at least another two permissions from UK ministers are necessary. If I were to refer to those ministers as English ministers, I would be making the same mistake as the man from the Maritime and Coastguard Agency, who referred to the English Parliament. That is for a future occasion.

In conclusion, I will deal briefly with the decisions for which the Scottish ministers are responsible. They are wrestling with a decision on whether to hold a public inquiry, which I think relates to section 36 of the Electricity Act 1989, although I am open to correction. The bulk of the objections to the bill, which are genuinely held, are on the grounds of damage to a scenic area and the visual impact. I do not see how any public inquiry, even if it were conducted by Solomon, would be able to resolve that matter by changing individuals' perceptions. Although wind farms are usually loved or loathed, they often come to be loved after being loathed initially.

The Scottish ministers should make up their minds on the issue soon. We do not want to reach a situation in which a public inquiry is used to slide off a difficult situation, which happened with the quarry in Harris, the decisions on which were postponed year after year for almost 10 years. If the Robin rigg wind farm were to be rejected on the ground of damage to Scotland's beautiful coastline, I suspect that it would not be possible to erect a wind farm anywhere around Scotland's coastline, on the ground that all of it is beautiful. That said, I wish the bill and the project well.

11:38

**Mr Jamie McGrigor (Highlands and Islands) (Con):** As a member of the Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill Committee, I will speak only about the business with which our committee is concerned—navigation and fishery matters. I must stress that the bill will not confer authority for the building of the wind farm or for the generation of electricity. I will leave comments on those issues and on the merits or disadvantages of wind farms to my colleagues. The bill is only one of a number of applications relating to the proposed wind farm that await approval.

The committee that is dealing with the bill differs from a normal parliamentary committee in that it has a quasi-judicial status. Any witness who gives evidence has to take an oath, as proceedings could be subject to legal challenge.

Through the bill, its promoters seek to interfere with navigation and fishing in the Solway firth and to create exclusion zones around the proposed wind farm during its construction and operation. They also seek to make provision for the safety of the wind farm and of vessels in the area around it.

It has been asked why section 34 of the Coast Protection Act 1949 would not offer sufficient protection. The promoters' answer is that section 34 would not give them a legal defence against any claims that they were causing a nuisance to fishermen and mariners.

The promoters feel that exclusion zones would minimise the likelihood of accidents to sailors and fishermen and to construction workers on the site, which is clearly a major consideration. However, the Maritime and Coastguard Agency is concerned that exclusion zones would cause complex enforcement problems. Although that may be an issue, I would suggest that the protection of human life and the prevention of accidents must take precedence, especially as offshore wind farm construction in the United Kingdom is in its infancy, and as there is little experience here of the dangers and problems that may exist.

Exclusion zones in the offshore oil and gas industry provide a precedent. The promoters put

the case that an exclusion zone puts mariners on notice and creates a boundary around a hazardous or dangerous area. It will be important that measures are taken to advertise the whereabouts of any exclusion zone. The second purpose of the exclusion zone would be to give the promoters the right to seek police action in the event of deliberate interference by individuals or groups of people with the construction or operation of the wind farm.

Mr Cubbin of the Maritime and Coastguard Agency said that nobody would be able to police the exclusion zone, and that the agency would not be responsible for that. He said that those who have exclusion zones should police them themselves. The agency argues that the alternative to exclusion zones is for the area to be designated as one to be avoided. The promoters feel that, although that would meet their first wish, which is to put mariners on notice of the site, it would not deal with the other matter of preventing deliberate interference. I feel that the promoters are right about that. In layman's terms, exclusion zones would give the law some teeth.

Whether or not there is an exclusion zone, it is likely that vessels will, from time to time, be it through bad visibility, bad weather, navigation error or engine failure, find themselves in proximity to the wind turbines. It is therefore essential that there be plenty of clearance between the tips of the rotor blades and the vessels' masts. Sometimes, masts can be very high. It is unlikely that a rotor could catch the rigging of a yacht, but it would be catastrophic if that were to happen.

I was concerned by the promoter's wish to amend the bill to increase the length of the rotor blades from 100m to 104m without raising the rotors further above the water. That is being proposed because such an increase in rotor length will give the turbine a significantly higher energy yield, which is obviously what the promoters would like, but it is important that safety is not compromised as a result of that. The promoters claim that the blades could be stopped within 30 seconds, but a great deal of damage could be done in that time.

The Royal Yachting Association does not object to the bill in principle, but points out that it provides the first opportunity for a full public examination of the effects of such a development on navigation and fishing rights. Aside from the issue of danger, which I have already raised, the association had concerns over the removal of derelict machinery at the end of the wind farm's life.

The Commissioners of Northern Lighthouses are satisfied with the terms of the bill as it applies to them, provided that the establishment of the site is considered under the Coast Protection Act 1949, which will ensure a proper degree of marking buoys and lights.

There is fishing for high-quality white fish, brill, flatfish and hake in the area, and a small number of vessels fish for brown shrimp, mainly between November and April. There is concern on the part of fishermen, in particular on the part of the Cumbria Sea Fisheries Committee, that their activities might be compromised by the wind farm. We noted the concerns of local fishermen and felt that there must be further consultation between promoters and fishermen with regard to their activities. Indeed, there has been a late objection from the Solway fishermen.

Bearing all that in mind, the committee was happy with the general principles of the bill.

11:44

**Mr John Home Robertson (East Lothian)**

**(Lab):** I thought that I had experienced most aspects of the legislative process in my 23 years at Westminster, but I somehow managed to avoid the mysteries of private legislation. Private legislation procedures at Westminster are an absolute mystery, and private bills are referred to uniquely obscure committees, which are manned by commissioners acting under the authority of the Parliament. We should take some credit for the fact that the Scottish Parliament approaches private bills in a much more open and accountable way. In particular, we are giving people in Dumfries and Galloway, and indeed in Cumbria, the opportunity to make representations on the issues that the bill raises.

It has been an entirely new experience to serve on the Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill Committee and to deal with the impact of the proposed offshore wind farm on navigation and fisheries in the Solway firth. We have not yet had an opportunity to visit the shifting sandbanks of the Robin rigg. I am not sure that it would be a good place to be on a January morning, although we have thought of delegating Jamie McGrigor to go there and do some reconnaissance—he is obviously enthusiastic about the subject—and report back in due course.

The debate presents committee members with some difficulties. The criteria according to which we have been selected to serve on the Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill Committee require us to have no possible interest or opinion on the subject of the bill. That is unusual for parliamentarians. As has already been mentioned, we are working under quasi-judicial procedures, so even if I had an opinion on the merits of the bill, I would not be allowed to say so during the course of the debate.

I will comment on the procedures that we have been following. The committee's job is to ask

questions, to take evidence and, particularly important, to give members of the public the opportunity to make representations. That is what we have been doing until now. When we have gathered all the evidence, we will be able to reach conclusions based on that evidence if the bill proceeds following this debate.

We have held one interesting evidence session down in Dumfries, and I will refer to the three points that, following that meeting, strike me as important. The first point is that we thought that we might be in for an interesting constitutional row with the Maritime and Coastguard Agency. The agency stated in its written evidence that it would not enforce a marine exclusion zone established on the authority of the Scottish Parliament. Various people jumped to the conclusion that the agency was denying our authority to establish such an exclusion zone, but it emerged that it was not challenging our authority; it was pointing out that it does not enforce marine exclusion zones around offshore installations anywhere. That point has been clarified, and it is now up to the promoters to find other ways to enforce exclusion zones if that proves necessary.

The second point relates to the significant concerns expressed by the Solway Yacht Club. Most significantly, we discovered that important fishing interests on the south side of the Solway might not have received sufficient notice of the proposals for the wind farm. We will be able to take further evidence from Cumbrian fishermen, and I have taken the opportunity to have a word with my former Westminster colleague, Jack Cunningham MP, on the subject. The constituency that he represents includes the Whitehaven area, and I have no doubt that his constituents might be worried about possible denial of access to the area around the wind farm. That is an important matter, which ought to be explored.

The third, and detailed, point concerns the case for what has been referred to as a sunset clause. I am assured that the sun does occasionally rise and set over the Solway—although I am not sure whether it does in mid-winter. It is important that there be proper provision for the removal not only of the turbines, but of their foundations, whenever the wind farm stops operation—if indeed it is established.

There are genuine concerns over the obstruction of navigation and fishing and over final clearance for the site. On the other hand, there may be major advantages to the generation of electricity from the forces of nature in the Solway firth and elsewhere in Scotland. I have no strong feelings about whether or not wind power is a good thing. I do not believe that it could offer a solution for all our energy needs, but it has considerable potential as a useful part of our wider energy strategy. It is

right that the Scottish Executive and the Parliament are giving positive consideration to that option.

For all those reasons, I hope that the Parliament will agree to proceed with the bill and move it on to the next stage. If it does proceed, I look forward to hearing more evidence and to reaching conclusions in due course.

11:49

**Alex Fergusson (South of Scotland) (Con):** I draw members' attention to my very recently acquired interest—which is in the process of being registered—as the beneficiary of an option agreement with a wind farm developer in South Ayrshire.

**Alasdair Morgan:** Ah!

**Alex Fergusson:** It was very recently acquired, and I should add that the true beneficiary was the solicitor who drew up the agreement, and who has nobbled 50 per cent of the sum that I received.

I commend the committee for the way in which it approached what is a new procedure. It certainly came as a great surprise to me to see witnesses having to take an oath. Judging by the whispered comments of a potential witness who was sitting just behind me, it obviously came as quite a surprise to him as well. Perhaps it is just as well that his comments were not picked up by the staff of the official report.

Although it may be true that the bill does not confer authority for the actual building of a wind farm or for the generation of electricity, and that the bill's purpose is simply to allow the developers to interfere with the public rights of navigation and fishing for the purposes of building and maintaining a wind farm, simply to rubber-stamp the bill's passage through the Parliament would be to mask the impact and the highly controversial nature of the project. Let me take a couple of minutes to highlight some of the issues.

As Tom McCabe rightly explained, the proposal is to develop two wind farms of 30 turbines each, which would result, obviously, in 60 turbines—each potentially the height of Blackpool tower—being erected slap-bang in the middle of the Solway firth. The development would be the biggest of its type in Europe.

Arguably, the nature of the location of the development is more inshore than offshore, despite what the bill's title suggests. Robin rigg is a large sandbank in the centre of the estuary. From a developer's point of view, the location is obviously highly economically attractive, because of the comparative ease of creating the wind farm's foundations on what is essentially a submerged island. The site is also highly attractive

in other ways. Viewed from the northern, or Scottish, side, the backdrop is the Lake district national park in Cumbria. Viewed from the southern shores, the backdrop is an area of the Dumfries and Galloway coastline that has been designated as a national scenic area.

I have many arguments against the ever-increasing amount of land that is being designated for one reason or another, but surely those designations must mean something if they are to have a genuine impact. One farmer to whom I spoke, who farms on the coastline nearest to Robin rigg, was informed by the planners that he need not even think of applying for permission to develop a wind farm. He was told that, as his land was in the national scenic area, such a project would not even be considered. Therefore, it seems somewhat perverse to site 60 Blackpool towers exactly halfway between the national park and the national scenic area without the closest and most open of scrutiny.

There is also a deal of misinformation regarding the economic benefit that would accrue to the Dumfries and Galloway region. Various financial carrots are being dangled by the promoter, by way of a so-called community fund, but it is quite clear that the impact of the Robin rigg proposal on jobs and on-going economic regeneration will be minimal at best and almost certainly nil. All the work, as well as the electricity itself, will be dealt with from the southern shore at Maryport. The recipient of the substantial benefit of the proposal will be Cumbria, not Dumfries and Galloway.

Alasdair Morgan rightly drew attention to the jobs potential of renewable energy in Scotland, but that potential is not dependent on the approval of a specific proposal, as discussions with Vestas-Celtic Wind Technology Ltd and other companies have shown.

**Alasdair Morgan:** Is not the danger that, if the project were not approved, that would be seen as evidence of what would happen to future applications elsewhere? Developers would simply write off substantial parts, if not all, of Scotland as wind-farm unfriendly. The developers would simply take their projects elsewhere, with the result that other places would get the jobs and the manufacturing capability.

**Alex Fergusson:** I do not believe so. The discussions that Peter Duncan—who is the MP for Alasdair Morgan's constituency—has held with Vestas and other companies tend to suggest that that is not the case. That is why I am keen to point out that the undoubted jobs potential of renewable energy does not depend on the Robin rigg proposal.

**Robin Harper (Lothians) (Green):** I have perhaps left my intervention a bit late, but I want to

pick up the point that Alex Fergusson made about the scenic impact. I presume that many members present will have seen the photographs that the promoters have produced to show the extent to which the turbines would interfere with the sightlines from one side of the firth to the other. The interference is almost minimal. The turbines will look tiny on the horizon. That is shown in the photographs, which have been lodged with the Scottish Parliament information centre.

**Alex Fergusson:** I would be happy to forward to Robin Harper further evidence that suggests that those images have been taken from some of the most advantageous points for showing the scenic impact of the turbines. All that I will say is that there is contention on that issue at present.

In conclusion, beyond the bill, there are quite serious economic and environmental issues to be discussed if the project is to proceed. Given the fact that the local authorities on both sides of the Solway have rejected the application, I must use this opportunity to urge the Executive to call in the proposal and to subject it to the full scrutiny of a public inquiry, which Alasdair Morgan would reject but which any project of this scale and nature surely merits. Nothing less than that will satisfy the reservations that many people in Dumfries and Galloway hold about the proposal.

My declared interest and my enthusiasm for another wind farm in Galloway, at Windy Standard, which is about to double in size, shows that I am not anti-wind farm per se. However, I share the reservations of many people in Galloway. Accordingly, I will vote against the bill today, as that is one of the few methods that is available to me to display my dissatisfaction with the proposal.

11:55

**Robin Harper (Lothians) (Green):** I apologise for missing the opening speech, but I had not calculated that the debate would start so early. I had a previous engagement to meet the school pupils who are in the public gallery at the moment.

Having studied the proposal in reasonable detail, I want to expand on the question that I asked Alex Fergusson about the sightlines across the firth. Mock-ups have been produced using good panoramic photographs on which the windmills have been superimposed according to scale, so that people can see where the turbines would be and how they would interfere with the sightlines. The point that Alex Fergusson made is not a strong argument at all.

Although I am keen to see the proposal go ahead, I want to lay down a marker for the future, by reminding the Executive that the Robin rigg proposal is so large that it will use up all the

available room on the grid for transporting electricity from the Solway firth to the grid in England and Scotland. In other words—this may be some consolation to Alex Fergusson—there is no room on the grid for any further exploitation of offshore wind in the Solway firth area, unless the Government makes a substantial investment in improving the grid in the area. Those are the two main points that I wanted to make.

I should also mention that I wanted to be on the committee and to be much more closely involved in the proposal than has been possible. Obviously, because of the rules governing private bills, I was totally excluded from the possibility of taking part at an early stage. I will vote for the bill at decision time and give it as much assistance as I can in the future.

**The Deputy Presiding Officer (Mr George Reid):** We move to closing speeches. As we are a bit ahead of time, I anticipate that we will suspend this meeting of Parliament at about 12.15 or 12.20.

11:58

**David Mundell (South of Scotland) (Con):** I should make it clear that I speak in my capacity as a South of Scotland MSP, not as a Conservative party spokesman.

I commend Mr McCabe and his committee for their professionalism and for the way in which they conducted their inquiry in Dumfries. Anyone who did not know the surrounding circumstances would not have known that the meeting was the first time that the Parliament had dealt with a private bill. The way in which the meeting was handled was a great credit to the Parliament. It was positive that the committee went to Dumfries and it will be even more positive when it goes to Kirkcudbright, where it may see slightly more people who are of the same view as Mr Fergusson.

I want to compare the impact on Dumfries and Galloway of this major and controversial project with that of another energy project. Such a comparison provides a telling insight into the discussions about the impact of the creation of energy on the local economy. The Chapelcross nuclear power station at Annan employs some 500 people and puts some £18 million into the local economy. Since the station opened in 1959, it has contributed enormously to the economy of Dumfries and Galloway and has employed many people. Chapelcross has been a positive asset for Dumfries and Galloway.

The Robin rigg developers are asking Dumfries and Galloway to take all the pain of the intrusion and the environmental and other issues that have not been resolved, yet no gain to Dumfries and Galloway has been demonstrated if it takes the project on.

**Bruce Crawford (Mid Scotland and Fife) (SNP):** I ask the member to raise his horizons a little and consider the potential jobs impact on all Scotland if we were to release the potential 25,000MW that could be generated by offshore wind. We have to get away from the parochial views that are taken in Scotland. I recognise that there are real considerations in Dumfries and Galloway and that some of the issues are difficult, but somewhere along the line Scotland will have to take a lead if it is going to get that jobs bonanza. Does Mr Mundell not want us to share in that jobs bonanza?

**David Mundell:** Of course I want us to share in the jobs bonanza. I also want us to share in the jobs bonanza that further nuclear development can bring to Scotland—development that Mr Crawford regularly speaks out against. He does not have an interest in people in that industry. I will not take any lectures from Mr Crawford on commitment to jobs.

As Mr Fergusson made clear, and as Peter Duncan MP has found in his research, the future of wind farm and offshore development in Scotland is not dependent on the Robin rigg project going ahead. The project must be assessed on its merits; we will not just accept it and allow it to go ahead under any circumstances. That is a ludicrous suggestion.

Wind is an important element of energy generation, but there should be a balanced portfolio of energy generation in which nuclear power can play a part. I am quite clear that Dumfries and Galloway would benefit more from the development of a new nuclear site at Chapelcross following the closure of the existing nuclear power station than from the Robin rigg development, from which, as I have outlined, the area would receive virtually no benefit.

I hope that the UK Government will finally come off the fence in its energy review and say that it is committed to further nuclear development. Those of us who support such development will then be able to rally round those who are making proposals for new developments such as a second reactor at Chapelcross nuclear power station. We know that we will be opposed by the SNP, because its anti-nuclear stance is quite clear. That is fine and people know and understand where the SNP stands on the issue. However, we need the UK Government and the Scottish Executive to be a bit more clear about their support for nuclear energy.

**Sarah Boyack (Edinburgh Central) (Lab):** Will the member clarify for members the Conservative party in Scotland's policy on a nuclear waste repository and its current plans to deal with the nuclear waste that we already have in Scotland?

**David Mundell:** The member was once the minister responsible for the environment, so she well knows that the nuclear waste issue is important and requires to be resolved. I face up to that. However, the issue must still be considered in the context of nuclear generation of energy. Nuclear power contributes and will continue to contribute largely to Scotland's energy needs.

That is my position on the development.

**Mr Gil Paterson (Central Scotland) (SNP):** What position? I did not hear the member mention a position.

**David Mundell:** I am totally opposed to the Robin rigg development and I will vote against it to register my view. I hope that the Scottish Executive will be in favour of holding a public inquiry and hearing people's legitimate concerns.

I congratulate the promoters. They have prepared and demonstrated their material positively. However, despite taking pictures from the most advantageous spots and giving tea and coffee at the meetings in Kirkcudbright, it is a hard sell. The promoters have a great deal to do to persuade the public in Dumfries and Galloway that the measure is positive. I hope that it will be rejected.

12:05

**Bruce Crawford (Mid Scotland and Fife) (SNP):** I will pick up on some of the things that David Mundell said.

We have to face reality as far as Chapelcross is concerned. Chapelcross produces 190MW of electricity for the national grid. The proposed wind farm would produce 200MW. Chapelcross was built to produce tritium for nuclear weapons—that is its origins. I have no doubt that it has provided employment in the past—no one can deny that—but the reality is that British Energy is getting a £650 million Government handout to enable the nuclear industry to continue. Anyone who cannot see the future of nuclear energy is living in a past that should have been buried a long time ago, along with the waste.

Scotland has the potential to become Europe's green energy powerhouse. Although I am beginning to doubt the commitment of the Conservative party, members from all parties seem to accept that much of our future electricity needs will be met by using the massive potential of renewable energy. We have 25 per cent of Europe's potential for renewable energy.

I referred earlier to a report produced for the Scottish Executive by Garrad Hassan & Partners Ltd a couple of years ago. It indicated that a potential 59,000MW could be produced from renewable energy sources. Of that, 11,500MW

would come from onshore wind; the capacity of offshore wind is 25,000MW. The potential is massive.

If Scotland is to meet the Executive target of approximately 40 per cent of production coming from renewable resources by 2020, or the SNP's target of 50 per cent, large advances will be required in producing energy from offshore wind. That does not mean that this particular application should get the green light; it must be scrutinised properly, and that is why we will have a real debate later, once Tom McCabe and his committee have considered the proposal further. They have done a great job with the detailed information that has been presented and in explaining the complexity of the issue.

The legislation is very technical. I pick up on something that Alasdair Morgan said. I am concerned about the incredible complexity and many layers of legislative procedure that proposed developers are required to navigate. As I have said, I am grateful to the committee for producing such a lot of detail and for the comprehensive report that it has produced. However, as the report describes, not only are the promoters required to introduce private legislation to seek authority to interfere with the public rights of navigation and fishing, they are also required to seek consents from the Scottish ministers under a number of legal provisions. Those are section 39 of the Electricity Act 1989, section 5 of the Food and Environment Protection Act 1985 and section 34 of the Coast Protection Act 1949. Also, because aspects of the development would cut across the border, there are requirements under legislation for England and Wales.

If we are serious about releasing Scotland's renewable energy potential, it cannot be right that a promoter is required to introduce private legislation at the same time as having to apply for consents under three other pieces of legislation. Although I understand that there are sound reasons for such consents, and the details must be examined, there must be a way to sweep away some of the unnecessary bureaucracy and rationalise what appears to be a burdensome process for the promoter.

Yes, the promoters have to jump through hoops, but can we not bring the hoops together to make one basket and take a more single-door approach, rather than having such a spread of legislative requirements? I do not know whether it is in the minister's competence to address that through existing Scottish Parliament legislation, or whether something would require to be done at Westminster, but a more focused approach is certainly needed.

We have heard about the number of jobs that are supported by nuclear power. In Scotland,



1,500 jobs are supported by nuclear power, but Denmark got at least 14,000 jobs out of its wind energy potential. Another thing that we need to look forward to is the Executive introducing a green job strategy that will enable the industry, developers, local authorities, central Government and various quangos to come together in a focused and cohesive way to map out a strategy for Scotland for wind farm development. It is essential that we have a review of both offshore and onshore planning, so that development can be more proactive, rather than led by developers, and so that issues that cause conflict in communities can be resolved a lot earlier.

Local authorities should be asked to draw up advisory plans for their areas and they should be able to say clearly, after consultation with their communities, where they will allow wind farms and where they will not allow them. That would give us a process to speed up the number of applications that will come through. We should also have a process that speeds up what appears to me to be the burdensome and cumbersome process when a developer seeks consent. I hope that when the Executive sums up, as well as reflect on what has been said about the technical nature of the bill, it will consider the wider aspects. I am glad to be involved in the debate.

**The Deputy Presiding Officer:** Colin Campbell will wind up the debate on behalf of the committee.

12:11

**Colin Campbell (West of Scotland) (SNP):** I thank everybody who has taken part in the debate and who made positive contributions, albeit that members did not always agree with one another. As has been said, the debate is historic, being the first of its kind in the Scottish Parliament. As a former history teacher, I find it interesting to be a small footnote in history. Unlike Robin Harper, who volunteered to be a member of the committee, I arrived on it by courtesy of d'Hondt, which got me the position of deputy convener.

Many positive comments have been made. I was fascinated by the minister's explanation of Bismarck's view on sausages. I much prefer Bismarck's view that any good man should have 12 cigars a day and a bottle of champagne. That seems to put a more positive gloss on food than the one that the minister articulated.

Alasdair Morgan talked about the bill's competency, with which he was happy. He recognised that the precautionary principle was an important part of the bill and saw the way ahead through further negotiation. Already our experience is that those involved are interested in negotiating rather than just sitting entrenched in difficult and impossible positions. Jamie McGrigor

touched on the exclusion zones. Discovering that the artillery range at Dundrennan is not an exclusion zone but is designated only as an area to be avoided was a fascinating learning experience. I presume that, technically, if someone had a screw loose, they could sail into that area and risk being hit by depleted uranium shells, which would go right through fragile craft.

John Home Robertson referred to the legitimate concerns about fishing, navigation and clearance of the site. It is fair to say that Alex Fergusson, Robin Harper, David Mundell and Bruce Crawford got fairly political and went off the main point of the bill, which is restricted to navigation and fishing rights, but their contributions were good fun and, after all, an election is coming along shortly. Members might not have noticed that, but I had.

It is right that the issue of competency was raised, because the Maritime and Coastguard Agency also raised it. The Presiding Officer decreed that the bill was competent. Without that, we could not have gone ahead. How could we have defied him? The Maritime and Coastguard Agency also raised the issue of the bill's legislative competence, on the ground that navigation rights are reserved in head E3 of schedule 5 to the Scotland Act 1998, entitled "Marine transport". However, one of the exceptions is:

"Regulation of works which may obstruct or endanger navigation."

Conveniently, navigation is undefined in the 1998 act and the effect of the reservation is open to interpretation. The reservation is about navigation rights and freedom and how they are exercised generally, while the bill is about a local construction site and a wind farm.

At the consideration stage, we will discuss a number of points, which Tom McCabe outlined. The clearance between the lowest point of a rotating blade and the top of a boat's mast is important. A sailor lost in fog or a high wind would be genuinely concerned about that and the issue must be addressed. Navigational risk to merchant and fishing vessels was dealt with in a risk assessment exercise, but the risk to leisure craft does not appear to have been considered.

The impact of the wind farm on global positioning satellites and radar was mentioned because there is a possibility that there might be areas of shadow in which it is impossible to pick up radar information or in which GPS systems will be interfered with. During the consideration stage, we hope to go through those points and a number of others, as well as the various objections and reservations that were raised by the Royal Yachting Association, the Solway Yacht Club and the Solway Shell-Fishermen's Association.

There was a late objection from south of the Border, which we accepted on the basis that, however much the issue might have featured in newspapers at large, the requirement to submit objections by a certain date did not appear to have been advertised south of the border and also because we are of generous nature and willing to take on board anyone's objections, however late they may be—although we would probably not accept them if they were made later than today.

I thank the promoters for the high quality of the documents that they provided. Robin Harper assures us that the towers look very small from a distance on the panoramic pictures and a video has also been produced to enable us to see the blades revolving from various angles. Good material is available to anyone who wants to lay their hands on it.

I thank the witnesses who came to Dumfries to talk to the committee. The meeting was valuable. Because we were all chosen for our relative or total ignorance about matters relating to fishing and navigation, and because we are all capable of being objective and neutral on the other issues that are involved, it was useful to have the difficulties explained to us in detail by people who have an intimate knowledge of the area. I think that the exercise was one of mutual education.

I thank all the members who have taken part in today's debate and welcome the additional points that have been raised. I reiterate Tom McCabe's thanks to the committee members and to the staff who support the committee, particularly the security staff who looked after us in Dumfries—I did not think for a minute that we were in any real danger, but it was nice to have them there.

I commend the motion to the Parliament and hope that all members support it.

## Business Motion

**The Deputy Presiding Officer (Mr George Reid):** The next item is consideration of business motion S1M-3745, in the name of Patricia Ferguson, on behalf of the Parliamentary Bureau, setting out a business programme.

12:18

**The Deputy Minister for Parliamentary Business (Euan Robson):** Before moving the motion, I inform the chamber that the SNP has indicated that the topic for its business on Thursday 16 January will be the current international situation.

I move,

That the Parliament agrees—

(a) the following programme of business—

Wednesday 15 January 2003

2:30 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Stage 1 Debate on Commissioner for Children and Young People (Scotland) Bill

*followed by* Transport and the Environment Committee Debate on its 15<sup>th</sup> Report 2002 on Inquiry into the Rail Industry in Scotland

*followed by* Parliamentary Bureau Motions

5:00 pm Decision Time

*followed by* Members' Business

Thursday 16 January 2003

9:30 am Scottish National Party Business

*followed by* Business Motion

2:30 pm Question Time

3:10 pm First Minister's Question Time

3:30 pm Stage 1 Debate on Dog Fouling (Scotland) Bill

*followed by* Parliamentary Bureau Motions

5:00 pm Decision Time

*followed by* Members' Business

Wednesday 22 January 2003

2:30 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Stage 3 of Land Reform (Scotland) Bill

*followed by* Parliamentary Bureau Motions

5:00 pm Decision Time

*followed by* Members' Business

Thursday 23 January 2003

9:30 am Continuation of Stage 3 of Land Reform (Scotland) Bill

*followed by* Business Motion

2:30 pm Question Time

3:10 pm First Minister's Question Time

3:30 pm Continuation of Stage 3 of Land Reform (Scotland) Bill

*followed by* Parliamentary Bureau Motions

5:00 pm Decision Time

*followed by* Members' Business

and (b) that the Justice 2 Committee and the Transport and the Environment Committee report to the Justice 1 Committee by 17 January 2003 on the draft Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2003.

*Motion agreed to.*

12:19

*Meeting suspended until 14:30.*

14:30

*On resuming—*

## Question Time

### SCOTTISH EXECUTIVE

#### Roads (A8000 and A1)

**1. Lord James Douglas-Hamilton (Lothians) (Con):** To ask the Scottish Executive when it will be in a position to give completion dates for the upgrading of the A8000 and the dualling of the A1. (S1O-6173)

**The Minister for Enterprise, Transport and Lifelong Learning (Iain Gray):** The A8000 is a local road and the responsibility of the City of Edinburgh Council. On the A1, dualling of the Howburn to Houndwood section is due to be completed in July of this year and the completion of the Haddington to Dunbar expressway will follow in December. Thereafter, we plan to dual between Thistly Cross and Bowerhouse. Work is estimated to start in 2004.

**Lord James Douglas-Hamilton:** Does the minister accept that the upgrading of the A8000 and the dualling of the A1 would assist in improving competitiveness and employment in Edinburgh and the east of Scotland and that that work should be proceeded with as soon as is practicable?

**Iain Gray:** The excellent settlement for transport in the recent Scottish budget demonstrated that we accept that transport infrastructure is key to the competitiveness of particular parts of Scotland and to the country generally. As I pointed out, there is a timetable for the improvements to the A1. The City of Edinburgh Council's progress on the A8000 remains on track. We have received the objections to the compulsory purchase orders and they are under consideration. If a local public inquiry is required, it will take place very soon. We expect that it will still be possible for the council to achieve its target date of 2006.

**Mr John Home Robertson (East Lothian) (Lab):** The A1 seems to be the road to Damascus for Lord James Douglas-Hamilton. Is the minister aware that, when Lord James was the Scottish transport minister in 1990, he totally rejected the case for dualling the main east coast highway between Scotland and England? Indeed, he said that traffic flows up to 2008 would not justify dualling. Lord James's dramatic late conversion notwithstanding, will the minister accept the heartfelt thanks of people throughout my constituency for the fact that the dualling of the A1 in East Lothian is being completed by the Labour-led Scottish Executive?

**Iain Gray:** We are extremely pleased at the progress that has been made on the A1. The words of Lord James Douglas-Hamilton are always touched by the wisdom of ministerial office—or rather, they were at one time. The progress on the A1 will make a real difference in East Lothian and in the east of Scotland.

**Mrs Margaret Smith (Edinburgh West) (LD):** Does the minister agree that the A8000 project is still on track in relation to the timings that the council has made us aware of? The council said that the project would be completed in spring 2006. Given that it is likely that a public inquiry will be required, I ask him to ensure that he gives the go-ahead for the inquiry as soon as possible. Furthermore, does he agree that the A8000 project, which takes on board the work of the Forth Estuary Transport Authority—the newly convened Forth road bridge board, of which I was once a member—is an example of the kind of partnership around cities that is being called for today in the cities review?

**Iain Gray:** The member is right. This week, I spent some time in Kirkcaldy at the invitation of Marilyn Livingstone MSP. We talked about transport links between Fife and the booming economy of Edinburgh. It is clear that the improvement to the A8000 is on track and will make a genuine difference to those transport links.

**Mr Kenny MacAskill (Lothians) (SNP):** Does the minister accept that, rather than simply being a local road, the A8000—on which an average of 29,000 vehicles a day travel—is of fundamental importance to the economy of east and central Scotland, never mind to the success of the Superfast ferry? Is it not about time that, rather than abdicating responsibility for construction to FETA and abdicating responsibility for payment to the hard-pressed commuters and motorists who cross the Forth road bridge, he and the Executive took charge and got the road built?

**Iain Gray:** Not at all. The importance of the A8000 to the east of Scotland, to the Scottish economy and to economic regeneration more generally means that we expect everyone, including the relevant councils and the bridge authority, to pull their weight and work together in partnership to deliver the desired improvement. That is what is happening. It would be nice if the SNP could welcome that.

## **Young People (Secure Accommodation)**

**2. Cathie Craigie (Cumbernauld and Kilsyth) (Lab):** To ask the Scottish Executive what action it is taking to improve services for young people in secure accommodation. (S10-6201)

**The Minister for Education and Young People (Cathy Jamieson):** On 19 December, I announced an investment package to increase the

number and range of specialist care programmes to be run in Kerelaw, Rossie and St Mary's Kenmure secure units. The new national standards for youth justice include standards of care for young people in secure accommodation.

**Cathie Craigie:** I thank the minister for the interest that she takes in the matter. Will she outline how the new national standards for youth justice will contribute to the Executive's target of reducing the number of youth offenders by 10 per cent over the next three years to 2006?

**Cathy Jamieson:** The reason for introducing the standards in youth justice was to ensure that we met the targets. We also want to improve the time scales, such as the length of time that it takes to get persistent young offenders into the hearings system, and to ensure that young offenders receive programmes that are appropriate to them. We believe that the standards will bring about a significant improvement on the services that have been provided in the past.

**Christine Grahame (South of Scotland) (SNP):** I refer the minister to a constituency case, in which worried parents have found that their 15-year-old son, whom the children's panel placed in a local residential unit, regularly absconds and reunites with his peers, who are integral to his drink and drugs problem. The young man thereby causes havoc to himself, his family and the community. All that happens because—according to the panel decision, which I will quote from—the hearing felt that a lack of resources made the unit “the only available option”, despite the disadvantages of the proximity of this young man to his friends.

What is the minister doing to address that situation, which is replicated daily throughout Scotland and affects people like that young man? For want of properly resourced and suitable accommodation, that young man may well, given his current behaviour—the latest example of which took place last night—graduate to appear in the criminal courts.

**Cathy Jamieson:** I will not comment on any individual case. However, if Christine Grahame writes to me about that case, I shall look into it.

I remind members that we have already announced our intentions to increase the number of secure provisions in facilities across Scotland—indeed, that work is already under way. We have also invested a substantial amount of resources into improving close support and intensive community supervision for exactly the reasons that the member has outlined.

**Bill Aitken (Glasgow) (Con):** Does the minister agree that, in the light of the difficulties that are caused by a small minority of multiple offenders, her chief priority should be the provision of an

adequate number of secure places within such accommodation rather than with the programmes that are carried on within such units?

**Cathy Jamieson:** We need both. That has been made clear in the reports on which Bill Aitken and others have commented. For example, the Audit Scotland report made it clear that we need to improve both the range and number of provisions. It is important that, when young people leave secure accommodation, they are properly supported so that they do not return to secure accommodation and do not end up in the adult criminal justice system.

### **Fishing Communities (Aid)**

**3. Brian Adam (North-East Scotland) (SNP):** To ask the Scottish Executive what plans it has to aid fishing communities. (S10-6211)

**The Minister for Environment and Rural Development (Ross Finnie):** We currently make available around £10 million annually in aid through the financial instrument for fisheries guidance—FIFG—and related Executive funding. That is in addition to the funds that are available more generally to fishing communities through the enterprise networks, local authorities and other means. We are reviewing the FIFG priorities in collaboration with the scheme partners. As I made clear in my statement yesterday, we are discussing with the fishing industry and the wider community the need for, and scope of, any further measures that may be required in light of the decisions taken at the December meeting of the Council of Ministers.

**Brian Adam:** Does the minister share my concern about the continuity of supply for the processors? Will he consult industry interests to ensure a viable and sustainable future? In particular, will he revisit the work that was done on the previous action plan, including the provision of any necessary financial support?

**Ross Finnie:** I share the member's concern. Yesterday, I made it absolutely clear that the issue affected not only the catching sector but would embrace people up and down the chain.

On the action plan, when I met the relevant body in the summer, I made it clear even at that time—which was before the current situation came about—that I would look favourably on any positive proposals for the deployment of funds that had been underspent in that scheme. That offer remains open. However, it has obviously now been overtaken by events and will have to be reviewed in the light of current circumstances.

**Elaine Thomson (Aberdeen North) (Lab):** The minister will be aware of the concerns of the International Council for the Exploration of the Sea about the poor recruitment to haddock stocks

since 1999, which was the last good year, and about the possibility that that will lead to a sudden collapse of haddock stocks next year. Will he assure me that current discussions and plans to aid the fishing industry will take those concerns into consideration, particularly as haddock is probably the most important white-fish species to processors and catchers in Scotland?

**Ross Finnie:** We are all aware that haddock is the most important general species, although in the last year for which figures are available nephrops were in fact the most important species by value. Because we have real concerns for our principal species—haddock—we will, when we assess the position, take account of what Elaine Thomson has just said in all the measures that we seek to put in place up and down the chain. That is what I made clear in my statement yesterday.

**Mr Jamie McGrigor (Highlands and Islands) (Con):** Has the Scottish Executive made an assessment of how many Scottish fishing vessels, Scottish fish processors and jobs in the Scottish fishing industry will go as a result of the outcome of the December meeting of the European Union fisheries council? If so, when will it be in a position to give us those figures?

**Ross Finnie:** I understand the member's persistence—he asked me the same question yesterday. Obviously, while I was in the chamber, I was somewhat delayed from carrying out that work.

The question is serious. I have undertaken explicitly to review outcomes for the whole of Scotland. We are doing that port by port and community and community. Jamie McGrigor asked the same question yesterday and I give him the same undertaking today. As soon as the information is available—and as soon as we have assessed it and can indicate to members exactly what we are doing—I will come back to members and make it clear to them.

### **National Health Service (Fraud)**

**4. Janis Hughes (Glasgow Rutherglen) (Lab):** To ask the Scottish Executive how it is tackling fraud within the national health service. (S10-6188)

**The Deputy Minister for Health and Community Care (Mr Frank McAveety):** The Executive is committed to tackling fraud within the NHS. All NHS bodies are required to have in place a fraud and corruption policy and response plan. The fraud investigation unit has been operating within the Common Services Agency since July 2000. Most recently, we announced that a working-together protocol was signed with the Association of Chief Police Officers in Scotland. That signals a new joint initiative and approach to

operational working to ensure consistent handling of all cases of suspected fraud in the NHS throughout Scotland.

**Janis Hughes:** Will the minister indicate the amount of money that is involved in NHS fraud? Will he confirm that the finances that are recovered will be directed back into front-line health services?

**Mr McAveety:** I assure the member that any money that we can recover from individuals or organisations that are defrauding the NHS will be channelled back into the health service. So far, within family health services alone, more than £100,000 has been recovered for the health service after investigations.

We have also identified different ways in which we can expand the fraud investigation unit's role. That is why I made reference to the link with ACPOS, which sends a clear signal to individuals that they cannot defraud the NHS. We are delighted that an optician in Ayr was prosecuted for defrauding the NHS of more than £6,000 through his use of money in the recent past.

**Phil Gallie (South of Scotland) (Con):** What new year resolutions has the Scottish Executive made to curb its fraudulent claims on its successes in the national health service? Will the minister undertake to ensure that the targets set and met in future are honest?

**Mr McAveety:** I was dealing specifically with criminal acts, which is an important point. I note that the area in which we obtained a prosecution is in the parliamentary region that is served partly by Mr Gallie. On his question, I acknowledge that we want to move forward on many aspects of the NHS. Fraud is not one of the most critical aspects of the NHS, but I assure the Parliament that we treat it seriously. I hope that Mr Gallie will reflect on that.

#### **National Health Service (Free Portable Oxygen)**

**5. Karen Whitefield (Airdrie and Shotts) (Lab):** To ask the Scottish Executive what progress is being made towards providing free portable oxygen on the national health service. (S10-6178)

**The Minister for Health and Community Care (Malcolm Chisholm):** The Scottish Executive is planning to provide patients on long-term oxygen therapy with portable oxygen equipment through NHS prescriptions where it is evident that they would benefit from such a service. Consideration is being given to the necessary clinical assessment criteria and associated supply and safety issues.

**Karen Whitefield:** I hope that the minister is aware of the strength of feeling on this matter

throughout Scotland. Groups such as the Monklands breathe easy group have long campaigned for that necessary provision to allow people with chest problems to be socially included, to enable them to use the upstairs area in their houses and to get them out and about. How and on what time scale will the consultation on the provision be taken forward?

**Malcolm Chisholm:** Like Karen Whitefield, I have listened carefully to the breathe easy groups. I met members of the groups on two occasions and attended a balloon launch that was held in Edinburgh Castle in the summer, so I was aware of their views and was persuaded by them. That is why we are taking the issue forward as quickly as possible. We need to do some work on a scoping study to examine distribution and supply and we need to examine the assessment criteria, but we hope to complete that work by the end of February and consult—mainly patient groups—at that point. We want that process to be thorough, but to be done as quickly as possible.

**Margaret Jamieson (Kilmarnock and Loudoun) (Lab):** First, I thank the minister for that helpful response, because it will make life a lot easier for many of my constituents who are members of the breathe easy group in East Ayrshire. Will the minister give an assurance that the social inclusion aspect of the provision of portable oxygen will be taken into account and that the decision that is made on whether to make portable oxygen available through the NHS will not be solely a clinical one?

**Malcolm Chisholm:** I agree with Margaret Jamieson. The clinical assessment is important, but people's ability to go out is absolutely fundamental as well. That will be at the heart of any criteria for providing portable oxygen.

#### **Scottish Screen**

**6. Jackie Baillie (Dumbarton) (Lab):** To ask the Scottish Executive what plans it has to reform Scottish Screen. (S10-6194)

**The Minister for Tourism, Culture and Sport (Mike Watson):** I published the report on the review of Scottish Screen on 19 December, which concluded that there is a continuing role for Scottish Screen as a non-departmental public body. However, it made recommendations in a number of areas, including on the focus of the organisation, the balance between its cultural and economic functions, partnership working with other public bodies and performance management. I have asked Scottish Screen to work on an action plan to be delivered to me by the end of next month.

**Jackie Baillie:** I am sure that the minister will agree that one of the most striking features to

emerge from the review is the range of activity that is undertaken by other agencies, such as Scottish Enterprise and the Scottish Arts Council, in developing our creative industries. However, there is limited joint working with Scottish Screen and sometimes there is a confused and fragmented approach. The review recommends a radical restructuring of existing agencies to form a single body concentrating solely on the creative industries. How will that be progressed and what will the time scale for implementation be?

**Mike Watson:** The report proposes the creation of a body called creative Scotland. To some extent, that has been anticipated, in that, last year, as part of the national cultural strategy, I established a cultural industries working group, which has met twice and to which a number of break-out groups have reported. I see that potentially forming the basis of the creative Scotland body that is mentioned in the Scottish Screen report. However, I fully accept what Jackie Baillie said about the fact that various agencies—the Scottish Arts Council, Scottish Enterprise and the higher education institutions—have to be brought together more effectively to ensure that we get the most that we can from what is already a productive creative industries sector in Scotland.

#### **National Health Service Consultants (New Contracts)**

**7. Nicola Sturgeon (Glasgow) (SNP):** To ask the Scottish Executive what progress has been made towards implementation of the new contracts for national health service consultants. (S10-6210)

**The Minister for Health and Community Care (Malcolm Chisholm):** The Scottish Executive is working with the British Medical Association Scotland to develop a new set of terms and conditions for Scotland's consultants. We have both indicated that, subject to the satisfactory outcome of that work, we will implement the new contract across Scotland as soon as possible.

**Nicola Sturgeon:** Does the minister share my concern at the number of consultant vacancies which, in specialties such as paediatrics, are at their highest level since Labour came to office in 1997? Does he agree that the benefits of the new contracts may help greatly to recruit and retain specialists in Scotland? Will he therefore guarantee that the target date for implementation of the new contracts—1 April this year—which has been signed up to by doctors, will be met and that there will be no delay to progress in Scotland as a result of the rejection of the contract south of the border?

**Malcolm Chisholm:** We have progressed the matter with the BMA as quickly as possible, so I did not understand why Nicola Sturgeon

suggested last week that we were not getting ahead. The second stage, at which terms and conditions must be negotiated, was always planned. I hope that the heads of agreement will be published jointly soon. We have worked hard on that.

Of course I am concerned about the vacancies. We are actively involved in dealing with vacancies, particularly in some specialties. However, Nicola Sturgeon should acknowledge that, in the past five years, the number of consultants in Scotland has increased by 18 per cent and that a further 600 consultants are in the Scottish budget plans for the next three years.

**Dr Richard Simpson (Ochil) (Lab):** I declare my membership of the Royal College of Psychiatrists, of the Royal College of General Practitioners and of the BMA.

I congratulate the minister on how he is tackling the new consultant contract. I will ask about the general practitioner contract. Given the different way in which GPs work in Scotland, particularly as local health care co-operatives have no purchasing power, what steps will he take to improve patient care via the GP contract?

**The Presiding Officer (Sir David Steel):** That was a bit wide of the original question.

**Malcolm Chisholm:** As with all the new health service contracts, the basis of the GP contracts is to deliver better, more patient-responsive services for the extra money. That is the objective in the GP contract negotiations, which are at an advanced stage and are being conducted on a UK basis, as GPs in Scotland wish them to be.

A key part of the GP contract is delivering money in return for quality improvements. I cannot announce final details, because they are still being negotiated, but I think that patients will widely welcome that.

**Dennis Canavan (Falkirk West):** Does the minister agree that the national health service in Forth valley would find it easier to offer consultants new contracts if Forth Valley NHS Board took at this month's meeting a firm decision to build a new hospital on the site of the Royal Scottish national hospital at Larbert? Will the minister encourage the NHS board to take such an early decision, instead of encouraging further procrastination on an important matter that has dragged on for more than a decade?

**Malcolm Chisholm:** As Dennis Canavan knows, there are procedures to deal with that. It is up to NHS Forth Valley to produce proposals for our agreement. It is important, as I am sure the Parliament agrees, to perform public consultation in new and more effective ways. That is why we issued new guidance recently that talks about

involving people much earlier and more comprehensively than in the past. We all want decisions to be made about provision in Forth valley, but we want to ensure the fullest involvement of local people. I will consider those matters when they are presented to me, but I will also meet the chair and chief executive of the NHS board soon to discuss those matters.

**The Presiding Officer:** We had two wides there.

### **Network Rail (Meetings)**

**8. Nora Radcliffe (Gordon) (LD):** To ask the Scottish Executive when it last met representatives of Network Rail and what issues were discussed. (S1O-6184)

**The Minister for Enterprise, Transport and Lifelong Learning (Iain Gray):** The Scottish Executive is in regular contact with Network Rail on a wide range of issues.

**Nora Radcliffe:** Given the long list of long-overdue rail improvements throughout Scotland, my concern is that unplanned expenditure that has not been budgeted for on work that is required after recent landslips and washouts throughout Scotland is bound to impact on the time frame for completing other work unless extra funding can be found. Does the UK Treasury acknowledge that and is it prepared to divert resources to tackle that?

**Iain Gray:** The pressures on rail industry funding, which exist for different reasons, are widely acknowledged. Announcements were made recently about that. As for Network Rail and the additional cost of dealing with landslips and other incidents over the winter, Network Rail has shown at Falkirk and through the completion of the works at Dolphinstone in the past couple of days that it is equipped to, and can deal with, such incidents. Network Rail is responsible for the network's maintenance and renewal. The responsibility for improvements lies with the Strategic Rail Authority, so that funding question is slightly different.

**Roseanna Cunningham (Perth) (SNP):** The minister may be aware that, although Network Rail and all the other relevant bodies and individuals, including himself, profess to want an increased use of the rail network, community calls for the reopening of mainline passenger stations such as those at Greenloaning and Blackford in my constituency often result in a never-ending circuit of buck passing? Where there are clear expressions of customer demand, which I presume is to be widely welcomed, will the minister clarify precisely how he will ensure that supply, which in this case includes trains, stations and accessible timetables, meet that demand?

**Iain Gray:** Those kinds of improvements often lie within the responsibility of local authorities. I think that I am right in saying that we have had a similar discussion at question time over recent weeks on the subject of Laurencekirk. As proposals are developed and submitted, we always look to work with our partners to see what can be done to improve our rail network. That is our intention and desire.

**Dr Sylvia Jackson (Stirling) (Lab):** Could the minister update members on the progress of the opening-up of the rail link from Stirling to Alloa and Kincardine?

**Iain Gray:** We await what I hope is the imminent submission to the Scottish Parliament of the bill that is required for the promotion of the reopening of the line. The progress of the bill will depend on the Parliament rather than the Executive. The current plan remains to start construction in 2004, which would mean that the route could reopen in the winter of 2005-06.

### **Oral Health (Alternatives to Fluoridation)**

**9. Donald Gorrie (Central Scotland) (LD):** To ask the Scottish Executive what alternatives to the fluoridation of the water supply it is considering to improve oral health. (S1O-6202)

**The Deputy Minister for Health and Community Care (Mrs Mary Mulligan):** The Executive is currently consulting on ways to improve Scotland's oral health. "Towards Better Oral Health in Children", which was published on 24 September, sets out the facts about oral health in Scotland, describes what is in train to bring about improvement and seeks to promote a mature, constructive and inclusive debate about the full range of issues and options, including water fluoridation. I also want to ensure that the member is aware that I announced yesterday that the consultation period has been extended until 28 February.

**Donald Gorrie:** In the light of the widespread international movement away from supporting fluoridation, what research or projects are being undertaken to determine the most effective ways of improving oral health?

**Mrs Mulligan:** I am not sure of the information to which Mr Gorrie refers in respect of the international move away from fluoridation. He may like to tell us about it. I am aware of the York review, which was completed in 2000. That review examined a number of examples of research into water fluoridation and reported that there is no evidence that water fluoridation causes health problems.

We left the option of water fluoridation in the consultation paper, but there are many others including the introduction of healthy eating, better



oral health education, more regular attendance at dentists and the proper brushing of teeth by the general population. A number of options are available to improve oral health. I hope that each of those options will be commented on in the consultation and that we will not just receive comments on fluoridation.

**Ms Sandra White (Glasgow) (SNP):** Perhaps I can help the minister with some information. Is she aware that in America fluoride toothpaste carries a poison control warning label? Is she also aware that Belgium has banned fluoride gum and tablets because of concerns about brittle bone disease? Does she agree that a more effective way of eradicating tooth decay in our young people would be for fizzy drinks and sweets to carry Government health warnings?

**Mrs Mulligan:** I am aware that the population coverage in the United States has recently increased from 62 to 66 per cent and that water fluoridation takes place in 45 of the top 50 cities in the US. The jury is still out on that. However, I stress that improvement in our diet would have a huge impact on the oral health of the people of Scotland. That is one of the issues that we will have to examine. In fact, we have been looking at the introduction of fruit in schools and at reducing the amount of sugar and sweet drinks that are available to children.

**Mary Scanlon (Highlands and Islands) (Con):** Given that the York review confirmed that the benefits to oral health from fluoridation of the water supply were at best inconclusive, on what research basis is the minister promoting fluoridation?

**Mrs Mulligan:** I am not promoting the research; I am simply telling the chamber what the research says. We will use research as it becomes available. I am not saying that the York report provided evidence in favour of fluoridation, but that we will use evidence that was collected in the report. That said, I want to hear people's views on fluoridation. I continue to stress that it is only part of the strategy and that we need to consider other ways of improving oral health in Scotland.

**Robin Harper (Lothians) (Green):** Does the Executive intend to introduce fluoridation before the end of this session? If not, does it intend to put it into its manifesto? That would clarify things for the rest of us.

**Mrs Mulligan:** I have already indicated that the consultation will not be completed until 28 February. As a result, I expect that it will be impossible to introduce any such measure before the end of the session.

## **Children of Asylum Seekers (Education)**

**10. Bill Butler (Glasgow Anniesland) (Lab):** To ask the Scottish Executive whether assimilation of children of asylum seekers into the state education sector has been monitored. (S10-6172)

**The Minister for Education and Young People (Cathy Jamieson):** The Scottish Executive does not currently undertake any formal monitoring. However, good practice in integrating asylum seekers into school communities is being explored through the Scottish refugee integration forum.

**Bill Butler:** I thank the minister for her answer. Nevertheless, she will know from her travels round the country of examples of the successful assimilation of children of asylum seekers into the state education sector under the present dispensation. Is she aware of the concerns that have been expressed by the Educational Institute of Scotland, the Church of Scotland committee on education, the Catholic Education Commission and the Scottish Episcopal Church among others regarding the requirement contained within the Nationality, Immigration and Asylum Act 2002 that the children of asylum seekers be schooled outwith the mainstream local authority education system in purpose-built accommodation centres? Will she tell the chamber what the Executive intends to do to meet those legitimate concerns and ensure that a progressive policy of integration can be maintained?

**Cathy Jamieson:** I am happy to confirm to Bill Butler that I have seen good examples of work with the children of asylum seekers and refugees in a number of state schools in Scotland, including several in the Glasgow area. I am also aware of the positive work being undertaken by local colleges there.

It is important to remember that the majority of young people in Scotland affected by the legislation are being educated in the mainstream sector. The operation of the act is a reserved matter of course, but we are collecting further information, through the schools census, on the number of those young people being educated in schools. That information will be available later this year.

**Shona Robison (North-East Scotland) (SNP):** Is the minister concerned about moving children of asylum seekers from the state education sector into detention centres? Is she aware of the plight of the children of the Kurdish Ay family, who were described as exceptional and model pupils by teachers at their schools in Kent? Does she agree that it is unacceptable to remove children from the state education sector to put them into detention centres for up to six months—sometimes more—where education provision is severely limited?

**Cathy Jamieson:** I am aware of the background to the case that Shona Robison describes. I shall not comment on it in detail because it is currently the subject of legal proceedings. Nor would it be appropriate for me to comment on matters that are directly the concern of the Home Office.

In discussions with the Home Office, Margaret Curran and I have made it clear that we continue to take a strong interest in what happens with regard to the education of children in, for example, Dungavel. We have had constructive discussions, which I expect to continue to ensure that the quality of education there is maintained and improved.

**Tommy Sheridan (Glasgow) (SSP):** I hope that the Minister for Education and Young People is aware of research by Glasgow City Council and Save the Children that shows asylum-seeker children saying that the best things about life in Glasgow are schools and teachers. Given that research, will she insist that those children have a legal right to education while residing in Scotland and would she challenge the Home Office if it tried to remove children from the state education sector and to implement what is in effect racist, segregated education?

**Cathy Jamieson:** I am careful about my use of language and I have already indicated in my response to Bill Butler that I am well aware of the positive work that is going on in Glasgow. I know that Save the Children has taken a close interest in the matter and has made some interesting recommendations. It is important to recognise that the majority of those young people are being educated in mainstream schools. I am glad to hear that people recognise that they are receiving a good education in our state schools with positive work being undertaken by teachers. However, it would not be appropriate for me to make any comment that might prejudice any child's or family's situation in relation to the law and I will not do that.

### **Safe Sex (Teenagers)**

**11. Helen Eadie (Dunfermline East) (Lab):** To ask the Scottish Executive what action it is taking to promote safe sex among teenagers. (S10-6196)

**The Deputy Minister for Health and Community Care (Mrs Mary Mulligan):** A range of measures is in train, including initiatives by the Health Education Board for Scotland, the pioneering healthy respect demonstration project, the sex education programme in schools, and direct funding to Caledonia Youth towards the establishment of four sexual health advisory centres. A national sexual health strategy is also being developed.

**Helen Eadie:** I have just come from a lunch meeting of an organisation called Confidence Scotland. It asserted that low self-esteem among teenagers is a factor contributing towards the incidence of pregnancy. Will the minister comment on that? Further, will she outline how better publicity can be used to promote the excellent initiatives taken by the Scottish Executive to ensure that those young people receive the services that they need?

**Mrs Mulligan:** Just before Christmas, I visited Wester Hailes Education Centre in my colleague Iain Gray's constituency. The centre is taking part in the healthy respect demonstration project. I sat in on a class where the young people were learning about sexual health. One of the main strands of the class was about raising self-esteem and developing relationships. That is an important part of the project and I hope we will be able to roll out the lessons from the project throughout Scotland.

HEBS plays a huge role in publicising sexual health. We have tried to raise the issue of sexual health across the board by using television and cinema advertising, youth clubs and a number of other ways to ensure that everybody receives the message about responsible sexual health.

### **Looked-after Children (Educational Attainment)**

**12. Mr Tom McCabe (Hamilton South) (Lab):** To ask the Scottish Executive what action it has taken to improve the educational attainment of looked-after children. (S10-6192)

**The Minister for Education and Young People (Cathy Jamieson):** On 30 December, we published a report outlining how local authorities had used the £10 million that was given to them to improve educational opportunities for looked-after children. Further investment will follow from the Scottish budget allocation, and we have commissioned Who Cares? Scotland to undertake work with young people to assist in making further improvements.

**Mr McCabe:** I thank the minister for her answer. The initiatives that she mentioned are most welcome. However, in the light of substantial empirical evidence that looked-after children fare badly in terms of educational attainment, does she agree that the expenditure so far has been somewhat generalist in its application and that there might be a case for more focused, individual or small-group tuition if we are to help those children to attain more and break the cycle of poor life chances and experiences?

**Cathy Jamieson:** Yes. The expenditure that has been used during the past year has tended to focus on the provision of equipment and facilities.

That was necessary to ensure that young people who are looked after, particularly in the residential care sector, have the same opportunities as young people in other types of homes have. However, the reason why we asked Who Cares? Scotland to undertake further work is to consider the best way of developing those initiatives in a way that best meets the needs and aspirations of young people who are looked after. I expect that during that process we will want to consider the kind of initiatives that Tom McCabe has suggested.

## First Minister's Question Time

15:10

### Cabinet (Meetings)

**1. Mr John Swinney (North Tayside) (SNP):** I thank the First Minister for the good wishes and sympathy that he has expressed to my dear colleague Winnie Ewing and her family.

To ask the First Minister what issues will be discussed at the next meeting of the Scottish Executive's Cabinet. (S1F-2377)

**The First Minister (Mr Jack McConnell):** Cabinet discusses issues of importance to the people of Scotland. In the coming weeks we will discuss health, sea fisheries and higher education and—of course—Cabinet will receive regular reports on preparations by the security authorities and emergency services, given the continuing threat of terrorist activity throughout the United Kingdom.

**Mr Swinney:** On Sunday, the First Minister boasted about the success of his crime policy when he said that cases cleared up by the police are at the highest level since the war. As a consequence of that record police clear-up rate, are prosecutions and convictions for those crimes up or down?

**The First Minister:** Different prosecution levels in different areas are either up or down, but what is important is that we ensure—as we have been working hard to do, particularly over the past 18 months—that court reforms and Crown Office and Procurator Fiscal Service reforms are in place to secure greater levels of conviction, as well as faster and more accurate convictions and a better service for victims. Those are the vital priorities. They are widely recognised throughout Scotland and they are now having an impact.

**Mr Swinney:** Let me help the First Minister out with the answer, which is clear from what he has just said. In nearly every category, the number of prosecutions and convictions is down. In drugs, in 2001, there were 6,500 more drug offences cleared up by the police than in 1997. However—astonishingly—over the same period, there were 1,500 fewer prosecutions and 1,300 fewer convictions. Does the First Minister agree that to boast about record levels of police clear-up rates when crime is rising and the number of prosecutions and convictions is falling is simply dishonest?

**The First Minister:** I would like to make two points about that. First, I have already said that the reforms since 2001—which are being brought in in the Crown Office and Procurator Fiscal Service and in the courts—will increase conviction levels, secure a more efficient and effective service and deliver better for victims.

Secondly, it is just not acceptable to come here week after week and selectively quote statistics, whether on crime, on health, on the economy or on education. In the past few weeks, the SNP's education spokesperson has said attainment levels in Scottish schools are going down when they are going up. The SNP health spokesperson said the number of consultants in Scotland is going down when, in fact, it is going up. Today, we have heard Mr Swinney making accusations about crime, and the SNP's accusations this week about health service administrators were, to be frank, shameful, selective and completely misleading. If he is going to come to the chamber and quote statistics, John Swinney should be honest and quote them accurately.

**Mr Swinney:** I think that we have touched a raw nerve. The First Minister did not know the answer and now he wants me to—[*Interruption.*] I am working my way round the chamber. Do not worry; I will finish Duncan McNeil off in a second.

The First Minister asks me not to be selective about statistics, so I will not be. The Government's own figures show that, since 1997, there have been 25,000 more crimes cleared up by the police, but they also show that there have been 8,000 fewer prosecutions and 7,000 fewer convictions. Those are not selective statistics; they are all the statistics. There are higher levels of crime, fewer criminals going through the courts and fewer criminal convictions. Does the First Minister accept that boasting about cases that have been cleared up when prosecutions and convictions are falling is just another attempt—like the waiting list con—to con the people of Scotland?

**The First Minister:** Yet again, the member uses statistics selectively; that is simply unacceptable. Mr Swinney is trying to hide behind the facts that not only are police numbers at their highest-ever level in Scotland, but clear-up rates are at their highest level since the war and reforms are going through our courts and fiscal service that will deliver not merely the current good rate of convictions, but an even better rate in the future. The Parliament and the Executive have done more to look after victims in Scotland, bring in new laws and put victims first in the prosecution service than any Parliament has done previously. That is a very good record for a young Parliament, and it is a record that will get much better as other reforms come through in the future.

### **Secretary of State for Scotland (Meetings)**

**2. David McLetchie (Lothians) (Con):** To ask the First Minister when he next plans to meet the Secretary of State for Scotland and what issues he intends to discuss. (S1F-2384)

**The First Minister (Mr Jack McConnell):** My first meeting of the new year with the Secretary of State for Scotland will take place later this month.

**David McLetchie:** At that meeting, I hope that the First Minister and the Secretary of State for Scotland will discuss the report by one of the Prime Minister's top advisers that says that the extra money that is going into the health service in England will not improve the service for patients. We are all too familiar with such a situation in Scotland; people are already paying higher taxes to fund the health service, yet waiting lists and waiting times are longer, there are shortages of doctors and nurses, there are more hospital-acquired infections and there are still mixed-sex wards in our hospitals. Is not it about time the First Minister acknowledged that pouring more taxpayers' money into the health service without making the real reforms that he is unwilling to make will simply not work?

**The First Minister:** We are hearing from a party that yesterday voted down a reform of the fire service that would deliver the efficiencies that the member is talking about. [*Interruption.*]

**The Presiding Officer (Sir David Steel):** Order.

**The First Minister:** Every week, we come to the chamber and hear pious words from the Tory party about efficiency in the public sector, yet when it gets a chance to vote for such a proposal, it does not have the guts to do so. That is what the Tory party is all about in Scotland.

On the health service, like Mr Swinney's statistics, Mr McLetchie's statistics are untrue. There are more doctors, nurses, consultants and operations and more people are being treated—those are facts in respect of the health service in Scotland.

However, the situation is not yet good enough. There need to be better and more efficient ways of working. More nurses need to carry out the work that doctors used to do, more general practitioners need to carry out the work that consultants used to do and more people should be treated in their local area rather than in hospital beds. That is the right way forward for the health service. It is the direction in which we are heading and the journey that we are on. We will see that journey through.

**David McLetchie:** If the First Minister had some respect for parliamentary process, we would have been happy to consider yesterday's proposal—indeed, we made it clear at the time that we supported the proposal in principle. The fact that there was an attempt to abuse the processes of the Parliament led to the amendment's deserved defeat.

The First Minister's answer on the health service demonstrates that there is a clear difference of approach between the Conservatives and the Executive and that the public deserve a proper debate on such issues in the coming months. In that context, I was interested to read just before

Christmas that the First Minister is apparently unwilling to participate in television debates with other party leaders during the forthcoming election campaign. From yesterday's events, we know that the First Minister and the Scottish Executive are not terribly keen on proper parliamentary scrutiny, but it seems that he is not too keen on public scrutiny either. In 1999, when Mr Donald Dewar was Secretary of State for Scotland, he was prepared to engage in such debates in the first Scottish Parliament elections. Why will the First Minister not engage in such debates in 2003? Is he feart?

**The First Minister:** I am certainly not feart, nor will I take any lessons from the Tories about the Parliament. You did not want the Parliament and you still say that you would vote against it if you had the opportunity to do so again. We created and defended the Parliament and the two partnership parties will take it forward.

**Phil Gallie (South of Scotland) (Con):** On a point of order, Presiding Officer. In addressing the Parliament, should not the First Minister recognise that if he uses the word "you", he is addressing the Presiding Officer?

**The Presiding Officer:** That is true, but I am afraid that a number of members do that. They should try not to do so.

**The First Minister:** Thank you very much, Presiding Officer.

I have not ruled out anything for the Scottish parliamentary election. What will be important in that election is that we reach a situation in which people discuss the real policies, real choices and real challenges that face Scotland, and that we move away from the negative sniping and party-political nonsense that we hear week in, week out from the nationalists and the Tories in the chamber.

Real issues face Scotland. Real issues face Scotland's health service, real issues face our education service—such as the need to drive up standards in our schools—and real issues face us about growing Scotland's economy. Those challenges face us in the years to come. The election campaign this year should be about those challenges and not about the negative nonsense that we hear week in, week out from yourselves.

**The Presiding Officer:** Not from me.

#### **Inverclyde Electronics Industry (Job Losses)**

**3. Mr Duncan McNeil (Greenock and Inverclyde) (Lab):** To ask the First Minister what action the Scottish Executive will take to minimise the impact of job losses in the Inverclyde electronics industry on workers, their families and the wider economy and community. (S1F-2391)

**The First Minister (Mr Jack McConnell):** I regret the job losses that were announced this week in Duncan McNeil's constituency. We are ensuring that immediate support is given to the workers who are affected, under our well-respected and very effective partnership action for continuing employment framework. There is a good future for the electronics industry in Inverclyde and in Scotland as a whole. We will continue to position Scotland's manufacturing industry higher up the value chain by investing in skills and research.

**Mr McNeil:** I welcome the First Minister's response. Does he agree that the relief that we all feel that the worst of the speculation about IBM in Greenock did not come to pass should not mask the fact that hundreds of workers from another two Inverclyde companies—Fullarton Computer Industries (Gourock) Ltd and Clairemont Electronics Ltd—lost their jobs on Monday? I am glad to hear the First Minister say that those workers need our urgent help and assistance. Does he agree that we need to show that the smart successful Scotland strategy can work in areas such as Inverclyde? Can we be assured that the Scottish Executive will work in partnership with the local authority and other agencies to broaden, strengthen and modernise our local economy?

**The First Minister:** The smart, successful Scotland strategy is as relevant for Inverclyde—if not more so, given the area's recent history—as it is for most other parts of Scotland, given the challenges of higher than average unemployment in Inverclyde and the opportunities that exist in the area, where workers have in recent years adapted to new skills, new technologies and new challenges. The area can have a positive future if we tackle the industries that are based there and the image of the area and its promotion locally and internationally.

It is also important that we have a strong economy on which to base that work. The marks of a strong economy are that there is stability and that opportunities exist to change and develop in the way that Scotland's economy is currently doing. In the past two years, we have seen significant blows to the Scottish economy that would have had a dramatic impact if we were back in the boom and bust of the 1980s. The reality has been that, to use the example of West Lothian, 95 per cent of the workers who were affected by closures have got jobs and are back in the workplace. That sort of change is achieved through meeting challenges head-on, through securing new opportunities for people and through the lifelong learning opportunities that deliver what is vital for us today. We need real and practical solutions rather than slogans; we certainly do not want to go back to the days of boom and bust that existed in the 1980s.

**Alex Neil (Central Scotland) (SNP):** I will ask the First Minister two specific questions. First, will he address the inflexibility of some of the training schemes that are intended to reskill and upskill workers who are made redundant? I refer in particular to the fact that workers must be unemployed for a long time before they qualify for training assistance.

Secondly, I draw the First Minister's attention to his own budget document, which rightly sets the objective of achieving the same level of research and development spending in Scotland as is achieved on average in the Organisation for Economic Co-operation and Development countries. The Minister for Enterprise, Transport and Lifelong Learning pointed out in a recent reply that the additional yearly expenditure that will be needed to achieve that by 2006 is £750 million. How will the First Minister achieve that target, which is in his own budget document?

**The First Minister:** I welcome the member's regular and, I believe, genuine interest in matters economic. I confirm that the updated proposals that we will have for training will be included in the lifelong learning strategy that will be published by the Executive in the coming weeks.

It is vital that we get training right and that there exists the flexibility that will allow people to take up lifelong learning opportunities. It is also important that we get investment in our economy and that we get our enterprise development strategy right. Some members—most of them are in the chamber—have criticised us in recent weeks for diverting resources in the budget from April 2003 away from the administrative, behind-the-scenes activity in Scottish Enterprise and into transport and other vital infrastructure developments. I hope that Mr Neil will publicly oppose the Scottish National Party leader's proposal to take £100 million out of training and enterprise in Scotland to finance the proposals that he made in a newspaper article on Sunday. If Mr Neil is serious and genuine about training and enterprise in Scotland—I believe that he is—he should publicly oppose Mr Swinney and ensure that the £100 million is not taken out of, but kept in, Scotland's enterprise and training budgets.

**Miss Annabel Goldie (West of Scotland) (Con):** Does the First Minister accept that—in what is a competitive sector—it is difficult for business in Scotland to be resilient when it pays higher rates than do businesses in the rest of the United Kingdom, when it must cope with a neglected transport infrastructure and when it is being surrounded by a cocoon of red tape? Will the First Minister confirm that the tax increases that his colleague the Chancellor of the Exchequer proposed, which will take effect from 1 April, will have a further adverse effect on job prospects in

Scotland? Has he engaged with the business community to assess the impact of that tax on jobs?

**The First Minister:** I engage all the time with the business community in Scotland, which is one reason why the sector is publicly and regularly supportive of the strategy that we have outlined for a smart, successful Scotland. That consensus of support for the strategy for a smart, successful Scotland is a vital part of securing stability and a long-term strategy to ensure that the Scottish economy grows and that there are more opportunities in the future. A vital part of that is ensuring that we have a transport infrastructure that can deal with public transport, with private transport by road and with delivery mechanisms on those roads. We must ensure that we have transport systems that will help to grow the Scottish economy and help it to recover from the years of underinvestment for which the Conservative party was responsible, but which we are now reversing.

#### **Public Records Acts 1958 and 1967 (Release of Government Records)**

**4. Andrew Wilson (Central Scotland) (SNP):** To ask the First Minister what advice the Scottish Executive has received from officials about government records over 30 years old that have been, or will be, released in January 2003 under the Public Records Acts 1958 and 1967. (S1F-2375)

**The First Minister (Mr Jack McConnell):** The responsibility for the 3,442 files that were released in January lies with the Secretary of State for Scotland. However, the Scottish Executive was advised that they were to be released.

**Andrew Wilson:** I am sure that the secretary of state will read all the documents.

Is the First Minister aware that among the revelations in the latest files was the news that the Prime Minister in the 1970s—Mr Heath—wanted to give Scotland control over our share of the £160 billion of oil revenues that have flowed to London in the thirty years since? Is he aware of the absurd fact that that opportunity was lost to Scotland because a Tory Secretary of State for Scotland blocked the policy, which would have been so clearly and massively beneficial to Scotland? Does he agree that the episode is a fine illustration of the cost to Scotland of political leaders who oppose the idea of the Scottish people gaining more control over their lives? Will he commit to doing what he can to fulfil his ambition—which he once espoused as a member of Scottish Labour action—for Scotland to have control of all of its financial resources?

**The First Minister:** Of course, Mr Wilson does not believe in Scotland and the Parliament having control over oil taxation; he believes in the Scottish economy and Scotland being entirely separate from the United Kingdom. He should be more honest about the policy that he proposes and supports, which would be disastrous for the Scottish economy and for the revenues that are available to the Parliament. *[Interruption.]*

**The Presiding Officer:** Order. Let us have less noise—it just rules out other members' questions.

**The First Minister:** Thank you, Presiding Officer.

Mr Wilson should admit that Scotland's revenue deficit with the rest of the United Kingdom has been negative for more than 10 years. If the policies that he pursued were implemented, there would be a cost to the Parliament and to Scotland. There would be less money in Scotland for health, education, tackling crime and all the matters that we believe are more important than the ideology that he espouses.

### **Sentencing Policy (Weapons of Violence)**

**5. Angus MacKay (Edinburgh South) (Lab):** To ask the First Minister whether the Scottish Executive has any plans to strengthen sentencing policy in relation to weapons of violence. (S1F-2389)

**The First Minister (Mr Jack McConnell):** Weapons of violence have no place in Scotland's communities and we keep under constant review the worrying situation regarding the use of knives. Firearms legislation is reserved, but we welcome any plans that will help to prevent the escalation of gun culture in Scotland. In particular we welcome the Home Secretary's plans, which were announced yesterday, to limit air guns and replica guns.

**Angus MacKay:** Does the First Minister agree that the tough proposals for minimum sentences that have been made by our Labour Home Secretary for those who are guilty of illegal possession of guns and other offensive weapons—which are closely associated with the drugs trade—are the safest form of crime prevention and protection of the public? Does he agree that that policy, together with the creation of a Scottish Drug Enforcement Agency by the Scottish Executive, the £100 million that has been put into the field to combat drug dependency, and the Executive's support of the regime of asset confiscation for drug dealers, constitutes a serious and real drugs policy as opposed to the candyfloss soundbites that come from the Opposition?

**Andrew Wilson (Central Scotland) (SNP):** What loyal back benchers. *[Laughter.]*

**The First Minister:** It will be of interest to those who have the pleasure of watching First Minister's question time each week—either from the gallery or on television—to know that the Opposition finds the matter of guns and knives so frivolous and trivial as to make it a matter for jokes.

We should get the matter in perspective. The situation in Scotland in relation to guns is not as serious as the situation south of the border; it is important that we keep the matter in perspective. However, at the same time, one gun potentially wrongly used in Scotland is one gun too many. Just as Scotland led the campaign to ban handguns after the horrific massacre in Dunblane, we should also make it clear that we in Scotland will take tough action to deal with guns. We will do so not only in relation to drug culture, but anywhere on our streets, and we will deal with knives and other offensive weapons. I want to make it absolutely clear that we must ensure that the appropriate laws and resources are in place and that the community stands up and is counted. In Scotland, we want less violence, not more.

## Child Protection Review

**The Deputy Presiding Officer (Mr George Reid):** The next item of business is a debate on motion S1M-3748, in the name of Cathy Jamieson, on the review of child protection, and two amendments to that motion.

15:34

**The Minister for Education and Young People (Cathy Jamieson):** The new year is traditionally a time to look back and reflect, but also a time when we make our resolutions for the future and signal the changes that we want to make for that future. At the beginning of this new year, I want to signal a new start to ensure that children in our country are better protected from abuse, harm and neglect.

In the past few weeks, many of us will have enjoyed spending time with our own children or with the children of family and friends, giving them special treats and presents. However, we will all have heard about children from families throughout Scotland who are not in such a fortunate position. We will be acutely aware of those children who are not being brought up in a supporting, loving and caring environment—children who are suffering harm from those who are closest to them. I am sure that members will want to join me in thanking everyone who worked over the holiday period looking after children in need of support: children's social workers and care workers, nurses and health professionals, police officers and voluntary sector workers.

I have made this point before in the chamber, and I will make it again: child protection is not just the concern of social workers. Effective child protection necessarily involves a wide range of workers, with each one doing an extremely difficult job in seeking to strike the right balance between ensuring that children do not come to harm and avoiding wrongfully interfering in private family life. That is not an easy balance to strike, as we know from our deliberations on the Protection of Children (Scotland) Bill. We also know that the consequences of each and every decision that is made can be monumental for the child.

The recent report of the child protection audit and review, "It's everyone's job to make sure I'm alright", discusses the many well-motivated and committed professionals who are working well in difficult and stressful circumstances. The report notes people's willingness and the effort that they put into doing a good job in supporting vulnerable children. It notes real progress and improvement over the past 20 years.

However, the report also makes for grim reading and there is no cause for complacency. It contains

some very worrying findings, which we cannot, should not and must not ignore. It shows clear evidence that many children are living in conditions and under threats that are simply not tolerable in a civilised society—and those are carefully judged words.

Listen to the words of the children themselves, as they were reported to ChildLine Scotland:

"Dad held a knife at my throat."

Another child said:

"Mum hits me with dog leads."

Another said:

"I don't want to go home, he said he'd batter me and my mum wouldn't stop him. I want to live in a home."

Those are real experiences suffered by children in Scotland today. The findings from the review team's audit covered 188 children who had experienced a wide range of abuse and neglect, and they highlight some further harrowing examples of children living in dirty, cold homes, suffering from a series of untreated accidents and injuries; of children who have been sexually abused; and of children who have suffered due to their parents' alcohol or drug misuse.

A central theme in the report is the need for the range of agencies involved in child protection to join up more effectively to deliver better outcomes for children. The report makes it clear that there is duplication of effort, with energies being diverted into meeting system requirements rather than towards putting the needs of the child first.

Very worryingly, the review team found that more than 50 per cent of the children covered by the audit are not being adequately protected or cared for. That is not something that anyone could fail to be concerned by. Everyone involved in child protection—teachers, health visitors, social workers or local authority or national health service managers—will agree that we can and must do better.

When we discussed children's services more broadly in December, I outlined briefly the ways in which we will drive forward progress on the child protection agenda. I want to talk about those action points in a little more detail today. First, we are establishing a three-year reform programme for child protection services. The programme will establish clear practice standards, develop the role and responsibilities of child protection committees and build capacity to deliver. I have already indicated that we would consider legislation to put child protection committees on a statutory footing, and I repeat that commitment today. A child protection summit, involving senior local authority, health, police and voluntary sector representatives will be held on 18 February to help us to take that forward.



Secondly, we are establishing a team of experts from relevant agencies to work directly with local agencies in implementing the reform programme and tackling poor performance. The team will have top-level backing from the Executive.

Thirdly, we will establish a tough new inspection system to ensure that the reforms are delivered. The system will follow a multidisciplinary approach, bringing together expertise from a range of existing agencies.

Fourthly, we will develop a children's charter, which will be drawn up in conjunction with children and professionals and will set out the support that all children have the right to expect to protect them from harm.

Fifthly, we will provide resources to support work that benefits vulnerable young people directly. I have announced funding of £500,000 to ChildLine Scotland to enable it to open a new call centre and thereby to expand significantly the service that it will be able to offer.

The most effective child protection work is the work that is done before families reach a state of crisis and children are harmed. We will maintain and expand support for effective early intervention—in particular, support for very young children and their families. Bill Aitken is not present, although he was courteous enough to let me know that he would miss this part of my speech. I was very disappointed to read the comments that the Tories made in response to my announcement yesterday on funding to improve support for parents who are having difficulty with their families and require additional assistance. I may have time to come back to that point later, as I am sure that Bill Aitken will want to respond to it in his speech.

We will build support for effective joined-up working across the range of children's services, including the support that we offer to the children of parents who misuse alcohol and drugs. We will shortly issue new guidance, entitled "Getting our priorities right", for people who work with families in which parents misuse alcohol and drugs. That will help to ensure that professionals keep a clear focus on the needs of the children in a family when working with drug-abusing or alcohol-abusing adults, so that those most vulnerable children do not fall through the gaps in the system.

We need to ensure that we deal effectively with all forms of risk and abuse. Earlier this week I announced a second stage of our internet child safety campaign, highlighting the potential dangers to young people of giving out personal details over the internet and indicating how to avoid being targeted by potential abusers.

We know that in Scotland one child in nine runs away or is forced to leave home before the age of

16. Running away puts young people in danger, but may often be a sign of underlying problems in a young person's life. Children who are sexually exploited through prostitution may not always be visible on our streets, but we know that such exploitation is taking place here in Scotland. I want to make it very clear that adults who use child prostitutes are abusing those children and deserve to have the full force of the law used to stop them. Young people who have been exploited in that way need and deserve our support.

At the end of December, we issued the interim report of the working group on young runaways and children who are abused through prostitution. The working group considered the support that is needed for children and young people, guidance for professionals and effective early intervention to prevent abuse and exploitation before they happen. We have invited comment on the report. However, there are actions that I want to progress immediately.

The majority of young people who run away leave from their family home. However, young people who have spent time in care are more likely to run away than young people who have only lived at home in families. Nearly half the young people in residential or foster care have run away at some point in their lives. It is important that young people have access to advocacy services that can explore their reasons for running away and help prevent repeat episodes.

Who Cares? Scotland is an organisation that is uniquely placed to provide that advocacy service, as it has workers throughout Scotland who provide support to young people in care, including in residential settings. I am pleased that we have been able to identify funding of £60,000 this year and in each of the next two financial years to allow Who Cares? Scotland to develop and secure the services that it provides to very vulnerable looked-after young people.

Because we do not know how many young people and children are sexually exploited through prostitution in Scotland, and because we need better information about what works best to support them, I am pleased today to announce that we will provide £57,000 for a feasibility study, led by Barnardo's, that will identify effective services for young people who are abused through prostitution. The study will focus especially on ensuring that young people do not always end up in secure accommodation, which may not be the best place for them, and that there are appropriate alternatives.

For some time, people have been concerned to find other ways of supporting young runaways. I am again pleased to announce that I have identified up to £600,000 to develop work on refuge provision. I have asked officials to progress

discussions with Aberlour Child Care Trust to build on its work with young runaways in the “running; other choices” project. Those targeted resources are specifically designed to help our most vulnerable young people. Importantly, the funding will be used to provide the kind of services that vulnerable young people have said that they need and want. Those young people will continue to be involved in developing the services.

**Phil Gallie (South of Scotland) (Con):** Will the minister give way?

**Cathy Jamieson:** I am almost finished.

We are not just listening to young people, but hearing them loud and clear and acting on their concerns.

Presiding Officer, I am disappointed to say that I will not be accepting the amendments. I hoped that we would be able to have a consensual debate and that members would not take the debate as an opportunity to try to score party-political points. I hope that I have set a tone for the debate that all members will be able to follow, and that members will focus on the needs of the most vulnerable young people in our society.

The Executive has done a lot in the past four years. Of course there is a lot more to do and I believe that MSPs are uniquely placed to continue that work and to raise the profile of the issue across Scotland. I hope that we will have everyone's support in seeking to make a real improvement in protecting Scotland's children over the next three years and beyond.

I move,

That the Parliament notes the findings of the report of the Child Protection Audit and Review, *It's everyone's job to make sure I'm alright*; expresses concern that, despite examples of good practice in child protection across Scotland, many children and young people are still at risk of abuse and neglect, and supports the Scottish Executive's plans for a sustained programme of reform, building on effective inter-agency working, and its continued emphasis on closing the opportunity gap for Scotland's most vulnerable young people.

15:46

**Irene McGugan (North-East Scotland) (SNP):** From the outset, I say that we welcome the review and its recommendations. It can only be good that the issue is being debated and addressed at a national level.

However, we have to ensure that this opportunity to tackle the problems in child protection brings about real and lasting improvement in what has become a long-standing issue. It is almost 11 years since the inquiry into multi-agency child protection in Orkney. Lord Clyde's inquiry report significantly influenced subsequent child care law, most notably the

Children (Scotland) Act 1995. In the past decade, a great deal has been done at a local level to improve practice, to revise procedures—including interagency procedures—and to initiate joint training. However, without a national framework, direction and advice from the centre, we ended up with different systems and procedures in place throughout Scotland. Those systems were totally dependent on resources and local priorities. That was not what Lord Clyde envisaged and it certainly was not what Scotland's most vulnerable children deserved. It is, however, the context for this latest review.

My impression is that social workers' responses to the review have ranged from lukewarm to openly hostile. Part of the reason for that seems to be that the document is reasonably good at stating what the problems are—poverty, drugs misuse and too few resources—but is then quite superficial about how to act on those problems. One example is in the conclusion to the section on resources, on page 151, which lays out clearly the current problems but then makes very vague recommendations. It is almost as if two different people wrote the findings and the recommendations. When the document starts to talk about children's services plans, it seems as though people have run out of ideas.

The references to the number of children who are not protected, or who are only partially protected, dominated the press coverage and shocked the nation when the document was launched. Given that the information came from auditing actual case notes, I hope that the review team fed details of the cases back to the relevant local authorities and to the police force as evidence for the claims and, more important, to ensure that practice was improved immediately. After all, it was children and their safety that were being audited, not just statistics or social work practice. As the minister said, many of those children are living in conditions and under threats that are not tolerable in a civilised society.

Some of the report's findings might be considered to be unsurprising given that, in recent years, there has been a significant rise in referrals from the reporter to the children's panel in respect of child care and protection. The numbers of children on the child protection register are also rising, as are the numbers of looked-after children. All that has taken place at a time of increasing staff shortages and unprecedented numbers of vacancies. We also know that there has been under-resourcing of children and families work over the past 10 years or so. The latest figures confirm that local authorities plan to spend a third more than the total that the Executive provides for children's services through grant-aided expenditure. The system is under considerable pressure.

The report acknowledges that social work plays a pivotal role in child protection. It says:

"Outcomes for children were found to be highly dependent on social work doing well."

It should be patently obvious that if the child protection process is to be improved, the issues that critically undermine the work of the social work profession are the ones that must be addressed. To protect children, it is not sufficient only to have adequate numbers of staff; qualified, experienced staff are also necessary. We must have a competent and qualified work force that is knowledgeable about the complex tasks that are involved.

The report says that good practice occurred in those cases in which the

"provision of help to parents and children was given as and when it was needed; there was a ... timely response and early thought and preparation; and the source of the risk was properly addressed."

We would like such good practice to be followed in all cases, but it is obvious that that does not happen.

The social work profession also needs the Scottish Executive to promote and value its role. In spite of the fact that, for many years, there has been pressure for a national framework to raise standards, for improved interagency training, for the upgrading of the social work qualification and for measures to tackle recruitment and retention, only in recent months have such pleas to address the problems that undermine social work begun to be heard and acted on.

The report identifies another crucial resource that is not always available and which requires some investment—foster carers. It should be noted that the National Assembly for Wales has recently embarked on a review of foster care; that a national strategy for foster care services is being developed in Northern Ireland; and that the choice protects review in England has led to the Secretary of State for Health's allocation of £113 million to local authorities for the expansion and strengthening of fostering services. There have been no similar developments in Scotland so far and there is dissatisfaction and concern that even phase 2 of the on-going adoption review gives little prominence to fostering. The minister would do well to give some thought to that.

As the minister stated, the Executive is committed to a number of initiatives and to an action plan that is designed to improve performance. The Scottish National Party welcomes the additional funding that the minister has outlined today. Among the measures that have been identified are the special helpline, the children's charter, a tougher inspection regime and a three-year programme of different activities. Jim

Dickie, who is the president of the Association of Directors of Social Work, criticised that three-year time limit. He argued that it had taken the Executive and previous Governments twice as long as that to invest in the service. It is a bit much for the First Minister to tell social workers that they have three years to get it right before other people are put in charge, given that his Administration has had more than three years and has not got it right yet. I presume that he will consider it fitting when he, too, is replaced.

The fact that the problems are long term and difficult to resolve means that they require a long-term response. If we are ever to improve our work in child protection and to improve the integration of services, there must be sustained investment and committed support for the mainstream infrastructure.

I move amendment S1M-3748.2, to leave out from "and supports" to end and insert:

"condemns the Scottish Executive's failure to deal effectively with this problem despite almost four years in government in Scotland, and commends a response based on effective, committed and sustained support of mainstream, front-line child protection services, in both financial and political terms."

15:54

**Bill Aitken (Glasgow) (Con):** I apologise to the minister and to Irene McGugan for missing part of their speeches, although I explained my absence to them beforehand.

The report of the child protection audit and review did not make pleasant reading. Some of the cases that were referred to were harrowing. It almost makes one despair to read of parents who are prepared to treat their children in ways varying from malign neglect to callous brutality. The report does well to underline the horrors of the lifestyles of what is, fortunately, a small minority of Scotland's children.

There must be great concern at the weaknesses in Scotland's child protection system that the review has highlighted. Although the Executive is to be congratulated on some of the steps that it has taken, the content of the report indicates that a great deal more must be done.

Let us deal with the positive aspects first. The Executive was correct to call for the review against the background of the appalling case of Kennedy McFarlane. In some respects, the review points a way forward.

If I may respond to the point that the minister made earlier, the Executive is of course right to have launched, as it did the other day, a campaign to warn youngsters about the dangers posed by paedophiles on the internet. Although a sense of proportion is always necessary in dealing with the

issue of child abuse, it cannot be denied that the problem exists. I fully concede that anything that can assist in dealing with the problem is worth doing.

However, time and again, the report underlines the fact that the children's hearings system, in its present form, is failing. As I have said in the chamber before, children's reporters must obviously give priority to cases that involve children who are at risk. The document contains many examples of that. However, it is clear that the system's current lack of resources has from time to time resulted in worrying failures.

On offending, it must be stressed yet again that, in most cases, the actual victim of the crime or offence is another child. The existing system's impotence in dealing with offenders makes a significant contribution towards putting more children at risk.

We are therefore fortunate that the wiser counsel of the Conservatives prevailed at stage 2 of the Criminal Justice (Scotland) Bill and that the Executive's plan to refer 16 and 17-year-old law-breakers to the children's panel was scrapped. Frankly, that was a daft idea, which would have delayed an effective response to offending while further clogging up an already overburdened system, and which would have resulted in vulnerable children being placed at even greater risk.

**Cathy Jamieson:** Does the member care to explain the comments that were attributed to Tory spokespersons yesterday? They did not welcome the funding that was announced to support vulnerable families and to provide the hearings system with a wider range of options. Will the member explain why the provision of funding to respected organisations such as the Aberlour Child Care Trust, Barnardo's and Children 1<sup>st</sup>, smacks of a nanny state?

**Bill Aitken:** I personally did not issue that release. In any event, the obvious sense of that is that resources are finite, so such resources as are made available must have the maximum possible effect. From my reading of the issue yesterday, it is quite clear that the resources that are being made available are not being used to the best effect. Anyway, I must continue.

The proposal to send 16 and 17-year-olds to youth courts is not likely to progress matters further in reducing offending. That age group, which is currently tried in adult courts, would understandably view youth courts as a soft option. The vast majority of youngsters under the age of 16 will continue to be sent to the children's panel, which everyone knows is a soft option.

The solution is to continue to send the older offenders to adult courts and to send persistent

and serious offenders who are under the age of 16 to youth courts. That would allow the panels to focus their energy on dealing with children who are at risk. The dual effect of that would be that young offenders could be dealt with more effectively and that the hearing system could deal more adequately, more speedily and more responsively with vulnerable children at risk.

Other aspects must, of course, be considered—

**Scott Barrie (Dunfermline West) (Lab):** Does Mr Aitken agree that cases involving older young people who are in their teenage years can be quite complex, in that the grounds for referral will often be that the person has both committed offences and been offended against? How does he propose that such cases would be dealt with in his new way of dealing with young people outwith the children's hearings system?

**Bill Aitken:** I disagree in part with Mr Barrie's original premise. I agree that it quite frequently happens that younger offenders can offend because they have been offended against, but personal responsibility must come into play at the older level. Such cases are not quite as prevalent among older young people as Mr Barrie would have us believe.

Everyone has their part to play. As the minister rightly identified the other day, parents should control what their children view on the internet. Parents should also be required to know where their children are at night, thus leaving the children less vulnerable to those who prey upon them and less prone to offend.

Parents must play their part, and wider society must play its part, but above all, we need to get more police on to the streets and into the communities and to build a justice system that puts the rights of victims above those of criminals. The disturbing trend of rising crime under the Government will continue unless that is done. That trend threatens all sections of society, including—or, perhaps I should say, especially—children.

I would be extremely depressed were future generations of parliamentarians ever to have to read a document such as the report. We must all have found the report's content deeply disturbing and frequently distressing. We must recognise that and take action to prevent things of the type described in the report from happening again.

I move amendment S1M-3748.1, to leave out from "and supports" to end and insert:

"calls for an overhaul of the children's hearings system which would not only better deal with young offenders, but offer greater protection to vulnerable young Scots, and further calls for a substantial increase in the number of police officers visible within our communities to deter and detect crime which would help make all sections of society safer."

16:01

**Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD):** I start by welcoming the various and wide-ranging announcements that the minister has made today.

Child protection issues almost always come to public attention through press and media reports of high-profile cases, which all too commonly involve details of tragic events and exceptional cruelty and abuse. By definition, something serious has gone wrong with child protection in such cases.

In spite of the appalling nature of those cases, we are always perhaps tempted to take refuge in the idea that the media is giving us a view that is unrepresentative of the whole picture. However, as ministers and others have acknowledged, when we turn to the report, we see that the findings make it clear that, at the day-to-day, less sensational level, many children and families are subject to real difficulties, risk and harm and are not being caught by the system or, if they are caught, are not being supported as well as we would wish.

A lack of confidence in the system comes out of the report. Although, as others have said, the report makes it clear that dedicated individuals and organisations are doing much excellent work, youngsters throughout the country are still being exposed to risk and actual harm because the system of support and protection that is currently in place is not responding quickly or accurately enough to meet the needs of vulnerable children.

I am glad that ministers have acknowledged the seriousness of the issue, have not tried to cover it up, have not seemed complacent and have initiated a wide-ranging reform programme, about which we have been told before and again today. Ministers have taken and are taking measures to improve local oversight and the proper inspection of the system.

The Liberal Democrats welcome the proposal for a statement of children's rights in the children's charter. We certainly appreciate the Executive's support for the establishment of a commissioner for children and young people, which will contribute to the child protection overview. Shortly, we will move to stage 3 of the Protection of Children (Scotland) Bill, which will make a big step in the right direction. Similarly, everyone realises the value of additional support for helplines, which will enable ChildLine to expand its operations in Scotland. As Bill Aitken said, we welcome the initiative to make people aware of the dangers of matters such as internet pornography and grooming.

When we examine the report's findings and recommendations, we find several strands in

which improvements must be made to ensure that youngsters are drawn into the support system in the first place and to avoid children being lost through flaws and inadequacies in a fragile and sometimes ill co-ordinated safety net. The report recommends that improved access and communication be high on the agenda. That means access to information, support and advocacy for children and support and better access and communication between professions and caring agencies. The interagency exchange of information between health, social work and education services is considered crucial to drawing vulnerable youngsters into the system.

The report also emphasises the review of the child protection committees, which the Executive is pursuing. We come back to the idea of statutory provision for child protection committees. There is a real emphasis on the need to reduce delays in the system, which have allowed casework to be slow and unresponsive and have perhaps even allowed cases to fall into abeyance for lack of action.

Recommendation 12 is important. It identifies a need for improvement in the assessment of needs, in particular for high-risk groups such as children who are born to alcohol-abusing or drug-abusing parents, and a need for the provision of an action plan for those youngsters. If a child is in an at-risk group, they should be dealt with comprehensively with an individual plan.

Similarly, recommendation 15 is important. It advocates a single integrated assessment, planning and review framework for children in need, which would be available to all partner agencies and would allow for the transfer of information if children or families move from one area to another. It would include clear plans and an indication of progress for each child. There would be milestones, so that it could be seen what point a child had reached in the system. If the child did not reach the milestones, attention would be focused on the need to do something.

In reading the companion volume to the report, I was convinced by research that stresses the importance of community intervention and planning, and the idea of creating safer living environments for children in socially deprived areas, for example through the provision of low-cost babysitting schemes, better monitored play areas, crèches and out-of-school care facilities. Such measures address the view that tackling individual cases is not the only way in which to protect children. If we have the right systems in place in society, children will be protected by the way things are done.

Apart from specific child protection issues, other Executive programmes, such as sure start and early intervention, can contribute to our success in

tackling the problems that are associated not only with learning difficulties, for example, but with children who are at risk.

I want to return to an issue that I mentioned in the debate on children's services in December, namely the need to recognise the pivotal role of social workers. We must recognise the responsibilities, dilemmas and difficult judgments that social workers face. I repeat the wish that I expressed then, which is that individuals on the ground should not be too readily picked on as whipping boys when things go wrong in desperately complex and difficult situations, where moral and practical dilemmas are legion, and where hindsight makes it easy for us on the outside to see that different decisions or actions might have been taken at particular points in the process.

In an early speech in the Parliament, on education, I made the point that ministers, legislators and local authority departments are facilitators in such matters, and that the systems that are set up must be coherent and well resourced. However, above all—as the review shows—success depends on the people on the ground doing well. We cannot be successful if we do not have well-trained, well-motivated, well-resourced, and well-respected practitioners dealing properly with the real people and the real cases on the ground. To that end, while I strongly commend everything that the Executive is doing and seeks to do, I urge ministers to continue their hard work to address the problems with the supply and retention of well-motivated child care social workers.

**The Deputy Presiding Officer:** We have until 16:38 for open debate. Seven members have requested to speak, which means speeches of four minutes, although I will accept extra time for interventions.

16:08

**Scott Barrie (Dunfermline West) (Lab):** It is now almost six years since the Children (Scotland) Act 1995 came into force, which totally updated our child protection system from the one laid out in the Social Work (Scotland) Act 1968. A number of members who practised social work at that time felt confident and optimistic that the Children (Scotland) Act 1995 would provide a better framework for child protection than the one we had. However, in the light of experience in the past six years, it is disappointing to see the bureaucracy that has resulted from the 1995 act with regard to seeking child protection orders, child assessment orders and exclusion orders. The act has not lived up to our optimism.

It was clear that we had to update the old place of safety method, whereby a simple signature from

a justice of the peace could result in someone entering the system quickly, but we replaced it with a system that is perhaps too complex and too difficult.

The review states:

“Emergency protection measures were used only rarely in the sample of cases which were looked at. Social workers were reluctant to apply for Child Protection Orders unless they could demonstrate immediate risk to a child and in some cases they were concerned about appearing in court and being cross examined about their work.”

If that is the framework that is the bulwark of child protection, perhaps we should seriously examine it.

I welcome what the minister said in her speech about placing child protection committees on a more statutory footing. That is long overdue and will result in better practice throughout Scotland. I was a member of Fife's child protection committee and for about seven years chaired a local child protection group that was established throughout Fife. Local child protection groups that bring together voluntary and statutory sector workers from one geographical area to meet semi-regularly to discuss general issues—but not necessarily specific cases—are a good way to aid interagency co-operation and understanding. If we are to develop seriously the idea that child protection is not only a function of social workers, health visitors or paediatricians, but a function and an interest for us all, we must engender that in our local communities through bodies such as local child protection groups.

Ian Jenkins and Irene McGugan highlighted the report's reference to the pivotal role of social work. When social work works well, outcomes are good, but it is sad that, despite the interagency approach that we keep talking about, when social work does not perform well, the outcomes are poor. We must ensure that everyone progresses the child protection message.

When we discussed children's services last month, I observed that the varying attendance at child protection case conferences is disappointing. The only agency that is always represented at a case conference is social work. Often, health visitors are present and sometimes schools are represented, but it is rare that the medical profession is present. If we are to have a proper and cohesive child protection system, we must all ensure that people take it seriously.

Will the minister consider issuing further guidance to our local authorities on the use of section 38 of the Children (Scotland) Act 1995, which deals with refuges, so that people do not have to enter the system through formal child protection procedures? That would allow us to use that section for youngsters who are very troubled

and need a bit of space. The section was another departure from the statutory intervention that we had to make in the past, but its use has been patchy throughout Scotland. We need to examine that seriously.

16:12

**Alasdair Morgan (Galloway and Upper Nithsdale) (SNP):** I will talk mainly about social work, because my experience of that is twofold. My wife is a social worker from the days when such a thing as Edinburgh Corporation existed, which had a children department. I have experience of working in a computer services organisation that provided computing services to social work.

My first public defence of social work was when I wrote a letter to *The Scotsman* in about 1968 or 1969 in response to a criticism by a very young Edinburgh councillor called George Foulkes—who I presume was slimmer then, too—that social workers were too young. The British Association of Social Workers briefing for our previous debate on children's services said that those highly trained people are an aging work force—I have not had the courage to show that to my wife yet.

My first point is about bureaucracy, which Scott Barrie covered. There is a great element of duplication. I will pick up what my colleague Irene McGugan said about the strengths of the report's findings compared with the weaknesses of its recommendations. After she said that, I noticed that one finding in paragraph 8.51 of the report is that

“there is too much duplication of effort”,

yet neither of the associated recommendations deals with that. It could be argued that the recommendations would create more work. The report's recommendations are an honest attempt to deal with the problems, but most of them would increase the work load and bureaucracy.

**Cathy Jamieson:** Does the member accept that the forthcoming summit, which will bring together all the agencies that are involved, is designed to deal with some of the recommendations and to consider how we can develop them sensibly and practically?

**Alasdair Morgan:** I hope that the summit will do that. The recommendations will need to be examined hard, because if they are taken as they are, they will increase bureaucracy and the work load.

The second matter that I want to address is recruitment. There is a clear problem recruiting to children's social work vacancies. The fact is that many recruitment exercises meet with little or no success. I also have concerns about the recent

tendency to hire unqualified workers. I know that such people can undertake many tasks, but we need an assurance that the need to supervise those workers will not simply increase the burden on already hard-pressed qualified workers.

The third point concerns the image of social work, but it is not a party or even a politician's point. All of us have a role to play in trying to give greater esteem to the social work profession. In saying that, I am thinking in particular of the media. Social work needs the level of esteem that is given to other professions. The clear fact is that social workers have become the whipping boys or girls for the failures of society. Mr Jenkins referred to that. Social workers are damned if they do and damned if they do not. They are treated as fair game—perhaps I should have said unfair game—when society looks for someone to blame.

A classic example of that happened in the recent tragic case in Inverness. Last night's television and today's papers rushed to judgment, highlighting the need to investigate the social workers involved. Is it any wonder that recruitment is bad and morale at an all-time low? We have a duty to give the social work profession more support. Rational criticism is, of course, needed in cases in which it is justified, but we do not need the sort of criticism that we saw last night and again today.

My final point is on crime. It will hardly surprise members to learn that I do not agree with anything that Bill Aitken said. There is increasing unease out there about how the youth justice system is working. The link with child protection is that the same reporter, the same children's panel members, the same social workers and, as Scott Barrie said, sometimes the same children who are involved. Both systems suffer from the problems that we are discussing today. Unfortunately, in the eyes of an increasing number of people, both the youth justice system and the child protection system are flawed.

16:17

**Murdo Fraser (Mid Scotland and Fife) (Con):** As the debate is important and concerns a vital subject, it is depressing that the benches are so empty. Perhaps yesterday's excitement was too much for members and they have decided to go back to their offices.

How society treats its young people and old people is a test of how civilised it is. If we consider the report that we are debating today, we see that we have a way to go before we can count ourselves as truly civilised. My colleague Bill Aitken referred to some of the harrowing accounts that the report contains. I was pleased to hear the minister say that she recognised that the serious problems in the system need to be addressed.

I wish briefly to raise two points. The first concerns the children's hearings system, which a number of members, including Alasdair Morgan, mentioned in their contributions. I am sorry to say that the children's hearings system is in a bit of a mess. There is no doubt that it is losing—or has lost—a lot of public confidence.

There are a number of reasons for that. Perhaps it is because it is under-resourced, but it is certainly because of the excessive delays in getting children through the system. There is also a perception among the public that the system does not treat young offenders as effectively as it should. That is particularly the case for the persistent young offenders who come before the system.

I can talk only from personal experience. In the small town in which I live, the perception among my neighbours and people in business is that the disorder in the town is caused by a small group of young offenders aged 14 and 15, who persistently reoffend. Everybody knows who they are.

**Cathy Jamieson:** The member's colleague, Bill Aitken, has already disassociated himself from the remarks that were made by whoever issued his party's press release yesterday. Does he accept that one of the ways to ensure that young people do not fall into persistent offending is to provide support at an early stage? Does he further agree that support for vulnerable families is absolutely critical to that? If so, does he welcome the projects for which funding was announced yesterday?

**Murdo Fraser:** My colleague Bill Aitken has just confirmed to me that he disassociates himself from the remarks that were made. I think that it was my colleague Brian Monteith who made the remarks yesterday, to the effect that if money is available to deal with such problems, it would be better to put it into improved policing, education and properly punishing those who offend.

I return to the point that I was making about the public losing confidence in the children's hearings system, and especially with how it deals with persistent 14 and 15-year-old offenders, who are not being dealt with properly. Although that is partly an issue for the police, it is also an issue for the children's hearings system.

As my colleague Bill Aitken pointed out, young people are victims of crime themselves. Many of the crimes that young people commit are crimes against young people. As a result, we need to protect younger as well as older people. I am delighted that, during consideration of the Criminal Justice (Scotland) Bill, we saw a U-turn on the ludicrous plan to send 16 and 17-year-olds to the children's hearings system. Such a step would simply have overburdened the system even more. Instead, we should make more use of youth courts

for 14 and 15-year-olds, which would ensure that they are dealt with properly and would free up the children's hearings system to deal more adequately and speedily with young offenders.

**Scott Barrie:** Will the member give way?

**Murdo Fraser:** No, I am in my last minute and wish to make another point.

Mr Barrie will be pleased to hear that I wish to congratulate the Executive on one particular aspect. This week, Cathy Jamieson launched the "Think U Know" campaign, which deals with internet safety for young surfers. I welcome such an encouraging move from the Executive. We are all aware of the concern that young people on the internet are being targeted by paedophiles and other adults who seek to use them for sexual purposes. We have to get the message across to our young people that they must take the issue seriously and ensure that they inform parents, teachers and siblings. The message must also go out to parents and to teachers in schools that they can speak to young people about such issues. There must be access to organisations such as ChildLine. Indeed, I was pleased to hear the minister's acknowledgement that there would be funding for that organisation.

Another aspect of the debate that needs to be examined is the fact that, if the matter is to be policed properly, we need more policemen.

I know that I am over my time, Presiding Officer.

**The Deputy Presiding Officer (Mr Murray Tosh):** You certainly are.

**Murdo Fraser:** I will just conclude with one final point.

**The Deputy Presiding Officer:** No, there really is no time for that. I think that you have had your cut. I would be obliged if you would take your seat so that I can move on to Jackie Baillie.

**Murdo Fraser:** Thank you, Presiding Officer.

16:22

**Jackie Baillie (Dumbarton) (Lab):** Thank you, Presiding Officer. I am sure that that will come as a relief to other members.

**The Deputy Presiding Officer:** That comment was not entirely helpful.

**Jackie Baillie:** I always want to be helpful. Let me return to the substance of my speech.

"It's everyone's job to make sure I'm alright" is not just the title of the review, but the key message that has been echoed around the chamber this afternoon. Without a doubt, protecting Scotland's children from harm and abuse is a collective responsibility. I believe that the Parliament has a



special responsibility to translate those concerns into action. As many members have pointed out, civilised politics is about protecting the most vulnerable in our society. There are few more vulnerable people than little boys or girls who have run away from home, or children who have been abused by the very people who should love them. The recent review leaves us in no doubt that such children exist in Scotland.

In 2002, 2,018 children were on the child protection register. They, at least, have one foot in the door of the protection system. The report also shows that there is a worrying lack of public confidence. Friends or relatives of children at risk are reluctant to report their concerns, so the problem is perhaps greater than it at first appears.

The review does not make comfortable reading, and it is clear that there is much to be done. As well as identifying the heinous problem of child prostitution in Scotland, it found from the audit sample that 21 per cent of children at risk were not getting the help that they need. It is only by exposing such statistics—uncomfortable although they may be—that we are able to understand the problem and take concerted action.

Children's problems have the potential to snowball. Family problems, if not addressed, can lead to child homelessness, and abuse through prostitution, crime and substance misuse. The essential task of protection agencies must relate to early detection, and to providing effective responses to warning signs. It will soon be too late if the warning signs are ignored.

The review makes several suggestions as to how to improve performance. The first relates to access to information, and to ensuring that both adults and children are aware of the resources available to help them, such as freephone advice lines for counselling and advice in schools. Communication between agencies is also of critical importance.

Different services and agencies must share their information and have a common strategy. It is only when we have that integrated picture of medical problems, behavioural problems at school, school absences and social work assessments that we can begin to know a child's level of risk. A lack of communication can be fatal.

The working group on young runaways and children abused through prostitution proposes the development of local protocols to tackle the problem. They form a welcome basis for an integrated approach from all the relevant agencies—police, local authority and voluntary sector alike. I am delighted that the Executive has already responded to some of the key policy recommendations in the review. The three-year programme of sustained activity to reform the child

protection system, coupled with the robust monitoring of progress, indicates a commitment to the issue. New resources already announced, such as the £13.3 million for social work training and child protection measures, should also help reforms, but there is no one-off response that will solve the problem. We need a continuing commitment to improve the way that children at risk are identified and protected because even one child suffering is one child too many.

If we needed a reminder, only this week a 5-year-old girl was discovered drowned in the Caledonian canal. Her body, found in a weighted bag, might have been there for several months. What kind of a society is ours that that could happen? I hope that that will spur on the Executive in its determination to build on the good efforts that it has made to reform the child protection system, and to build on them quickly.

16:26

**Colin Campbell (West of Scotland) (SNP):**

This is a topic of huge concern to every human being in the country. The fact that any child suffers physical or mental abuse, either deliberately or accidentally, is terrible. No child should have its life blighted by the circumstances that exist in our nation.

I spent many years working in certain parts of the west of Scotland, where one could say that education was a challenge and possibly a secondary consideration to providing a stable base for a lot of the children in their daily lives. In that context, we came across many dreadful situations.

At the risk of sounding like a bit of a Jonah, I add a piece of information that I have gleaned. I do this because of what Cathy Jamieson said earlier about prostitution. Less than a year ago, I had a meeting with an assistant chief constable in Strathclyde on the subject of drugs. As the long discussion continued, he revealed that he had been to an international police meeting in western Europe where their projections were that the crimes they had to face up to were, in order of priority, trafficking in children, trafficking in women and trafficking in drugs.

Whatever idiosyncrasies and inadequacies there are among our own people and the way they try to make their lives, on top of that is the burden of crime pushing on those areas and striking at young, vulnerable people. None of us, in the chamber or elsewhere, would not want to do everything that we possibly could to turn that situation around. In other words, some children's lives are tragedies from an early age and there is a duty incumbent on every one of us.

Examining the review, it is terrible to discover

how many children fall through the net. Of 188 cases examined in detail, 40 children were not protected and a further 62 were only partially protected. Not or partially protected is simply not good enough, whoever we are. All sorts of people are involved in child protection. Having been in areas of some difficulty where children had major social problems and the teachers, social workers and the police were all involved, much time was spent on what I can only call fire fighting, holding the line or dealing with the most spectacular cases while other less spectacular cases fell through the net. They were not deliberately neglected, but they could not be dealt with simply because there were not the people or the time to do the job.

That brings me to the question of resources, and I would like to cite one or two items from a special report on the children's hearings system in Scotland. Whatever criticisms people have of them, children's hearings are fundamental to a lot of child protection. It is often the case, as the report points out, that decisions made by children's hearings are not so much about the needs of the child as about the resources available to deal with the child. That is the wrong way round; the boot has to be on the other foot. It must be a question of assessing the child's best needs and finding the resources.

We know that GAE has not been terribly good on that and that a lot of local authorities—in absolute sincerity and for the right reasons—are spending more than the allocated GAE on children's protection. Unless child protection is properly resourced, people will be sitting here 10 years from now making many of the same noises. I sincerely hope that that will not be the case.

16:31

**Donald Gorrie (Central Scotland) (LD):** I welcome the steps that the Executive has taken to try to deal better with the problem of child protection. I shall try not to rehash some of the excellent points made by other speakers.

On resources, as usual I will ask not only for more resources, but for better-directed resources. We need adequate staff, but the figures that we have been given show that, in some council areas, 25 per cent vacancies exist in child services. There is no point in having lots of schemes if there are no people to deliver them. That must be dealt with. The problem is increasing because referrals from the reporters to the children's panel have gone up by 69 per cent, which indicates the size of the problem. As Colin Campbell said, GAE resources from the centre to the councils are a third less than what the councils are spending. I often criticise councils for spending money on the wrong things, but here they are clearly on the side of the angels. They are doing a better job on that

than central Government is, and we must address that.

We must get better value in a number of ways, by rolling out more rapidly and vigorously examples of good work, which do exist. Something that we are very bad at in Scotland, for some reason, is copying things from one another. The main Scottish industry is reinventing the wheel. We need more co-operation and access to information across agencies. The minister is trying to achieve that and we need to get a firm grip on it.

If we put more resources into foster care, so that payments are somewhat more generous and support is better, we would solve a lot of other problems. Good foster care is one of the best and most effective ways of dealing with the issues that we are discussing today. I particularly welcome the minister's announcement of progress on the question of missing children and runaways; I gather that there are about 9,000 of them every year. I am one of those who have for a long time been passing on the concerns of some youth organisations that resources to deal with that problem are totally inadequate.

We should also put more resources into voluntary organisations that try to counter the break-up of marriages and partnerships, because that is the point from which many later problems stem. There are some good organisations that are seriously underfunded. The children's commissioner is a welcome development. Many of us have been arguing for that for some time, and it will help to bring together a lot of the issues and will keep on prodding us in the right direction.

We need more positive outlets for children. If there are more youth clubs, scout troops and football clubs for young kids to get involved in, that helps them in a number of ways to avoid those problems.

We need to be sympathetic to the problems of voluntary organisations. We want an all-embracing vetting system that catches all the potential villains so that they do not slip through the net, but the present system is unduly bureaucratic and people have to make repeat applications. For example, if I help at an Easter play scheme, I would then have to reapply if I want to help at a summer play scheme or an after-school club. That is ridiculous. The vetting system also creates substantial administrative costs for voluntary organisations, which are a major issue for small and large organisations. I hope that sympathy will be shown for how the voluntary sector is supposed to deliver.

16:35

**Pauline McNeill (Glasgow Kelvin) (Lab):** I commend the Executive not only for raising the

profile of children's welfare, but for taking sensible and achievable measures and strengthening our criminal law in relation to children.

I want to make some observations on the exploitation of older children, young men and women who are subject to exploitation through prostitution and child trafficking. We begin from the premise that children cannot consent to their own abuse and that children and young people are targeted by criminals and exploited by adults. The Parliament must welcome the progress that has been made in the Criminal Justice (Scotland) Bill to secure measures to create in Scots law a crime of human trafficking in relation to forced prostitution, and in increasing sentencing powers in relation to the possession of obscene material that depicts child pornography.

**Dr Richard Simpson (Ochil) (Lab):** Does Pauline McNeill agree that we must seek to identify, register and treat many people who have recently been identified in the criminal prosecution system for committing internet crime, but who are not being prosecuted, as the number of times that they have accessed the internet is insufficient? The numbers are horrific and people must be identified earlier. Does she agree that we probably need a "stop it now" campaign in Scotland to deal with people who have not yet been prosecuted for sex offending?

**Pauline McNeill:** I have no difficulty in agreeing with Dr Simpson's central point. We need to look beyond the most serious criminals and recognise that other criminals whom we need to catch are out there—particularly on the internet.

The United Nations Children's Fund is calling on the United Kingdom Government to introduce a criminal offence that extends to the crime of trafficking in children, which I believe will eventually be incorporated into Scots law. It has called on the Government to provide the necessary social services for trafficked children, including the provision of safe houses. Victims of trafficking who return home may be subjected to torture or rape, or even detained by traffickers. Such things occur as a punishment to victims, who may be seen as co-operating with the authorities, as a warning to others or as a punishment for not paying what the trafficker sees as unpaid debts. Sometimes, the victim is simply trafficked again to another country.

The UK Government should not deport a victim of trafficking if there is a danger that a human rights abuse may take place. I am sure that the Scottish Executive will take an international approach to the issue of the wider protection of children and that there will be a further strengthening of our law.

In the final two minutes available to me, I want to develop the theme of young people and older

children who are exploited through prostitution and sexual abuse. A significant number of young women are involved in prostitution on our streets. In a recent survey, some 24 per cent of them indicated that they became involved in prostitution when they were under 18. Given that we know that eight women have died in the past eight years on the streets of Glasgow, if that issue is not resolved, it will have serious consequences.

Often, young women who are being groomed for prostitution think that they are in control, but are unaware that the man with whom they have just struck up a relationship is preparing to capture them for the sordid world of the sex industry. Harsh challenges face the Parliament and society. Young boys are also vulnerable. We need to develop services for young boys and girls to ensure that they have somewhere to go when they decide to flee.

The Young Women's Project in Glasgow must be congratulated on its excellent work. Recently, I dealt with a young woman constituent who fled her family after claiming that her father had raped her and her sisters. She claimed that she was not aware that there was somewhere she could go. I say to the Executive that we need to make young people more aware that there are services and that we need services for young boys.

I have previously spoken to Cathy Jamieson about creating a system of places of safety for young people. I am not an expert or an ex-social worker, but, in addition to the review, the Executive could rightly develop such a system within the current system.

16:40

**Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD):** I am pleased to take part in this important and thoughtful debate. In winding up for the Liberal Democrats, I will briefly comment on some of what has been said, although I cannot refer to every member who has spoken.

The minister rightly referred to the fact that not only is child protection a matter for social work but it involves the co-ordination of all services. Many members touched on that point. My point is that it is easy to say that but much harder to deliver. My colleagues on the Finance Committee have been working on that very issue.

The minister referred to a subject close to my heart—young people who run away. I will not bore the chamber on the matter, because I have addressed it previously.

I will pick up on one figure that the minister gave us: the £600,000 that goes to refuge provision. That is proof that the Executive is putting its money where its mouth is.

Irene McGugan made a considered, thoughtful and well put-together speech. She had a lot to say. She referred to the fact that the speedy and accurate flow of information is crucial. She flagged up the issue of fostering; my colleague Donald Gorrie also touched on that issue. Fostering remains an issue for the Executive and I am sure that the Parliament will turn to it in due course.

Bill Aitken made a heroic and, I think, successful attempt to put the Conservative party back on to the right message. It is not surprising that he touched on justice, police numbers and so on but, in fairness to him, he talked about the horrific content of the report. Other members mentioned that, but Bill in particular flagged it up and summed up the issue nicely. We should remember and reflect on the issues that he raised.

My colleague Ian Jenkins touched on the important Executive commitment to the idea of the commissioner for children and young people. He also mentioned that access and communication are high on the agenda. I will return to that point. He also mentioned that recommendation 15—this goes back to what the minister is saying—refers to an integrated approach. That is marbled throughout the report.

Ian Jenkins raised a point that was echoed by many members, most eloquently by Scott Barrie. He said that social work must not be the cinderella service or the “whipping boys”. The vacancies to which Donald Gorrie alluded in the child protection end of the service are horrific. It lies in the hands of the Executive and local authorities to look again at social work and consider whether it is funding it in the way in which they should be. I am sure that many good efforts are made, but the service is, as members have mentioned, patchy throughout Scotland.

I will conclude by making a point of my own, which I shall draw from the comments of previous speakers. My point will come as no surprise, given the constituency that I represent. Ian Jenkins talked about access and communication and Donald Gorrie talked about access to, for example, youth clubs. I will describe the scene, with which Rhoda Grant will be familiar, in which a family lives in a remote house somewhere in Sutherland. The children will go to school in the daytime. They will go away in the bus—they will have to walk some distance to get the bus—and they will go home. In many cases, they will not be seen again until the following morning. What might—and sadly does—happen during those long, dark hours is an issue that we as an Executive and a responsible Scottish Government have to get into.

My plea to the minister is simple. I commend her for what she does. She should remember that, in some of the most far-flung parts of Scotland,

remoteness is an issue. A one-solution-fits-all approach is not that clever—we have to fine tune it. I look forward to the minister commenting on that in summing up, if she can do so; if not, I will be pleased to hear her comments on the matter in future.

16:44

**Mrs Lyndsay McIntosh (Central Scotland)**

**(Con):** It is no time at all since we had a similar debate, courtesy of the SNP. We cannot expect to make momentous changes in a matter of weeks, although we are grateful for the opportunity to air our concerns—whether they are our own or those of our constituents and the organisations with which we come in contact.

Colleagues throughout the chamber have all highlighted the report “It’s everyone’s job to make sure I’m alright”. How depressing the comments are when we know that we can do so much better and that those children deserve nothing less than our very best efforts.

I would like to comment on the issues that the minister mentioned and on some of the points that colleagues donated to the debate. I was taken aback when the significance of what is said in the “Think U Know” advert really sank in after I had heard it a couple of times. The highlighting of the child and adult voices is chilling and anyone who listens to the advert has to pay attention. Although we think that only young children are involved with chat rooms, my 18-year-old son uses the internet and plays around with chat rooms. He wants to meet a friend in London, but that will happen over my dead body, unless I am entirely satisfied about whom he is talking to. We do not know whom we are talking to in internet chat rooms. Although he is 18, my son will have to satisfy me about that before I give him the funding to go to London. Such things can happen to anyone, especially children who have ready access to the internet.

There is no doubt that everyone must take a responsible attitude towards chat rooms. We should talk to our children about them and, from time to time, pop in to find out whom they are talking to. We should not leave children alone with access to such a dangerous tool, even though they are entirely innocent. The internet is a wonderful tool, but much can happen through it.

A number of members raised the issue of the exploitation of children through child prostitution. I will have no truck with that. It is a crime and should not be tolerated in any decent society.

Donald Gorrie mentioned that there are around 9,000 runaways a year. That is an horrendous figure. Refuges would help enormously for youngsters who need either a modicum of breathing space or somebody to speak to. I

confess that I do not always pick up on everything that my children tell me the first time.

Irene McGugan made a thoughtful speech and I fully expected her to mention the lack of resources for social workers. We have commented on that issue times without number. We only ever hear the bad news and never hear about the good work that social workers do. Ian Jenkins highlighted recommendations 12 and 15 in the report and the need for well-trained practitioners. There is no doubt that we need such people.

I am glad that Scott Barrie has returned to the chamber. He mentioned place-of-safety orders. I remember such things and I have signed one, which I did not do lightly. It took me a number of hours to examine all the details before I did so. It is great that things have changed, but we still require professionals to make the effort to become more co-ordinated.

Alasdair Morgan pointed out the bureaucracy that is involved for social workers. I counsel him not to tell his wife that it is more than 30 years since he wrote the letter that he mentioned. He should not highlight that to her, because he might suffer.

Murdo Fraser commented that children commit crimes against other children. When one child acts against another, it cannot be easy to decide who is to blame. Jackie Baillie mentioned how we treat youngsters. I did not think that Jackie Baillie and Murdo Fraser would agree on anything, but their comments on the issue were similar. Colin Campbell mentioned the trafficking of women, children and drugs—in that order. It is shameful that such things happen.

As our amendment shows, we are extremely concerned about the weaknesses in Scotland's child protection system that the report highlights.

16:49

**Michael Russell (South of Scotland) (SNP):** There has been no shortage of concern about the astonishing statistics that are contained in the report, although to people such as my colleague Irene McGugan, who has spent a great deal of her working life confronting such statistics, they are not astonishing. Of course, they are not just statistics; they involve individuals. One of the most remarkable features of the report is the case studies that are highlighted on page after page.

There is no shortage of genuine concern, but concern is not enough. We need rigorous analysis of why we are in such a situation and we need proposals to get out of it. The analysis divides into two parts. Is there something uniquely sick about Scottish society that we must change if the situation is to change or is there a fault in the

process by which we deal with the situation? Of course, one of the purposes of the review was essentially to ask that question and to examine the process that existed. The review also arose out of a specific failure of process.

Alasdair Morgan raised an important point about the image of social work and the attraction of social work as a profession. Indeed, some of the problems arise from that. Other problems arise from a wider difficulty in society and are related to the gap between the image of ourselves as a mature, responsible and wealthy society and the reality. An astonishing statistic in the report is that there are up to 20,000 children in Scotland who are living with a drug-abusing parent. That is an enormous number, which equates to 20 secondary schools full of young people who are living with a drug-abusing parent. There are many such statistics in the report. So, there are illnesses in society that need to be dealt with, perhaps in a way that transcends or overcomes politics.

I address the Conservative amendment with the greatest respect for the Tories. I have a great fondness for Lyndsay McIntosh, in particular.

**Mrs McIntosh:** It is reciprocated.

**Michael Russell:** I am glad to hear it. Nonetheless, I have to say that the lack of analysis from the Tories is depressing. It is not enough simply to have a knee-jerk reaction and to call for more police and courts. We must go much further than that in our analysis of what we need to do to change society.

Although I do not question the minister's commitment, I find her analysis defective as well. If we are to examine why the current situation exists and—more important—find ways in which to change it, we must look at the policy that successive Governments have followed and ask where that has gone wrong. The Scottish Executive has held office since 1 May 1999 and the Labour Government has been in office since 1 May 1997. We are talking about six years. We should analyse closely the lack of policy that has been followed and the lack of action that has been taken in crucial areas. For example, the crisis in recruitment in child social work did not arise this week or last week or last year; it has been a developing crisis over five years. In those circumstances, there should have been action, which there has not been.

After analysing the policy failures, we must come up with some solutions—and there are solutions that we need to apply. As Irene McGugan said, SNP members have been supportive—but supportive in a more urgent sense than the Executive has understood—of many of the things that need to be done. However, we are not quite so supportive of what appears to be a

developing policy of ensuring that the resources that are applied go to the voluntary sector and do not stick to the central core service. That is a major problem.

**Cathy Jamieson:** Does Mike Russell accept the fact that the resources that have been announced are additional to the resources that have already been allocated to local authorities, either through the GAE or through initiatives such as the changing children's services fund? Does he accept that it is correct that we work in partnership with the voluntary sector which, in many instances, has the best people to provide these services?

**The Deputy Presiding Officer:** You are close to your time limit, Mr Russell.

**Michael Russell:** I realise that, Presiding Officer.

That was a revealing intervention by the minister. If there are additional resources, they should go both to core services and to the voluntary sector. However, the second part of her intervention indicated—as I had suggested—a preference for the voluntary sector. It is the weakness in the core service that is causing many of the problems. We need investment in the core service and must change the perception of the core service to overcome the difficulties.

The SNP will continue to argue for a McCrone-style review of social work and a prioritisation of the core services. We are by no means against working with the voluntary sector. However, the minister's preference arises out of an analysis that is not rigorous enough in determining what has gone wrong.

16:54

**The Deputy Minister for Justice (Hugh Henry):** This has been a good debate and we have heard a number of considered and extremely constructive speeches. I thank all members for that.

Like other members, I emphasise the importance of delivering better protection for Scotland's children. Members have highlighted specific, appalling cases and have referred to documents that describe absolute horror stories. I do not think that anyone in a civilised society can tolerate the continuation of such incidents.

We have discussed the range of professionals who are involved in protecting children and the need for effective joined-up working. A range of Executive departments are closely involved in that and are brought together at ministerial level in the Cabinet sub-committee on children's services. The sub-committee provides a top-level cross-Executive steer to our work in the area.

As Deputy Minister for Justice, I have a particular interest in ensuring that the justice system works effectively to protect children and to bring their abusers to justice. A key part of that work is to ensure that children are supported in giving evidence in legal proceedings. It is of paramount importance that children receive special support and that the criminal justice system respects the best interests of the child. We are consulting now on how we can support child witnesses, both before they go to court and during court proceedings. The consultation includes proposals to establish a child witness support service, with the aim of increasing and improving the support available for child witnesses and co-ordinating the work of the many agencies involved.

We are consulting on a package of guidelines that will establish national standards. They include guidance on investigative interviews, on questioning children in court and on the provision of therapy to children that will not contaminate their evidence in court. We are consulting on a code of practice on how court familiarisation visits should be carried out to help to prepare children who go to court.

Just before Christmas, we published a report on our consultation paper, "Vital Voices: Helping Vulnerable Witnesses Give Evidence", which looked at how vulnerable witnesses, including children, can be given the right help to give evidence. We are now working on proposals for changes to the law, which we plan to publish before the end of March. We will focus particularly on the needs of child witnesses and on ways in which to reduce their anxiety and trauma, especially in cases involving violence or sexual abuse.

I turn now to some of the comments that members have made during the debate. Irene McGugan mentioned the feedback of concerns to agencies. Following the inspections that take place in each area, the teams feed back to the chief officers or their representatives the findings of those inspections, which makes a valuable contribution.

Irene McGugan, Ian Jenkins, Alasdair Morgan and other members spoke, in different ways, about promoting and valuing the role of social workers. We cannot say this too often: we value and support social workers. Ian Jenkins was right to say that it is unacceptable that the only time social workers seem to attract comment in the press is when they are being scapegoated and criticised, with all the good work that they do over the years being ignored. It is wrong to pick up on social work issues just when things go wrong. We value social workers and we are investing in them. In particular, we are investing in social work training and in child protection. We are putting in an

additional £30 million over three years as part of a bigger package of support for the service.

Ian Jenkins mentioned communication between agencies. I think that that has improved over recent years—there are some good examples of co-operative working. We might suggest, however, that there is always room for improvement.

Scott Barrie referred to guidance and the use of refuges. The interim report by the working group on young runaways and children abused through prostitution recommends that the Executive should undertake an assessment of how local agencies deal with refuge provision, demand for such provision and models of good practice. Following that, additional guidance will be issued on the provision of refuges. We have identified up to £600,000 to develop work on refuge provision and will issue additional guidance when that is appropriate.

In a considered and thoughtful contribution, Alasdair Morgan raised a number of important issues. There are concerns about bureaucracy, which the Minister for Education and Young People has already addressed. Like other members, Alasdair Morgan expressed support for the profession. However, he was right to say that we cannot condemn those who criticise social work unthinkingly but not criticise social work when that is appropriate. Criticism must be balanced and must be made where appropriate. However, it should always be tempered with praise for all the good work that is done.

There seems to be a split within the Tory party on the issue. Some Conservative members recognised the value of investing in social work. Unfortunately, Murdo Fraser reacted in his usual manner, arguing that we need more policemen. We do need more policemen—that is why we have invested to provide record levels of police in this country. However, we also need well-trained and well-supported social workers.

Jackie Baillie was absolutely right to talk about the need for early detection. Many issues must not only be taken up in social work training, but be dealt with in social work practice, both in the voluntary sector and in local authorities. I support Colin Campbell's comment that we must always consider children's needs first. Social work is a needs-driven service. We do not determine how to support children simply on the basis of resources. The Executive—with Cathy Jamieson as minister—has a first-class record of putting the needs of children first.

Donald Gorrie and others raised some funding issues. I do not have time to discuss all the details of funding, but I have already mentioned the extra money that we are investing in social work training and child protection through sure start Scotland

and the child care strategy. Under the 2002 spending review, we are investing £91 million over three years. We have allocated £22 million over three years to the aftercare of looked-after children. Donald Gorrie may be interested to know that £250,000 has been allocated to support diversionary activities, through the Duke of Edinburgh's award scheme. That money will make a valuable contribution.

Pauline McNeill—echoing Colin Campbell—touched on international issues. As well as considering what is happening in this country, we must always be aware of the developing international perspective on the horrendous trade in young people.

Jamie Stone asked about remoteness. The Minister for Young People and Education will reflect on his comments and give consideration to that issue.

All those who have taken part in the debate agree that we can and must take action in response to the findings of the child protection review. That action needs to be taken by a number of professionals and agencies, working together in a joined-up way. We need to provide a strong steer and direction at national level—on the detail of establishing standards, roles and remits and on helping to raise awareness and to change behaviour and approaches. We look forward to receiving members' support in seeking to achieve that over the next three years, as we develop and implement the reform programme.

## Parliamentary Bureau Motion

17:04

**The Presiding Officer (Sir David Steel):** I invite Euan Robson to move Parliamentary Bureau motion S1M-3746, on committee substitutes.

*Motion moved,*

That the Parliament agrees the following nominated committee substitutes for the Liberal Democrat Party as permitted under Rule 6.3A—

George Lyon     Equal Opportunities Committee

Nora Radcliffe     Rural Development Committee.—[*Euan Robson.*]

## Decision Time

17:04

**The Presiding Officer (Sir David Steel):** Seven questions will be put as a result of today's business.

The first question is, that motion S1M-3744, in the name of Euan Robson, on the draft Scottish Parliament (Disqualification) Order 2003, be agreed to.

*Motion agreed to.*

That the Parliament agrees that the draft Scottish Parliament (Disqualification) Order 2003 be approved.

**The Presiding Officer:** The second question is, that motion S1M-3743, in the name of David McLetchie, on the general principles of the Council of the Law Society of Scotland Bill, be agreed to.

*Motion agreed to.*

That the Parliament agrees to the general principles of the Council of the Law Society of Scotland Bill.

**The Presiding Officer:** The third question is, that motion S1M-3728, in the name of Tom McCabe, on the general principles of the Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill, be agreed to. Are we agreed?

**Members:** No.

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

**For**

Adam, Brian (North-East Scotland) (SNP)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Campbell, Colin (West of Scotland) (SNP)  
 Canavan, Dennis (Falkirk West)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)  
 Gillon, Karen (Clydesdale) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (Edinburgh Pentlands) (Lab)  
 Harper, Robin (Lothians) (Grn)  
 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)  
 Johnstone, Alex (North-East Scotland) (Con)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 MacDonald, Ms Margo (Lothians) (SNP)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 MacKay, Angus (Edinburgh South) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 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)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McLeish, Henry (Central Fife) (Lab)  
 McLeod, Fiona (West of Scotland) (SNP)  
 McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (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)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Quinan, Mr Lloyd (West of Scotland) (SNP)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Reid, Mr George (Mid Scotland and Fife) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Russell, Michael (South of Scotland) (SNP)  
 Scott, Tavish (Shetland) (LD)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 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)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 Wilson, Allan (Cunninghame North) (Lab)  
 Wilson, Andrew (Central Scotland) (SNP)

#### AGAINST

Aitken, Bill (Glasgow) (Con)

Fergusson, Alex (South of Scotland) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Harding, Mr Keith (Mid Scotland and Fife) (Con)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Mundell, David (South of Scotland) (Con)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Wallace, Ben (North-East Scotland) (Con)  
 Young, John (West of Scotland) (Con)

#### ABSTENTIONS

Fraser, Murdo (Mid Scotland and Fife) (Con)  
 McLetchie, David (Lothians) (Con)

**The Presiding Officer:** The result of the division is: For 98, Against 12, Abstentions 2.

#### *Motion agreed to.*

That the Parliament agrees to the general principles of the Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill and that the Bill should proceed as a Private Bill.

**The Presiding Officer:** The fourth question is, that amendment S1M-3748.2, in the name of Irene McGugan, which seeks to amend motion S1M-3748, in the name of Cathy Jamieson, on the review of child protection, be agreed to. Are we agreed?

#### **Members: No.**

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

#### FOR

Adam, Brian (North-East Scotland) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Campbell, Colin (West of Scotland) (SNP)  
 Canavan, Dennis (Falkirk West)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Fergusson, Alex (South of Scotland) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harding, Mr Keith (Mid Scotland and Fife) (Con)  
 Harper, Robin (Lothians) (Grn)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Johnstone, Alex (North-East Scotland) (Con)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 MacDonald, Ms Margo (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 McLeod, Fiona (West of Scotland) (SNP)  
 McLetchie, David (Lothians) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 Mundell, David (South of Scotland) (Con)  
 Neil, Alex (Central Scotland) (SNP)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Quinan, Mr Lloyd (West of Scotland) (SNP)  
 Reid, Mr George (Mid Scotland and Fife) (SNP)

Robison, Shona (North-East Scotland) (SNP)  
 Russell, Michael (South of Scotland) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Ullrich, Kay (West of Scotland) (SNP)  
 Wallace, Ben (North-East Scotland) (Con)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Wilson, Andrew (Central Scotland) (SNP)  
 Young, John (West of Scotland) (Con)

#### AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)  
 Gillon, Karen (Clydesdale) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (Edinburgh Pentlands) (Lab)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 MacKay, Angus (Edinburgh South) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAllion, Mr John (Dundee East) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McLeish, Henry (Central Fife) (Lab)  
 McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 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)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)

Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 Smith, Mrs Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**The Presiding Officer:** The result of the division is: For 50, Against 66, Abstentions 0.

*Amendment disagreed to.*

**The Presiding Officer:** The fifth question is, that amendment S1M-3748.1, in the name of Bill Aitken, which seeks to amend motion S1M-3748, in the name of Cathy Jamieson, on the review of child protection, be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Aitken, Bill (Glasgow) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fergusson, Alex (South of Scotland) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (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)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Wallace, Ben (North-East Scotland) (Con)  
 Young, John (West of Scotland) (Con)

#### AGAINST

Adam, Brian (North-East Scotland) (SNP)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Campbell, Colin (West of Scotland) (SNP)  
 Canavan, Dennis (Falkirk West)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)  
 Gillon, Karen (Clydesdale) (Lab)

Godman, Trish (West Renfrewshire) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (Edinburgh Pentlands) (Lab)  
 Harper, Robin (Lothians) (Grn)  
 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)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 MacDonald, Ms Margo (Lothians) (SNP)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 MacKay, Angus (Edinburgh South) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 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)  
 McLeish, Henry (Central Fife) (Lab)  
 McLeod, Fiona (West of Scotland) (SNP)  
 McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (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)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Quinan, Mr Lloyd (West of Scotland) (SNP)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Reid, Mr George (Mid Scotland and Fife) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Russell, Michael (South of Scotland) (SNP)  
 Scott, Tavish (Shetland) (LD)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 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)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Wilson, Allan (Cunninghame North) (Lab)  
 Wilson, Andrew (Central Scotland) (SNP)

**The Presiding Officer:** The result of the division is: For 18, Against 98, Abstentions 0.

*Amendment disagreed to.*

**The Presiding Officer:** The sixth question is, that motion S1M-3748, in the name of Cathy Jamieson, on the review of child protection, be agreed to. Are we agreed?

**Members:** No.

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

**For**

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Canavan, Dennis (Falkirk West)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fergusson, Alex (South of Scotland) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gillon, Karen (Clydesdale) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (Edinburgh Pentlands) (Lab)  
 Harding, Mr Keith (Mid Scotland and Fife) (Con)  
 Harper, Robin (Lothians) (Grn)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)  
 Johnstone, Alex (North-East Scotland) (Con)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 MacKay, Angus (Edinburgh South) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAllion, Mr John (Dundee East) (Lab)

McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 McLeish, Henry (Central Fife) (Lab)  
 McLetchie, David (Lothians) (Con)  
 McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Mundell, David (South of Scotland) (Con)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 Smith, Mrs Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Wallace, Ben (North-East Scotland) (Con)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)  
 Young, John (West of Scotland) (Con)

#### ABSTENTIONS

Adam, Brian (North-East Scotland) (SNP)  
 Campbell, Colin (West of Scotland) (SNP)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 MacDonald, Ms Margo (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McLeod, Fiona (West of Scotland) (SNP)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Quinan, Mr Lloyd (West of Scotland) (SNP)  
 Reid, Mr George (Mid Scotland and Fife) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Russell, Michael (South of Scotland) (SNP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Ullrich, Kay (West of Scotland) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Wilson, Andrew (Central Scotland) (SNP)

**The Presiding Officer:** The result of the division is: For 87, Against 0, Abstentions 29.

#### *Motion agreed to.*

That the Parliament notes the findings of the report of the Child Protection Audit and Review, *It's everyone's job to make sure I'm alright*, expresses concern that, despite examples of good practice in child protection across Scotland, many children and young people are still at risk of abuse and neglect, and supports the Scottish Executive's plans for a sustained programme of reform, building on effective inter-agency working, and its continued emphasis on closing the opportunity gap for Scotland's most vulnerable young people.

**The Presiding Officer:** The final question is, that motion S1M-3746, in the name of Patricia Ferguson, on substitution on committees, be agreed to.

#### *Motion agreed to.*

That the Parliament agrees the following nominated committee substitutes for the Liberal Democrat Party as permitted under Rule 6.3A—

George Lyon    Equal Opportunities Committee

Nora Radcliffe    Rural Development Committee.

## Breast Cancer Awareness

**The Deputy Presiding Officer (Mr George Reid):** The final item of business is a members' business debate on motion S1M-3485, in the name of Mr Keith Harding, on breast cancer awareness. The debate will be concluded without any question being put. I invite those members who wish to contribute to the debate to press their request-to-speak buttons now.

### *Motion debated,*

That the Parliament congratulates all the voluntary and research agencies involved for their efforts in highlighting Breast Cancer Awareness Month; recognises the importance of continuing research into the diagnosis and treatment of breast cancer, building upon major advances achieved over past decades; records its thanks to all the medical and ancillary staff involved for their unstinting kindness and support to patients and their families, and considers that the Scottish Executive should ensure that funding is made available for increasing awareness, research, providing treatment and support and all other aspects of breast cancer care.

17:11

**Mr Keith Harding (Mid Scotland and Fife) (Con):** I am grateful that my motion has been selected for debate, as the scourge of breast cancer and the need to detect it require all the awareness they can obtain.

The motion came about following discussion with Margaret Ewing and Rhona Brankin who, with my wife Anne, launched breast cancer awareness month late last year. Margaret Ewing had hoped to contribute to the debate, but the tragic loss of her father-in-law means that she is not able to do so. I am sure that I speak for all members when I extend our heartfelt sympathy to her and to Winnie and Fergus.

My interest in the issue began seven years ago, when my wife was diagnosed as having breast cancer, and it is why I have participated in the cross-party group in the Scottish Parliament on palliative care. The Macmillan nurse who administered my wife's chemotherapy treatment had a positive and caring manner. He probably did more than anyone to help her fight and overcome the dreadful disease.

My wife is one of the lucky ones who have survived. Her survival was due not only to her determination and positive attitude, but to the excellent treatment she received in Stirling royal infirmary. As I have said in a previous debate, it took only two weeks between the detection of a lump and treatment. That should be the norm throughout Scotland but, regrettably, that is not the case. The distress that is caused by not knowing whether one has cancer while one waits for a biopsy can be fully understood only by those who are afflicted and their families.

Breast cancer is by far the most common cancer in women in Scotland and it is the fastest growing type of cancer among women here. It is estimated that the lifetime risk of developing breast cancer is one in nine.

However, the situation is not all doom and gloom. The good news is that mortality rates have decreased by 22 per cent in the past 10 years and the five-year survival rate in Scotland is 75 per cent. That is due to earlier detection and improved treatment, which is the result of the research that is carried out by Cancer Research UK and others.

When my wife was diagnosed, a friend and an acquaintance were also afflicted. Sadly, they did not survive. All three were in their mid to late 40s. Although the majority of women who get breast cancer have been through the menopause, more than 17 per cent are aged below 50. Therefore, I ask the minister to consider investigating the benefits of extending screening to those who are over the age of 40. At present, screening is restricted to women over the age of 50. Professor Stephen Duffy, who is professor of cancer screening for Cancer Research UK, says:

"Research both by Cancer Research UK and by the World Health Organisation indicates that screening reduces premature deaths from breast cancer by about a third and cuts the number of women needing mastectomies by 40 per cent."

I want to take the opportunity to place on record our thanks to the many voluntary and research agencies that are involved in tackling breast cancer. I thank those who provide the counselling and advice that is offered to victims and to partners and families whose lives are totally disrupted when the disease strikes. Finally, I thank all the medical and ancillary staff who are involved in the treatment of breast cancer for their commitment, kindness and support.

I ask the Scottish Executive to continue to provide funding for increasing awareness, for research and for all other aspects that are relevant to tackling breast cancer. Battles are being won, but the war is far from over.

17:14

**Rhona Brankin (Midlothian) (Lab):** I thank Keith Harding for initiating today's debate. It is not only those of us who have had breast cancer who feel that the subject is important, as it affects many people. Breast cancer affects not only those who have had it but those who have someone in their family or a friend who has suffered from it. The topic is important because it affects practically every family in the country in some way or another.

The first of the three issues that I want to touch on is the importance of having access to

information, which was highlighted in the breast cancer care survey that was done in May 2002. The survey found that 84 per cent of people actively sought out health information, but that the proportion decreased among older respondents. In fact, people in the older age group relied entirely on health professionals for information. That is an interesting issue, to which I will come back.

The survey found that internet respondents accessed information by using both the web and the helpline—which is what one would expect—but it also found that the internet is more widely used than that. An increasing number of women and families now use the internet to access information. Indeed, 33 per cent of respondents had used the internet and the helpline as a source of information.

The important finding was that half of all respondents said that they would like help in interpreting health information. Thus, although we are becoming better and more literate in using the internet, we often need to have the back-up of our local general practitioner or—for those who are already attending breast cancer clinics—of our consultant. More women are accessing the wide range of information that is available through the internet, newspapers and television and radio programmes, but they need help interpreting it. The implication of that is that our GPs need to be able to access the most up-to-date information and training on breast cancer care issues.

In connection with that point, I also want to talk briefly about hormone replacement therapy. Given some of the recent research projects that have reported over the past 18 months, there is increasing concern about the possibility of a link between HRT and breast cancer. I am aware that local GPs received information on that from the Scottish Executive about halfway through last year—in July, I think. Will the minister give us an update on whether the Executive recognises the need to keep GPs regularly informed about the research information that is produced that regularly mentions a potential link between HRT and breast cancer?

Although we need to be careful about not frightening women, we must also be as honest and as up front with women as possible. I firmly believe that we have almost reached the stage where we can say to women that, although we are not absolutely sure, we think there may be a link between HRT and breast cancer. I will be interested to hear the minister's views on that. If people ask me whether, if I had my time over again, I would take HRT, putting my hand on my heart I would say no. We need to think carefully about the advice that we are giving to women.

Before I finish, I want to mention the importance of Maggie's Centres, which I have spoken about

before. I was one of the lucky women because I was referred to Edinburgh's Western general hospital, where I was treated expeditiously, had access to breast cancer care nurses and was given a terrific level of care. For the particular kind of operation that I had, I was transferred to St John's hospital, where I also received wonderful care about which I have absolutely no complaints.

Edinburgh is lucky because it has a Maggie's Centre, which gives a huge amount of support to women and their families, whatever kind of cancer they suffer from. Many women with breast cancer use the Maggie's Centre, which was set up after Maggie Jencks sadly died from breast cancer. Increasingly, there is a network around Scotland for breast cancer sufferers and I am very much aware that the Executive has been supportive of that. However, I seek reassurance from the minister that the Executive recognises the value of the work that Maggie's Centres do and that it will continue to support Maggie's Centres in every way possible.

Once again, I congratulate Keith Harding on securing this debate.

17:20

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

I congratulate Keith Harding on securing this important debate and giving the Parliament an opportunity to recognise breast cancer awareness month and the efforts of the many staff and volunteers who are involved in supporting sufferers and their families. I would also like to echo Keith Harding's comment and say that Margaret and Fergus Ewing would have wanted to attend this debate, but were not able to for the reason Keith outlined.

The Parliament has shown a great deal of concern about this issue, which is reflected in the number of parliamentary questions about issues relating to breast cancer. Few people have not been touched by breast cancer. All of us have friends or members of our family who have had breast cancer. The condition has increased in the years 1989 to 1998 and it is the leading cause of cancer-related death among women aged 15 to 54. Although Keith Harding is correct in saying that survival rates are getting better in Scotland, they are still not as good as they are in many countries in Europe. As Keith Harding also pointed out, the key to getting better survival rates is to have earlier diagnosis and earlier treatment.

Although Scotland has the unenviable reputation of being the cancer capital of Europe, it is worth putting on record the fact that that is partly to do with the way in which our data are collected. We have a more robust way of collecting data than do some other European countries, which means that

we have an accurate record of the levels of cancer. Nevertheless, we are faced with a major problem and must find ways of solving it.

Getting access to treatment is an important issue. There are far too many variations in access to cancer drugs across Scotland. The postcode lottery still exists, as is shown by the fact that drugs such as Herceptin are more readily available in some health board areas than in others. We cannot allow that to continue. No matter where they live in Scotland, women must have equal access to the drugs that are the best drugs for them.

The importance of continuing research cannot be underestimated. Much of it is funded from public subscription. Without the many charities and the people who shake cans on the streets, we would not have made some of the breakthroughs that there have been in cancer treatment.

Most of all, I want to praise the staff who are involved in supporting cancer patients: not only doctors and nurses, but the Macmillan nurses who do an important job. I echo the point that Rhona Brankin made about the work of the Maggie's Centres. I have spoken to people who have been in Maggie's Centres and I know how lucky we are that one is opening in Dundee. Someone told me that the centres provide an oasis of calm in which patients and their families can relax and get advice and therapeutic treatments in an atmosphere in which they feel at home. That is important when one is undergoing cancer treatment, which can be quite frightening.

I agree with what the motion says about funding. We still have too many vacancies for cancer consultants and specialist nurses. Funding is critical in that regard and I hope that the minister will be able to give us some reassurances on that this evening.

17:24

**Mr Michael McMahon (Hamilton North and Bellshill) (Lab):** I join members in congratulating Keith Harding on raising this issue for debate this evening.

Although the Parliament has debated breast cancer before, it does no harm to remind ourselves of the frightening statistics to which Keith Harding alluded. Cancer Research UK has shown that breast cancer is by far the most common cancer in women and, with the exception of melanoma skin cancer, is the fastest growing cancer for Scottish women. As the research shows, one in nine women are at risk of breast cancer. We must never lessen our commitment to address that.

While we must not diminish in any way the

serious impact that the disease has on women, we cannot ignore the much neglected fact that around one in every 2,400 men are at risk from breast cancer. My father-in-law died from breast cancer. Because of the difficulty in diagnosing and recognising the disease in men, by the time male breast cancer is diagnosed it has usually progressed to an advanced stage. It should be recognised that the treatment for men and women given such a diagnosis would be the same.

Male breast cancer is uncommon. It is equally true that the disease is less common in younger women. My wife was diagnosed when she was only 33. Most women are diagnosed after the menopause, but a staggering 17 per cent are aged below 50 when they are diagnosed. My point is that in addressing the overall effect of breast cancer, we must not lose sight of the minority groups among those statistics that are affected by the onset of the disease.

The good news is that, in general, mortality rates have decreased by 22 per cent in the last 10 years, and five-year survival rates in Scotland are at 75 per cent. That is due to earlier detection and improved treatment, which is the result of good research such as that carried out by essential organisations such as Cancer Research UK.

It is essential that funding is available for research into the importance of genetics, hormones and lifestyle, all of which control the development of the disease, with a view to developing better treatments, increasing the effectiveness of present facilities and finding new ways of detecting the cancer earlier. Investigating issues such as risk factors, prevention, treatment and drug therapy, earlier detection and screening are paramount. We must do everything in our power to ensure that those developments continue.

I cannot commend highly enough the medical and ancillary staff on their dedication, hard work, and relentless commitment to supporting patients and their families, which I have seen at first hand. Organisations such as Glasgow's Beatson Institute for Cancer Research, Cancer Research UK, CancerBACUP, Macmillan Cancer Relief, Marie Curie Cancer Care and more organisations besides are committed to research into diagnosis, treatment, clinical trials, alternative therapies and the psychological impact of the disease, to name but a few of the processes that are involved in breast cancer diagnosis, treatment and support.

I know from personal experience that those organisations, both voluntary and professional, are at the core of the treatment. I have met a plethora of organisations that provide treatment, support and guidance to patients and families of breast cancer sufferers, I know the high level of commitment and dedication of the staff involved

and I wish to pass on my full support and thanks, and that of all members, to them.

It is with those thoughts in mind that I have no hesitation in supporting Keith Harding's motion. I thank him for bringing breast cancer to the awareness of Parliament again. We need to know more. We need to know the how, the why and the when. I fully support any funding from the Executive for increased awareness and research, and for the provision of treatment, support and all other aspects of breast cancer care.

17:28

**Ms Margo MacDonald (Lothians) (SNP):** I too thank Keith Harding for bringing this issue to the attention of Parliament once again because, unfortunately, it is an issue that just does not go away.

I speak in my capacity as the president of the Scottish Breast Cancer Campaign. Rhona Brankin and I launched a questionnaire, which was unique in terms of health care surveys in that it was organised by women, all of whom had experienced the breast cancer service because they had been sufferers. They questioned as many women as they possibly could in 2000 on their experience of the breast cancer regime in this country. Their findings have to be listened to, because they are not theoretical; they are a record of what happened to them as individuals.

One issue that came through clearly was the postcode lottery that Shona Robison referred to. However, it is not that there is a postcode lottery for treatment: once someone gets to the treatment stage it is usually uniformly good. It is getting to the treatment that involves a postcode lottery.

One suggestion from the survey was that the Government must never let up on the information that is provided for all women, which means public campaigns every so often and money for information campaigns. It is important that women, particularly women in rural areas—the survey bore that out—are well aware of treatments, where they can be obtained and the frequency of clinics, so that they take advantage of the available services.

I would not say that referral from general practitioners is lacking, but it is not uniform. Considering mandatory guidelines for GPs to follow might be sensible, because GPs still have differences of opinion about how to deal initially with a woman who complains of vague symptoms. I will say no more than that, because I do not want to castigate any group of people who are concerned with breast cancer care.

As for the general service provision and back-up support from the voluntary sector in Scotland, when the Scottish Breast Cancer Campaign's

survey was taken to international conferences in Europe and other places, we discovered that Scotland is way ahead of almost everywhere on information dissemination among patients and in the voluntary and statutory sectors. Perhaps a few lessons might be learned. I urged the Deputy Minister for Health and Community Care's predecessor to examine that survey and to incorporate its findings into anything the Government promotes in Scotland.

I will pick up where Rhona Brankin left off on HRT and the fact that some women are scared and put off going for that first vital examination that might lead to earlier diagnosis and a less traumatic regime of treatment. When I inquired of my doctor—I have a personal interest—whether the HRT low-oestrogen pills had made any difference in my case and what I should say if people asked me about the matter in general, my doctor said that, first, what was involved was a particular trial of a particular brand of a particular type of HRT treatment, so drawing too wide a conclusion from that would be unwise and would certainly be scary for women. I am pleased to see the deputy minister nodding her head in agreement.

I am glad that we are debating breast cancer again. We have debated it before, but it cannot be debated enough.

17:33

**Mrs Lyndsay McIntosh (Central Scotland) (Con):** I intend to make only a brief speech. I thank Keith Harding for obtaining the debate and I congratulate him on doing so. I am desperately sorry that the Ewing family cannot join us, because they have a huge commitment to the subject.

I did not know Keith Harding when I had a lump scare. During a routine self-examination, I detected an abnormality and telephoned my general practitioner immediately. I was seen within a couple of hours. Fortunately, it was a false alarm, but it brought home to me the need for regular self-examination and information for women.

I thank the Scottish Breast Cancer Campaign and Margo MacDonald, who is its president, for helping women to obtain information, for producing reviews of all the available information and for providing help and a listening service for people who think that they might have breast cancer and who do not want to trouble their doctor but would like some information.

I am sure that many members received the appeal that was circulated in September 2002 in a special edition of the "Scottish Breast Cancer Care newsletter". I responded to it and took the



opportunity to participate in one of the Scottish Breast Cancer Campaign's stall-holding days. I womanned, rather than manned, a stall in the Howgate shopping centre in Falkirk, which is in the region that I represent. It was a joy to meet the women there who are committed and who readily give their time and effort to help others.

A wide cross-section of people visited the stall that day. Some of them were young and they were looking to get the pink tartan ribbon, which was fine. There were also some much older women, some of whom were guided to the stall by their husbands, who told them to come and ensured that they were given information on the subject.

In the past, I have been told that I should not bother getting myself involved in such things. In politics, as in everything, I totally disagree. If by being there, attracting people to the stall and giving out information I helped to save one woman, I consider that to be a bloody good day's work.

17:35

**Colin Campbell (West of Scotland) (SNP):** My mother was one of five sisters. Possibly the most interesting of them was Xandra MacIver, who was a laugh. She was in the Women's Auxiliary Air Force and, as one of the first 20 radar plotters in the Royal Air Force during the war, survived being bombed at Biggin Hill. She probably lived a bit on the edge in the war. Unfortunately, she died at the age of 53 or 54 and I attended her funeral in London in the early 1960s.

I know that times and attitudes have changed a lot since then and that the chances of survival are much improved. I mention my aunt, as she ignored the early signs. All that I want to say, in teacher mode, is that we should learn about breast cancer, look for the early signs, not miss screening opportunities and not fear the truth. It is better to know the truth and act on it than not to know it and put oneself at risk. I ask the minister to note those points.

17:36

**Stewart Stevenson (Banff and Buchan) (SNP):** I congratulate Keith Harding on giving us the opportunity to discuss this topic. I will shortly congratulate Michael McMahon on his contribution.

I have been in correspondence with Malcolm Chisholm on the system of calling in people for assessment. The system operates for people up to the age of 65, although new plans will extend it to the age of 70. With the increase in lifespan of people in our community, it is important that we do not stop there. We need to continue to invite people over 70 in for screening.

My mother died from breast cancer in her mid-70s at a time when she was over the age to be called in. She would not be alone in our community in not having that opportunity extended to her. As she was a doctor's wife, members might think it surprising that her breast cancer was not detected. However, that fact illustrates precisely the shyness about symptoms that people may feel.

Scotland has perhaps a greater number of risk factors than is the case elsewhere, one of which is a greater incidence of obesity. I draw attention to one factor in particular, which is that it would appear from research that, among women, there is a correlation between smoking around the age of puberty and the onset of breast cancer at a relatively early age—the 30s and 40s, which are under the age at which people are called in for assessment. The minister may care to reflect on that example.

I congratulate Michael McMahon on raising the subject of male breast cancer, about which I want to say a few words. I cannot bring personal experience to bear on the subject as Michael McMahon can, but I will raise some issues that he did not cover. In particular, in order to bring the subject home to the chamber, I note the statistical likelihood that, given the number of people who are employed in the Parliament, at least one of the men here will develop breast cancer.

Breast cancer is more common in men over the age of 60, but I have read case histories of men who have died of the condition in their 30s. As with women, there is a wide age range at which breast cancer can occur. I will read into the record one or two examples, which are given in a fact sheet. That will help to publicise some of the issues to a wider audience.

People who are at particular risk of male breast cancer are those

"who have had several close members of their family (male or female) who have had breast cancer, a close relative diagnosed with breast cancer in both breasts or a relative diagnosed with breast cancer under the age of 40. Having several members of the family with cancer of the ovary or colon may also increase a man's risk."

It is also worth saying that there appears to be an association between breast cancer in men and lower levels of testosterone. Infertility in men is rising relatively sharply. I speak from a personal point of view, being infertile myself. We are likely to see a continuation in the rise of breast cancer in men from that cause if from no other, as the main cause of infertility in men is a lack of testosterone.

I want to make a few points about the information that is available. Rhona Brankin rightly pointed out that the use of the internet is becoming important for women. I should add that it is also

becoming important for men. However, I point to the NHS Direct website. Although it contains very good information on breast cancer, it assumes that the condition affects only women. One of the problems appears to be that GPs—and other men—are relatively insensitive to the possibility that a man might suffer from breast cancer. I make no claims to have made a comprehensive study of the literature. However, we should consider including in all the publications on the subject the possibility that men might suffer from breast cancer. In particular, we should draw attention to the curious symptom of inversion of the nipple, which as a possible indicator of breast cancer is not shared by women.

Finally, I draw attention to research that is being carried out on the subject at the University of Edinburgh and wish the researchers very well in their work. This year, 200 men in the UK will contract male breast cancer. That is a small, relatively unacknowledged but important part of the wider picture.

17:42

**The Deputy Minister for Health and Community Care (Mrs Mary Mulligan):** I congratulate Keith Harding on securing this evening's debate. The members' experiences that we have heard about this evening—we are a small group as some colleagues could not be with us—suggest the importance of this issue and the relevance of holding the debate.

I appreciate that under other circumstances Margaret Ewing and the other Ewings would have joined us. My sympathies are with them at this time.

Cancer in all its forms is a top clinical priority for the Scottish Executive and the NHS in Scotland. As has been said, the number of parliamentary questions and debates in Parliament has shown that the issue is a priority for members.

The Scottish Executive applauds the efforts of the voluntary groups that work tirelessly to raise awareness of breast cancer and to provide support for breast cancer patients, and to raise awareness of all cancers. NHS boards' health promotion departments are also involved in a variety of initiatives to make women breast aware, including providing information and advice, raising awareness throughout the year and participating in breast cancer awareness month. However, as members have said, we cannot be complacent, and information is crucial to tackling the disease.

We recognise the drive and enthusiasm of all NHS Scotland staff to secure continuous improvements to outcomes, treatment, care and the quality of life of all people with cancer. It was good to hear from so many members about the dedication of those staff.

Margo MacDonald mentioned GPs. In general, GPs are expected to participate in programmes of continuing professional development, which can include participation in conferences and meetings that explore improvements in treatment and general research developments, to ensure that their skills are kept up to date. We must continue to make progress on that.

Scotland's cancer strategy, "Cancer in Scotland: action for change", is currently being implemented and is backed by up to £60 million over three years to the end of 2003-04. More than £2.8 million of that investment has already been targeted at breast cancer services, including investment in new medical, nursing and radiography staff, mammography kits, additional clinics and breast cancer redesign initiatives.

I am pleased to say that there is growing evidence that we are beginning to win the battle against breast cancer. The five-year survival rate for breast cancer is now 79 per cent—an improvement on the period 1981-95, when only 64 per cent survived at least five years.

In her contribution, Rhona Brankin mentioned screening—I think that it was Rhona who mentioned it.

**Mr Harding:** It was me.

**Mrs Mulligan:** Sorry. Keith Harding mentioned the age at which women are being screened. At present, women are not routinely offered breast screening under the age of 50. That is partly because so far, there has been insufficient evidence of the benefit, but I stress that any woman with concerns should see her GP.

A continuing 15-year trial is also under way throughout the UK. It is examining whether there would be any benefits from screening women between the ages of 40 and 49. The trial started in 1991, but the results are not expected until after the completion of the trial. The UK national screening committee reviews new evidence, such as the study that was carried out in America recently, and it will continue to offer advice to ministers should sufficient evidence be made available to change that position, which is kept under continual review.

The issue that Rhona Brankin raised, as did Margo MacDonald, was the possible links between hormone replacement therapy and an increased risk of breast cancer. The use of HRT is, as we know, intended to replace the natural hormones that are lost when ovaries stop working at the time of the menopause. Recently, there has been much conflicting news about the relationship between HRT and an increased risk of breast cancer, heart disease and stroke. However, as Margo MacDonald suggested, we must examine the detail below the headlines.

A two-day conference is being held this year by the Royal College of Physicians of Edinburgh. The conference will examine all the relevant clinical and research data with a view to achieving consensus on the clinical utility of HRT, which is consistent with the evidence base. Particular attention at the conference will be paid to the role of HRT in the prevention and treatment of disease in the skeletal, cardiovascular and central nervous systems. The conference will also examine the relationship between oestrogen and benign and malignant breast disease. From the evidence that is presented and open discussion, the conference aims to answer key questions, such as how HRT should be deployed in clinical practice and what the relationship is between oestrogen and breast cancer. Work continues to consider that position.

Continued improvement will also depend on reform—modernising the way we work to match up to the expectations of today's patients and their families. Those expectations are rightly demanding. Redesign of cancer services will play a big part in the reform. An example is the redesign at Wishaw general hospital in Lanarkshire. We have already witnessed changes in practice and women who are referred to the breast clinic now have their investigation undertaken in one visit—it is a one-stop clinic, which means that women no longer need to visit the hospital several times. It also means that women who do not have cancer—the majority—no longer have the burden of unnecessary anxiety over an extended period while tests are undertaken and results returned. Those women who, unfortunately, do have cancer have the support of an on-site multidisciplinary team, including specialist oncology and access to psychological support and nurse-led follow-up. There are many similar examples throughout the country, but we must ensure that everybody has that excellent practice.

The benefits are clear. More rapid diagnosis and improved services for patients through better use of our highly skilled and expert staff and equipment are essential. Additional moneys will continue to be made available to deal with the matter. In fact, an additional £1 million has already been made available by the Scottish Executive to support the establishment of a Scottish cancer research network. The aim is to at least double patient recruitment into cancer clinical trials. We know that outcomes from clinical trials are positive, so it is important to increase the numbers involved. Breast trials recruitment in Scotland is already successful, with 15.3 per cent of breast patients recruited to trials.

I am aware that time is limited, so I will make just one final comment about Stewart Stevenson and Michael McMahon's points about male breast cancer. Although I recognise that it is rare, I also

recognise that it cannot be ignored just because of the numbers. It is being dealt with.

In closing, I pay tribute to everyone involved in developing cancer services in Scotland. It really is a team effort. By working together, we can mobilise the talent and investment to secure real and lasting improvements in services for all people with cancer and, in relation to today's debate, particularly for those with breast cancer and those who support them.

*Meeting closed at 17:52.*



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