

MEETING OF THE PARLIAMENT

Wednesday 5 February 2003
(*Afternoon*)

Session 1

£5.00

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Scottish Parliament

Wednesday 5 February 2003

(Afternoon)

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

Time for Reflection

The Presiding Officer (Sir David Steel): To lead our time for reflection today, we welcome the moderator of the General Assembly of the Church of Scotland, the Right Rev Dr Finlay Macdonald.

Right Rev Dr Finlay Macdonald (Moderator of the General Assembly of the Church of Scotland): The grace of the Lord Jesus Christ be with you all.

Three weeks ago, I attended a meeting at the Central mosque in Glasgow. Present were leading representatives of churches, along with leaders of the Muslim, Hindu, Sikh, Jewish, Buddhist and Bahá'í faiths.

We spent the morning sharing our different traditions of prayer. It was simply a case of listening to each other. There was no argument over the relative merits of different patterns of prayer—no one saying that they were right and everyone else was wrong.

We then accepted the imam's invitation to attend midday prayer in the mosque. Chairs had been set out at the back and there the non-Muslims among us sat quietly with our own thoughts and prayers.

After a sociable lunch, we took up the theme of peace, each person sharing something of their faith's teaching on the subject. The current international situation could hardly be avoided and we discussed a draft statement that had been sent out prior to the meeting. As happens on such occasions, changes were made and eventually a text was agreed. Having been involved in preparing the draft, I offered to tidy up the text. Imam Habib kindly offered me the use of his office and computer for the purpose and left me to my task. As I was keying in the changes, the phone rang, but fearing the confusion that might arise if the moderator answered the mosque telephone, I just left it to the answering machine.

The purpose of such interfaith gatherings is not to demonstrate that all religions are essentially the same—they are not. Rather the purpose is to get to know one another as human beings and to learn from each other. I have been reading the latest book by the chief rabbi, Jonathan Sacks, "The Dignity of Difference", and find myself

challenged by his thesis that monotheism does not necessarily mean

"one God, therefore one faith, one truth, one way."

Sacks argues that we need not only what he calls a theology of commonality, but a theology of difference. As he puts it:

"We will make peace only when we learn that God loves difference and so, at last, must we. God has created many cultures, civilisations and faiths, but only one world in which to live together—and it is getting smaller all the time."

In such a world may the peace of God rule in our hearts.

The Presiding Officer: Colleagues, usually at the end of time for reflection, I simply stand up and thank the leader of time for reflection. However, members will want to know that today is the last time that we will welcome the moderator in his own premises.

I want members to know that Finlay Macdonald, as principal clerk of the General Assembly, was the person who had all the trauma, trial and tribulation of agreeing the lease and use of the premises, arranging moving out of the General Assembly hall on two occasions to let us use the premises, and refitting the hall after we moved out. Therefore, today I do not just thank the moderator, but, on behalf of the Parliament, I say thank you to Finlay Macdonald, for allowing us to occupy their assembly hall for four wonderful years. Thank you very much indeed. [*Applause.*]

Points of Order

14:34

Alex Neil (Central Scotland) (SNP): On a point of order, Presiding Officer. I and many members were surprised to read in the newspapers about the Parliament's mail service being put out to tender. I speak on behalf of several members from all sides of the chamber when I say that we are concerned about that happening.

Can you give us a guarantee that before any decision is taken to relieve the Royal Mail of the contract, it will be put to a vote of the Parliament, and that the Scottish Parliamentary Corporate Body will not take such a decision on its own and in secret?

The Presiding Officer (Sir David Steel): First, that is not a point of order, but I wish to be helpful to the chamber. I assure you that what you read in the newspaper is—surprise, surprise—not correct. No decisions have been made about the future of the Post Office tender.

I wish to say two things: first, competitive tender achieved the current arrangements; and secondly, the corporate body is bound to put the contract out to competitive tender. I can assure you that we have discussed the issue and that no decision will be taken by officials—the decision will be taken by the corporate body itself. Whether it wishes to refer the issue to the whole Parliament is another matter, but no decisions have been taken, and the corporate body is fully seized of the concern of members, several of whom have written to me already. The point was not a point of order, but I hope that what I have said is helpful. I give that guarantee.

Margo MacDonald (Lothians) (Ind): Further to that point of order—

Cathy Peattie (Falkirk East) (Lab): On the same issue—

The Presiding Officer: Let the original member have a second go.

Alex Neil: Will you advise under what rules of the Parliament the contract has to go out to competitive tender?

The Presiding Officer: I cannot do so off the cuff, but as I have discovered in this life and on the corporate body, almost everything has to go out to competitive tender, and the postal service is one such thing. I make the point that the contract was won under competitive tender, so there is nothing new. I assure you that no decision has been taken, and certainly not the decision that has been reported in the newspaper.

Cathy Peattie: Can I be assured that before anything happens at all with the contract, trade unions and service users will be fully consulted?

The Presiding Officer: The corporate body always takes that view. I am sure that they will be consulted.

Margo MacDonald: Further to the same point of order, Presiding Officer—

The Presiding Officer: Actually, it is not a point of order at all, but I am being very generous.

Margo MacDonald: I realise that. Further to the letter on the topic that I have written, will you give us an assurance that although you are not bound to do so by the corporate body, you will ascertain the views of MSPs on this very sensitive issue of public service and its role in the corporate life of the Parliament before a decision is taken to award the contract outwith the public services, although I am sure that the Parliament would not wish to do that?

The Presiding Officer: From the discussion that we had at the last corporate body meeting, I think that I can assure you that the four members of the corporate body are anxious to consult their party groups. I am sure that that is being done.

Margo MacDonald: I asked about MSPs, not party groups.

The Presiding Officer: I take your point.

Mr Duncan McNeil (Greenock and Inverclyde) (Lab): I realise that you have already been generous with these questions, but could you also make it clear that all the parliamentary representatives on the corporate body confirmed their position on the quality of the service that we receive from the Royal Mail and have asked for reports to be brought to them? We are all interested in the security and employment issues that arise from the dispute. Any inference that we would take a contrary view of the situation, or take a view in secret and not take account of the views of our colleagues, is utter nonsense.

The Presiding Officer: There speaks a member of the corporate body, and of course I agree with him. Nevertheless, this is all out of order.

Business Motion

14:38

The Presiding Officer (Sir David Steel): Let us now come to order and proceed to Parliamentary Bureau motion S1M-3857, on the timetable.

Motion moved,

That the Parliament agrees that, during Stage 3 of the Public Appointments and Public Bodies etc. (Scotland) Bill, debate on each part of the Stage 3 proceedings shall be brought to a conclusion by the time-limits indicated (each time-limit being calculated from when the Stage begins and excluding any periods when those proceedings are suspended)—

Groups 1 and 2 - no later than 55 minutes

Groups 3 to 6 - no later than 1 hour 55 minutes

Groups 7 to 9 - no later than 2 hours 55 minutes

Motion to pass the Bill - 3 hours 25 minutes.—[*Euan Robson.*]

Motion agreed to.

Public Appointments and Public Bodies etc (Scotland) Bill: Stage 3

14:38

The Presiding Officer (Sir David Steel): We come now to stage 3 proceedings on the Public Appointments and Public Bodies etc (Scotland) Bill. I am looking for the Deputy Presiding Officer. I will read out the preliminary announcements while we find him.

The bill is Scottish Parliament bill 56A, as amended at stage 2. Members should have the marshalled list, containing all the selected amendments, and the groupings. There will be an extended voting period of two minutes for the first division following the debate on the first group of amendments, but thereafter in each group whoever is in the chair will allow a period of one minute for the first amendment of the group. All other divisions after that will be 30 seconds. I will now hand over to Mr George Reid.

Section 2—The Commissioner's functions

The Deputy Presiding Officer (Mr George Reid): Group 1 is on the preparation of the code of practice. Amendment 3 is grouped with amendment 8. I call Mr Neil to move amendment 3 and to speak to amendments 3 and 8.

Ms Sandra White (Glasgow) (SNP): I will speak to amendment 3 instead of Alex Neil. I am sorry about the confusion; I did not press my request-to-speak button in time.

Amendment 3 pertains to the preparation of the code of practice and would require a draft code to be laid before the Parliament. The amendment would ensure that the Parliament was aware of and approved the code of practice before it was published, which would ensure transparency and parliamentary scrutiny.

I move amendment 3.

The Deputy Presiding Officer: There is a buzz in the chamber. I would be most grateful if members could keep the noise down.

The Deputy Minister for Finance and Public Services (Peter Peacock): Amendments 3 and 8 relate to the preparation by the commissioner for public appointments in Scotland of the code of practice. I cannot support amendment 3, for the reasons why I could not support a similar amendment that the Local Government Committee rejected at stage 2.

At stage 2, I outlined the sort of person whom I expect to be appointed as commissioner and it is

worth while repeating that to set the context for the debate. It must be remembered that the commissioner is likely to have considerable experience in public life in Scotland and to be someone who has standing, integrity, objectivity and sound judgment—he or she will be rigorous and scrupulously fair. The commissioner will be appointed by the Queen on the recommendation of the whole Parliament. No person without the qualities that I described—and many more—would be likely to receive Parliament's approval.

Parliament will not be appointing an office junior who needs explicit instructions on how to order their work on their first day in office. The bill provides some basic rules, but allows flexibility in the code's interpretation, because of the diversity of organisations that the code covers and the diversity of appointment circumstances. That is important.

Almost everybody recognises and accepts that the commissioner's independence is paramount to his or her effective function—it is the cornerstone of retaining public confidence in the regulation system. Requiring the commissioner to lay the code of practice before the Parliament for approval would undermine that independence. Amendment 3 would extend Parliament's role significantly beyond what the Executive and the Local Government Committee in its stage 1 report believed to be appropriate.

As part of the process that we are establishing today, the commissioner will be required to consult extensively Scottish ministers, the Parliament and the public in drawing up the code. Parliament will be able to express its view on the draft code clearly and unambiguously. However, it is essential that the commissioner should retain the right to the final say over the code's content. That will be crucial to enable him or her to act independently of Parliament and to exercise discretion in considering breaches of the code.

To have the code approved by the Parliament would mean that the commissioner could, in effect, be directed in the exercise of his or her functions. It would also mean that the politicians whom the code will govern could have undue influence over its content, which would leave them open to the charge that they are trying to limit its scope. The code requires to be, and be seen to be, independent of those politicians.

Having the code approved by Parliament would also leave scope for any unscrupulous political party to seek deliberately to divide the Parliament on the issues, solely for the purpose of subsequently criticising the code, decisions under it and so the public appointments system. That would be highly damaging.

Executive amendment 8 relates to consultation of the public on the commissioner's code of

practice. The amendment meets the broad intention of Sandra White's stage 2 amendment 42. There is undoubtedly merit in the commissioner's consulting the public. Public consultation will underline the principles of openness and accountability that are vital to the commissioner's role and will contribute to public confidence in and awareness of the commissioner's role. The gathering of views from as wide a range of people as possible will make the code of practice a more effective tool. As I said, the commissioner will retain the final say on the code of practice as a vital part of his or her role as an independent arbiter, but extensive consultation will be an important part of his or her methodology for developing the code.

I invite Sandra White to withdraw amendment 3.

Iain Smith (North-East Fife) (LD): Amendment 3 should be rejected, because the important aspect of the bill is its intention to provide the correct balance between an independent commissioner and parliamentary scrutiny and accountability. Following amendment at stage 2, the bill gets that balance right. It allows the commissioner to go about his or her work free from political interference—whether from the Executive or the Parliament—but it provides the backstop that, if the Executive ultimately fails to act in accordance with the code, the Parliament can intervene.

That is the right balance: it is the balance that we seek to achieve in the public appointments part of the bill. To require the Parliament to approve the code of practice would be to undermine the important independence of the commissioner.

I urge the Parliament to reject amendment 3

14:45

Tricia Marwick (Mid Scotland and Fife) (SNP): I rise to speak in support of amendment 3—members will expect me to do so.

The arguments that were put forward by the minister do not stand up. The Scottish Parliament has appointed a Scottish parliamentary standards commissioner and it is also responsible for approving the code of conduct for MSPs. It seems entirely reasonable that the Parliament should have a say on a draft code of practice, which should meet with the approval of the Parliament. I ask the chamber to support amendment 3.

The SNP will support amendment 8. As the minister said, it reflects an amendment that Sandra White lodged at stage 2.

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

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Adam, Brian (North-East Scotland) (SNP)
 Campbell, Colin (West of Scotland) (SNP)
 Canavan, Dennis (Falkirk West)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Lochhead, Richard (North-East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 MacDonald, Margo (Lothians) (Ind)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 McGugan, Irene (North-East Scotland) (SNP)
 McLeod, Fiona (West of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Robison, Shona (North-East Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Sheridan, Tommy (Glasgow) (SSP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North-East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Johnstone, Alex (North-East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)

Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 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)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Thomson, Elaine (Aberdeen North) (Lab)
 Tosh, Mr Murray (South of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Young, John (West of Scotland) (Con)

The Deputy Presiding Officer: The result of the division is: For 25, Against 76, Abstentions 0.

Amendment 3 disagreed to.

The Deputy Presiding Officer: We move to group 2, on matters to be covered in the code of practice. Amendment 5 is in a group on its own.

Alex Neil (Central Scotland) (SNP): As members know, the bill transfers the functions that are carried out at present by Dame Rennie Fritchie, the United Kingdom commissioner for public appointments, to a new Scottish commissioner. In doing so, we should consider the problems that Dame Rennie has faced in the past in trying to achieve her objectives. We need to go way back to the days of the Nolan committee and the Neil committee to consider the first principles of what we are trying to achieve in the bill, which is a public appointments system that is not only transparent but also fair in every respect. The system has to be fair to the applicant as well as to others.

One of the problems that Dame Rennie has faced is that she has no power to veto an appointment or a proposed appointment on the ground of political imbalance. In answers that have

been given by ministers ever since the Scottish Parliament was established, and despite all the protestations the length and breadth of Scotland—

Dr Sylvia Jackson (Stirling) (Lab): Will the member give way?

Alex Neil: I will do so in a moment.

Those protestations have been made in civic society as well as in the Parliament. No matter what period is examined, the figures show that anything between 60 per cent and 80 per cent of all appointees who declare a political affiliation came from one party, namely the Labour party.

I cannot believe that 60 per cent of the talent in Scotland votes Labour when Labour scores less than 40 per cent in any election. There are even some Liberal Democrats with talent out there who could fill some positions. [MEMBERS: "No."] That is debatable.

The purpose of the amendment is to fill the gap in relation to the new commissioner's powers that Dame Rennie currently has.

Dr Jackson: Will the member define what he means by political imbalance, although I think that he has given his interpretation? Does he agree that we want a public appointments system to operate on merit, and not with any political emphasis?

Alex Neil: That is precisely the point. I do not believe that all merit belongs to one party. We have many talents in Scotland, and every other party is grossly under-represented in the appointments systems. We are trying to ensure that the code of practice—the detail of the bill's implementation—will not be used and abused by the Liberal Democrat-supported Labour Executive to maintain the system of cronyism that it has practised in Scotland for years.

John Young (West of Scotland) (Con): The member has talked about the political imbalance in some public bodies. In view of that, does he think that all applicants for public posts should publicly declare the name of any political party of which they have been a member?

Alex Neil: At present, people must do that when they register; they must declare their political activity. I am trying to build that into the code of practice.

John Young: The point that I am making is that applicants do not have to declare that aspect.

Alex Neil: That is why the law needs to be strengthened and why the amendment should be built into the code of practice so that, through secondary legislation, the Executive does not do the dirty on the Parliament by maintaining a system of cronyism by the back door.

The bill was supposed to be about the new politics, and about cleaning up Scotland. Part of cleaning up Scotland is to get rid of Labour cronyism once and for all.

I move amendment 5.

Peter Peacock: I can see that Alex Neil is on a subject that he enjoys. I enjoy the subject too.

A similar amendment was rejected by the Local Government Committee at stage 2. The committee rejected it and associated amendments because they were muddled, wrong in principle and impractical.

On the face of it, the amendment is designed to ensure that political activity, including donations to political parties, are known about before a selection takes place. However, it is not clear how that information would be used. Would it be ignored, or used in a particular way? If it were to be ignored, because political affiliations and political activities should not be a consideration in appointments, what precisely is the purpose of the amendment? If the information is to be used, how will it be used?

As I said, the amendment is muddled. Far from ensuring that political activities and affiliations have no place in the selection of candidates for public appointments, the amendment would have the effect of putting such matters at the heart of the selection process. Someone less charitable than I might say that such politicisation of the process is precisely Alex Neil's intention.

I know that Alex's paranoia about the Labour party sometimes takes him into territory which even he in his more rational moments must have doubts about. He has peddled another myth this afternoon. He knows very well that less than 10 per cent of all public appointees are people who have been active in the Labour party, just as no other political party accounts for more than 10 per cent of public appointees.

It would also be inappropriate at this time for the bill to prescribe in such detail what the code of practice should contain. Ministers, the Parliament and the public will be consulted on the code of practice and will contribute directly to what is specified therein. As the commissioner will make the final decision on the content of the code of practice, we should not prejudice it here.

In any event, the bill already provides the necessary safeguards to ensure that political activity is not a consideration in the appointments process. Section 2(9)(a) states that the commissioner is to exercise his or her functions with a view to ensuring that

"appointments ... to the specified authorities are made fairly and openly".

That is a specific provision, which has been carefully drafted to capture all the requirements that will ensure that appointments are made on merit.

If appointments are not made fairly and openly, they cannot, by definition, be on merit. Therefore, it should go without saying that for an appointment to be made fairly and openly, political activity cannot, should not and must not be a consideration in the appointments process.

Under the current system, applicants are asked whether they have been politically active only to enable the monitoring of political activity of candidates in so far as it is already in the public domain. Amendment 5 asks that all political activity be declared. That is simply impractical. As I said to the committee when dealing with the amendment at stage 2, I suspect that no one in the chamber could recount to me all the political activity that they undertook in a three-month period four years ago, let alone absolutely all such activity in a five-year period.

Further, to establish, in effect, new law on political donations, as the amendment would do, by requiring that every financial donation be declared, is potentially beyond the powers of the Parliament. A financial donation is not defined and there is no de minimis amount. Would a £1 raffle ticket purchased from a local branch of a political party count or not? What happens if someone forgets to declare such an innocent action and that later becomes known, or they forget a particular bit of political activity that was undertaken during a five-year active political period?

Under other amendments lodged by the SNP, any of those breaches would become breaches of the code and would have to be reported to Parliament. Again, the practicalities of that are not only ludicrous, but potentially damaging to the public appointments process.

The amendment is also unnecessary. The UK commissioner's code details in an entirely sensible way the definition of political activity, including a recordable donation to a political party as defined by the Political Parties, Elections and Referendums Act 2000, and asks the applicant to tick the appropriate box. I fully expect the Scottish code to cover similar ground. In any event, we will be invited to have our say on its content and we can deal with the matter then.

Amendment 5 is muddled, wrong in principle and impractical. Worse still, it has a McCarthyite tone and intent about it. It is linked to other amendments on reporting to Parliament that the SNP has lodged. It is the witch hunter's amendment. It is the show-trial amendment. It follows on from the disgraceful behaviour we witnessed in the chamber just a few weeks ago on

the freedom of information commissioner appointment, when the SNP sought purposefully to politicise the appointments process.

Amendment 5 is specifically designed to pave the way for show trial after show trial in Parliament. It takes us into dangerous and unnecessary territory—unnecessary because the bill already provides for all the necessary safeguards. Accordingly, I invite Alex Neil to withdraw amendment 5 or Parliament roundly to reject it.

Mr Keith Harding (Mid Scotland and Fife)

(Con): Since stage 2, I have reflected on the amendment and I am disappointed that the Executive is not prepared to take it on board. I believe that it would lead to greater transparency and fairness and should cause no concern to anyone unless they have something to hide. I also believe that it would go some way to overcoming accusations of cronyism.

Iain Smith: Not surprisingly, I could not agree less with Keith Harding. He has obviously not reflected sensibly on the amendment. The amendment proposes to do the opposite of what the bill intends. The bill intends to depoliticise the appointments process. It intends to ensure that every appointment to a public body in Scotland is made on merit and merit alone. The amendment proposes that, even before someone is appointed, they must declare political affiliation. That is the opposite way round. If someone declares their political affiliation, the people involved in the appointments process will know their political affiliation and it might influence their decisions. That does not make sense.

Tricia Marwick: If the present system is so fair and transparent, can Iain Smith explain why between 60 per cent and 80 per cent of all applicants who declare a political affiliation come from one political party?

Iain Smith: If the present system were so fair and transparent, we would not be amending it through the bill, would we? That is the point of the bill—we are changing the system. We are bringing in an independent commissioner to monitor the system. The SNP keeps bandying about figures about the number of political appointments. SNP members must bear in mind the fact that political appointments make up a small proportion of the total number of appointments. SNP members keep bandying about figures as if, somehow, a huge number of political—

Murdo Fraser (Mid Scotland and Fife) (Con): Will the member take an intervention?

Iain Smith: Not at the moment; I am finishing a point.

The SNP talks about a huge number of people from one party being appointed, but the vast

majority of people appointed to public bodies are not affiliated to any political party. Let us get real about that and be honest about it.

15:00

Murdo Fraser: I am obliged to Mr Smith for giving way. I listened with interest to his argument. Does he not realise that no fewer than three of the five people recently appointed to the Gaelic board of Scotland declared political affiliation to the Labour party? That is an example of what is wrong with the current system.

Iain Smith: The first question to ask is who applied. It is unlikely that any Conservatives applied to that body. The affiliation is declared after the candidates have been considered on merit. The whole purpose of the bill is to ensure—

Michael Russell (South of Scotland) (SNP): The member asked who applied for Bòrd Gàidhlig na h-Alba. I can tell him.

Iain Smith: Sit down, Mr Russell.

The Deputy Presiding Officer: Order.

Iain Smith: Amendment 5 says the opposite of what the SNP said in one of its amendments at stage 2. An amendment that was submitted in Sandra White's name and which had Alex Neil's support said that the code of practice should

"set out the policies and procedures to be adopted to ensure that the political affiliation, or perceived political affiliation, of any applicant for an appointment mentioned in subsection (1) is not taken into account in any decision to appoint or not to appoint the applicant."

How can that be ensured if the applicants are required to declare their political affiliation right at the start of the process, before any politician is involved? The initial part of the process will go through officials and the observer who is appointed by the commissioner. Amendment 5 does not represent the right way of going about the process.

Amendment 5 should be rejected not only because it is ill conceived and politically motivated, but because it is wrong to single out in the bill one particular aspect for inclusion in the code. Nothing else about what will be in the code appears in the bill, so there is no reason to include the aspect in question.

I suggest that members should reject amendment 5, as it is ill conceived, politically motivated and runs counter to the whole purpose of the bill.

Ms White: Once again, Iain Smith has the wrong end of the stick—if it is allowable to say such things in the Parliament.

I support amendment 5 for the simple reason that it seeks to protect the integrity of the applicant

and of the Parliament. Its purpose does not come from McCarthyism or Blairism—which I would expect from Labour members. It would protect the integrity of the applicant and of the Parliament.

Alex Neil: I have the authority to say to Iain Smith that one of the applicants for the job on the Gaelic board was Professor Kenneth MacKinnon, who is the leading Gaelic language planner in Scotland and a former member of the ministerial advisory group on Gaelic. He was not appointed—but he does not carry a Labour party card. That is why he was not appointed.

I find the defence of Mr Peacock's poodle amazing. Amendment 5 is not an example of McCarthyism. Labour party members are the mafiosi in Scotland. They use their networks—

Iain Smith: Will the member take an intervention?

Alex Neil: No. The member would not take an intervention from Mike Russell, so I will not take one from him. If Mr Smith sits down and listens, he will learn.

I will go through some of the points that the minister made, every one of which was nonsense.

First he said that all appointments are made on merit. Why do the vast bulk of appointments go to Labour cronies? Mr Peacock said that less than 10 per cent of appointees declared a political affiliation. The latest figures show that nearly 20 per cent declare a political affiliation. He also asked how political activity could be defined. It could be defined in the code of practice. On the issue of how to define donations, the minister mentioned the legal definition of donations that already exists, which could be incorporated into the code of practice. It is total nonsense to hide behind the argument, "That cannae be done."

When we appointed a standards commissioner, we agreed that the Parliament would approve the code of conduct that the commissioner drafted. The minister said that the Executive will consult on the code of conduct. Consultation is fine, but what happens if the Executive does not agree with the consultees and writes its own code of practice, giving the democratically elected MSPs no say in the matter?

It has been said that the process will be politicised. How can it be claimed that the process is not politicised when 60 per cent of the members of one board carry one party card, another 20 per cent carry another Executive party card and the remaining 20 per cent are non-aligned and do not carry any card? It has been said that the process is not politicised, but that is absolute nonsense.

What is the difference between amendment 5, on people who have engaged in political activity, and the minister's amendment, on voting members

of the House of Lords? Why is it justifiable—quite rightly—to incorporate that amendment into the bill, but not the provision that I propose?

The reality is that the Labour party wants to run Scotland with its wee clique of bullies and does not want the system to be opened up. I am reminded of the old council housing system whereby the Labour party used the allocation of council houses to keep its political grip on Scotland; now, it uses the quango system to maintain its grip. I say to the Scottish Parliament and especially to those who call themselves Liberals that the system should be opened up and made democratic, and an end should be put to the mafiosi of the central Scotland Labour party.

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

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Campbell, Colin (West of Scotland) (SNP)
 Canavan, Dennis (Falkirk West)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fabiani, Linda (Central Scotland) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 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)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central 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)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Quinan, Mr Lloyd (West of Scotland) (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)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Mr Murray (South of 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)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (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)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (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)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 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)

ABSTENTIONS

Gorrie, Donald (Central Scotland) (LD)
MacDonald, Margo (Lothians) (Ind)

The Deputy Presiding Officer: The result of the division is: For 42, Against 64, Abstentions 2.

Amendment 5 disagreed to.

Margo MacDonald (Lothians) (Ind): On a point of order, Presiding Officer. Given the sensitivity of the topic and the good will of members towards the amendment's intention to open up the process of public appointments, would it be possible for the Parliament to state at some point in the debate that it would like to have sight of the proposed code of conduct before it passes into law?

The Deputy Presiding Officer: There is no mechanism for doing so, but the minister may or may not wish to comment on what you have said at some point in the proceedings.

Amendment 8 moved—[Peter Peacock]—and agreed to.

The Deputy Presiding Officer: Amendment 6 is in a group on its own.

Ms White: Amendment 6 concerns the investigation of complaints—we will now see which members are liberals and democrats and who believes in transparency.

The bill asks the commissioner to investigate complaints. All that amendment 6 seeks is that the complaints and the results of investigations be laid before Parliament so that MSPs can see why the complaints were lodged, whether they were upheld and why the commissioner upheld them or otherwise. It is a simple amendment, which opens the process up to scrutiny and makes it transparent. I ask all MSPs to support the amendment. If members do not support it, we will wonder whether the Parliament and certain MSPs have something to hide. The amendment is innocuous. The commissioner is being asked to consider evidence and come back with results. All that the amendment seeks is that the results of the investigations be laid before the Parliament so that MSPs can see them.

I move amendment 6.

Iain Smith: Amendment 6 and section 2 should be considered in conjunction with the sections that follow, in particular sections 7 and 8. It is important to remember that, if as a result of a complaint the commissioner finds that there has been a breach of the code, sections 7 and 8 come into play. It is necessary to go through the process. When a complaint identifies a problem, the commissioner takes the matter up with ministers to try to get compliance with the code and if that fails there is the backstop of a report to the Parliament. That is a sensible and logical way forward.

The amendment would mean that any complaint, even if it is proved to be unfounded, must be reported to the Parliament. A malicious or frivolous complaint or a minor matter that has been resolved to the satisfaction of the complainant once the commissioner has looked into it would have to be reported to Parliament. That might discourage people from making complaints, as they might not want their complaint to be made public. They might want to raise a concern with the commissioner about their own application, but they might not want the public to know that they had applied for a job.

Ms White rose—

Iain Smith: I will take the intervention in a moment. Although the material perhaps formed part of their complaint, the applicant might not wish it to become a public document, but anything that is laid before the Parliament automatically becomes a public document.

We must be careful when we are considering such matters. It is different from the situation with the Standards Committee, which investigates complaints against MSPs, who are public representatives; if complaints are laid against public representatives, MSPs and the public have the right to know that the matters are being fully investigated and made public. However, the bill deals with individual people who have a complaint. Those people want the matter to be investigated, but they do not necessarily want it to be in the public domain. We must be careful about forcing such information into the public domain. The commissioner has final discretion to investigate complaints and decide whether to lay the matter before Parliament. If the commissioner thinks that it is in the interests of the public and the complainant to lay it before the Parliament, I am sure that they will do that. Let us not fetter the discretion of the commissioner. That would perhaps result in fewer complaints being made than might otherwise be the case.

Peter Peacock: I will pick up the point that Margo MacDonald made, if I have understood her point correctly. Parliament will be consulted on the code. There will be a public consultation before the commissioner agrees the code.

The effect of amendment 6 would be to place a requirement on the commissioner to inform the Parliament of every complaint that had been brought to his or her attention—I stress that that requirement would apply to every complaint, however insubstantial an investigation might show it to be. Clearly, there would be no benefit to be gained or lessons to be learned by publishing details of insubstantial and trivial complaints.

However, I recognise the point that Sandra White has made and seeks to cover with

amendment 6. In the next group of amendments I will move amendment 9, which will place an obligation on the commissioner to report serious or material breaches of the code to the Parliament before an appointment is confirmed. I will also give an indication of what is considered to be a material breach: that is, one that is likely to have a serious effect on the outcome of an appointments round.

I do not think that it will be worth while or beneficial to require in the bill that the commissioner publish the details of every complaint that is investigated down to the most trivial phone call or letter.

The Parliament has dealt with other public complaints mechanisms, in particular the role of the Scottish public services ombudsman. We have not sought to place the requirement contained in section 6 on that office, although complaints that are subject to formal investigation are published. The bill, in effect, provides for a similar approach to be taken by the commissioner.

As drafted, the bill will allow the commissioner to publish in his or her annual report the details and the findings of any complaint investigations that he or she considers might be in the public interest or have educational purposes. The current commissioner uses that facility. In recent times that has not always been comfortable for the Executive, but nonetheless it is important.

Additionally, the commissioner has major powers to intervene and to stop an appointment proceeding if he or she believes that any breach of the code has occurred or is likely to occur. That process already requires a report to Parliament. I hope that Sandra White will take into account the amendments on reporting to Parliament and recognise that amendment 6 is excessive, which is why I ask her to withdraw it.

15:15

Ms White: I am pleased with what the minister says—I tried to illustrate the same points when I spoke to a similar amendment at stage 2. Iain Smith made the very point that I was going to raise about sections 7 and 8. I accept what the minister says and I look forward to the amendments that he mentioned being moved. I am pleased that he accepted the need for the bill to provide scrutiny and transparency and therefore I will withdraw amendment 6.

Amendment 6, by agreement, withdrawn.

The Deputy Presiding Officer: Group 4 relates to non-compliance with the code of practice. Amendment 9 is grouped with amendments 1 and 10.

Peter Peacock: I will support amendment 1, in the name of Tricia Marwick, but only if amendment

9 is agreed to. It will be clear from what I say that I would not be able to support Tricia Marwick's amendment if it were to stand alone, as was the case with a similar amendment that was debated at stage 2.

The amendments in the group relate to the commissioner's role in reporting breaches of the code of practice to the Parliament—the so-called whistleblower role. There was an extensive debate on the issue at stage 2 relating to amendments that Tricia Marwick and Sandra White lodged. Although the intention of amendment 1 is similar to ours, its effect would be too broad.

Taken on its own, amendment 1 would result in repeated reporting to Parliament of minor breaches of the code. It is perfectly conceivable that minor technical breaches of the code will occur—such is human frailty—or that it will not technically be possible to resolve some breaches because a timeline has been breached, even though the effects of the breach can be known about and rectified.

It is not desirable that literally every breach, however minor, should be reported to Parliament because that would have a number of undesirable consequences. Most seriously, such a provision could have the unintended consequence of raising the threshold at which the commissioner chooses to get involved in a breach of the code.

At stage 2, I recognised that the Local Government Committee thought that we could go further than was set out in the bill, although I did not want to go as far as Tricia Marwick's amendment. I undertook to look for a suitable way of meeting the committee's concerns and, as a consequence, amendment 9 was lodged.

When taken together, amendments 9 and 1 will place an obligation on the commissioner to report breaches of the code to the Parliament, but will also give more guidance on when that course of action is appropriate. A report should be made only when a breach of the code is material—which means that it is serious enough to have an impact on the appropriateness of the outcome of the appointments round—when ministers have been informed of the breach, and when the breach is unlikely to be resolved within a reasonable time or remains unresolved for a reasonable time.

Amendment 10 is consequential on the other amendments. As the commissioner will have completed his consideration of the case if he has concluded that a report to the Parliament is necessary, the line that amendment 10 will remove is redundant.

The amendments have been carefully considered to retain an effective balance in the relationship between the commissioner and the Parliament. The commissioner will retain his or her

independence as a regulator and will not be obliged to report each and every breach, many of which might be of a minor administrative nature. However, the commissioner will have a duty to report material breaches of the code to the Parliament. That is an effective sanction and a power that the United Kingdom commissioner does not have.

The Parliament can be assured that, if a material breach of the code occurs and the commissioner is unable to resolve it with the minister responsible for the appointments round, the Parliament will be informed.

I move amendment 9.

Tricia Marwick: I thank the minister for accepting amendment 1 with the condition that amendment 9 is agreed to. The SNP will accept amendment 9 because it was never our wish that minor technical breaches of the code should be reported to the Parliament. The words “in a material regard”, which amendment 9 will insert, will satisfy that point. It is important that amendment 1 should also be agreed to, because it will place a duty on the commissioner to report any material breach of the code to the Parliament. We believe that that is the right and proper thing to do and I welcome the minister’s agreement with that.

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I spoke on this issue in the stage 1 debate, as I thought that the policy behind the bill—as published at the time of the committee’s report—was not the policy that the Parliament had already agreed to in the Scottish Parliamentary Standards Commissioner Act 2002. I am delighted that Tricia Marwick and the Executive have lodged these amendments, which need to be supported.

Amendment 1 was numbered as the very first amendment because it was obvious at the time that it was not consistent to say that the commissioner “may report” a case to the Parliament. To the wording of section 2(7), which states,

“In any case where—

(a) it appears to the Commissioner that the code of practice has not been complied with”,

amendment 9 adds “in a material regard”. Amendment 1 changes section 2(8), so that instead of saying that the commissioner

“may report the case to the Parliament”,

it says that the commissioner “must report the case”. That harmonises what the bill says with what is said in the Scottish Parliamentary Standards Commissioner Act 2002. I hope that the amendments will be agreed to, as they are the right thing to do.

Iain Smith: I welcome the two changes that are proposed. I was opposed to a change to the bill at the committee stage, when the proposal was to change the word “may” to “must” in section 2(8)(a). I thought that that went too far. However, with the additional amendment from the minister, which will ensure that that provision will apply only when there is a breach “in a material regard”, the balance of what must be reported to Parliament is right again. I was always of the view that any breach of a material nature would be reported by the commissioner in any case.

Amendment 9 agreed to.

Amendment 1 moved—[Tricia Marwick]—and agreed to.

Amendment 10 moved—[Peter Peacock]—and agreed to.

Section 3—The Commissioner’s functions: further provision

The Deputy Presiding Officer: Amendment 11 stands in a group on its own.

Peter Peacock: Amendment 11 is technical and ensures that all final appointments or reappointments to bodies that will be abolished by the bill will be regulated by the commissioner for public appointments in Scotland. In particular, the Scottish Hospital Trust and the Scottish Medical Practices Committee will need to make appointments before the dates anticipated for their abolition. The amendment will ensure that there is no potential for those appointments rounds to be carried out without any formal scrutiny.

I move amendment 11

Amendment 11 agreed to.

Section 4—Dissolution of certain bodies

The Deputy Presiding Officer: Amendment 12 is grouped with amendments 15 to 22, 24, 25, and 27 to 36.

Peter Peacock: These amendments withdraw the dissolution of the Royal Commission on the Ancient and Historic Monuments of Scotland—otherwise known as the RCAHMS—and the establishment of the replacement body, the national survey, from the bill. The amendments represent a significant change to the bill as introduced and as debated at stage 2. Because of that, I took the opportunity to raise this issue with the Local Government Committee in advance of today’s debate. The Executive set out its reasoning in some detail and offered the committee the opportunity to take evidence from the minister with policy responsibility for the RCAHMS prior to today’s consideration of the matter.

The reason for withdrawal is the fact that the national survey, as the proposed successor non-departmental public body to the RCAHMS and operating under ministerial direction like any other NDPB, would not have been able to retain the charitable status that is currently enjoyed by the RCAHMS, which is worth in excess of £400,000 a year. Ministers considered removing the power of direction in the case of the national survey but concluded that that would not be appropriate. The thrust of the whole review of NDPBs has been to ensure that they are accountable to ministers for their overall policy. To remove powers of direction would run counter to that policy approach.

As Parliament is aware, the Executive has been examining the general issue of charitable status and set out its conclusions in its response—which was published on 16 December—to the report of the Scottish Charity Law Review Commission. That statement makes it clear that the Scottish ministers recognise both the importance of charities' acting independently and the need for public bodies to be accountable to them.

As a number of NDPBs currently have charitable status, the statement commits the Executive to addressing the issue as part of each NDPB's quinquennial policy and financial management review. In accordance with the statement, the next such review for the RCAHMS, which is due in 2004, will therefore consider the longer-term status of the body.

Ministers therefore feel that it would not now be appropriate to proceed with the dissolution of the royal commission. Instead, we wish to consider what would be the most appropriate future status for the royal commission under the changed circumstances following the Scottish Charity Law Review Commission report and our consideration of the report as announced in our statement of 16 December.

We have consulted the secretary and the chairman of the commission, who appreciate that we need to consider further the future status of the body. The Executive has concluded that it would be wrong to push ahead with the planned abolition of the RCAHMS until we have had the opportunity to consider much more fully how to proceed in the light of the changed circumstances that have arisen since our original policy on the RCAHMS was set out.

I indicated that we advised the Local Government Committee in some detail of our intentions and offered the committee the opportunity to take evidence on the matter. As I understand it, the committee, while recognising that there was a significant change, appreciated why the matter had arisen at that time. It felt that in an ideal world, the matter would have been better dealt with earlier. There has been a subsequent

exchange of correspondence on that point between the convener and my colleague with policy responsibility in this area, Elaine Murray. The convener will no doubt set out in more detail the committee's thinking if she so desires.

I move amendment 12.

Michael Russell: On 10 September the Education, Culture and Sport Committee considered the Executive's proposals on heritage in the bill. The three proposals were the abolition of the Historic Buildings Council for Scotland, the abolition of the Ancient Monuments Board for Scotland and the replacement of the Royal Commission on the Ancient and Historical Monuments of Scotland with the national survey. It is significant and astonishing that not one of those proposals has survived in the form in which it was put to the committee. That should be regarded partly as a tribute to all those who opposed the proposals, but it should also be regarded as a condemnation of the Executive.

The Executive knew that the vast body of opinion in Scotland opposed the Executive's proposals—it is interesting that Mr Kerr is giggling at that, because he knew it, as did Elaine Murray and all the other ministers. Not just 51 per cent, but 91 per cent of the people who responded to the consultation opposed the proposals, yet the decision was made to proceed with them as they were.

The Education, Culture and Sport Committee objected to the proposals and I pay tribute to all its members. As a result of the committee's intervention, the Executive decided to have a successor body to the two that were being abolished and the historic advisory committee is being set out today. However, the Executive carried on with the proposal to replace the RCAHMS, because it appeared non-controversial, only to discover at the 11th hour—and it is fortunate for the Scottish taxpayer that it did discover this—that to do so would have cost an enormous amount of money.

Something about the policy-making process in the Executive requires radical review. Perhaps it is simply that the Executive is utterly careless of the heritage of Scotland. It might well be that the Executive had plucked from the shelf a set of proposals about a group of bodies that it thought people cared nothing about, only to discover that people did care and that the proposals were so daft that they could not proceed.

One good thing will come out of this. There is an agreement to review the role and functions of Historic Scotland. Historic Scotland is in the middle of this mess: it considered the responses and it appears to have given the bad advice. In the circumstances—and many of us know this from

our day-to-day dealings with the senior management of Historic Scotland—the body's time for change is rapidly approaching and indeed it may have passed. Enormous change is required. The biggest change would be to remove Historic Scotland's agency status, make it a non-departmental public body, hive off the royal palaces, as has been done south of the border, and ensure that another body can give independent advice on heritage. That is partially achieved in the bill with the establishment of the advisory service. The withdrawal of the sections proposed in this group of amendments will not be opposed, but it is important to note that, to use the Gaelic word, the Executive has made a complete *bùrach* of considering our natural heritage.

Iain Smith: I thank Mike Russell for his interesting speech, which did not have much to do with the amendments before us today. I will support the amendments, as did the Local Government Committee after it considered the issue. However, I want to place on record my concern that this matter was not identified earlier in the process, such as between stage 2 and stage 3, before the Executive established that the body had a charitable status and stood to lose something like £400,000 of funding, which would no doubt end up in the Treasury coffers. That is unfortunate and the way in which it came about needs to be examined. We thank Elaine Murray for responding to the committee's letter on that issue. I give my support to the proposals and repeat my view that Mike Russell's speech was entirely irrelevant.

15:30

Donald Gorrie (Central Scotland) (LD): It is clear that the management of Historic Scotland do not have a grip on the country's ancient monuments. The situation is extremely unsatisfactory and the fact that the Executive has got itself into this mess shows that it is not on top of the situation.

This is not a party-political matter. The job of looking after our historical heritage has never been given the priority that it deserves and there is a great deal of work to be done. It might be that some of Mike Russell's criticisms were overstated, but it is important that the Scottish Parliament help the Executive to care for and promote our historical heritage. I look forward to that happening.

Karen Gillon (Clydesdale) (Lab): It is somewhat concerning that all the suggestions in relation to the built environment that were made by the Scottish Executive at stage 1 have now changed. That may be a good thing, though, as it may demonstrate that the Executive has listened to the committees of the Parliament and to the

agencies that have been lobbying the Executive strongly. However, I must say that, in evidence that the Education, Culture and Sport Committee took, we were told that the changes that were proposed were not needed. We have since been told that the action that the Executive has since taken reflects better the consultation that took place rather than the advice that the Executive received from Historic Scotland.

The changes in relation to the new body are welcome. I understand the reason why the additional changes have been brought in at stage 3, but I suggest that we all learn the hard lesson that we should listen more to the people who respond to consultation exercises than we do to executive agencies.

Tricia Marwick: I am disappointed that such a major change has been made to the bill at so late a stage. While I acknowledge that information was given to the Local Government Committee, I point out that there are concerns about the effect of the amendment. However, we have no alternative but to accept the amendment. There is no other option because not supporting the amendment would result in extra expense.

People have talked about the processes that have been involved in the creation of this legislation and I wonder whether the processes were wrong. The bill was brought forward partly to spite Alex Neil's Public Appointments (Parliamentary Approval) (Scotland) Bill. When a piece of legislation has started from the wrong premise, we should not be surprised if it goes belly up at the 11th hour, as this bill has done in relation to the heritage bodies. If the ministers had listened a bit more and had encouraged more joined-up thinking across departments, we would not be in the situation that we are in, whereby last-minute information has necessitated these amendments.

All ministers—not just the Deputy Minister for Finance and Public Services—should think long and hard about what has happened. The situation is not fair to the committees of the Scottish Parliament or to the organisations involved. As other members have said, ministers should examine carefully the quality of the advice that they are given by Historic Scotland.

Peter Peacock: Mike Russell's comments lacked generosity, to say the least. It is interesting that he is in the opposite camp from Alex Neil in relation to the bonfire of the quangos, as Alex Neil has argued vigorously for more quangos to be abolished while Mike Russell is seeking to defend them.

The key point to which Mike Russell did not draw attention is that our position on the matter could not be finalised until such time as our consideration of the McFadden report, which

raised all the points on charities and non-departmental public bodies, was completed. A statement on that was made to Parliament only on 16 December which, as I recall, was after stage 2 was concluded. As I indicated in my opening remarks, in an ideal world, that would have been dealt with much earlier, but that was the sequence of events.

The episode demonstrates that the Executive is prepared to listen to what the committees say and that the committee system in the Parliament is strong. What has been proposed today is the right decision in the circumstances. It is a mature judgment of what requires to be done and reflects the maturity that the Executive has to deal with such matters when they arise.

A number of members have referred to Historic Scotland's role. As Mike Russell indicated and I have said previously, Historic Scotland is the subject of a review. That speaks for itself.

Amendment 12 agreed to.

Section 13—Scottish Solicitors' Discipline Tribunal and certain practitioners

The Deputy Presiding Officer: Amendment 13 is grouped with amendments 14 and 41 to 47.

Peter Peacock: Amendments 13 and 14 and 41 to 47 are minor technical amendments to clarify the extent of the remit that the bill gives the Scottish Solicitors Discipline Tribunal to deal with complaints against conveyancing and executry practitioners. Sections 13(a) and 13(c) define that remit by reference to section 20 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, which deals with professional misconduct by conveyancing and executry practitioners. As the provisions of sections 16 to 23 of the 1990 act are closely interrelated, they can all be viewed as relevant, to varying degrees, to the tribunal's remit in relation to those practitioners. Consequently, in defining the remit, it would be more appropriate to refer to those sections. Amendments 13 and 14 would achieve that.

On amendments 41 to 47, the bill already provides for the council of the Law Society of Scotland to have general powers to make rules for regulating the conduct and practice of conveyancing and executry practitioners. Amendments 41 to 47 seek to provide that the council of the Law Society will be able to make specific rules with respect to complaints against conveyancing and executry practitioners, whether independent or employed.

The 1990 act originally provided general rule-making powers for the secretary of state in relation to standards of conduct and practice for independent practitioners. It also provided for the Scottish Conveyancing and Executry Services

Board to establish procedures for dealing with complaints against independent qualified conveyancers.

The bill gives the council of the Law Society general rule-making powers in relation to conveyancing and executry practitioners, but the council's powers with respect to complaints are confined to complaints against independent practitioners. However, the council's rule-making powers also need to extend to employed practitioners. That is the purpose of amendments 41 to 47. Such rules would require the approval of the Lord President of the Court of Session and the Scottish ministers following consultation with the director general of fair trading.

I move amendment 13.

Donald Gorrie: The Consumers Association approached me—unfortunately, so late in the day that it was impossible to lodge an amendment—to express concern about the effect of some aspects of the bill on conveyancers, who are a small body. Conveyancing is a new profession—it was created only relatively recently—but the organisation that supervises it is being removed.

It is obviously hard to defend a quango that looks after relatively few people, but I am concerned that existing practitioners and others who are in training to gain a conveyancing qualification should be treated justly. It is alleged that the arrangements that have been made—possibly not those in the bill but related arrangements—for insurance indemnity, for example, will penalise that small group of people heavily.

I hope that the minister will assure me that arrangements will be made so that existing or future conveyancing practitioners are not treated unfairly.

Bruce Crawford (Mid Scotland and Fife) (SNP): I will reflect on some of Donald Gorrie's comments, although I am not as concerned as he is with protecting the body that has been overseeing the independent practitioners. I understand that there are two left in Scotland—one in Cupar and one in Dundee. Like Donald Gorrie, I seek assurances from the Executive on the question whether there can be some way of ensuring that those conveyancing shops can continue and that the legislation will not put them out of business. The Executive may claim that the bill will not have such an impact, but conveyancers tell us that that is what will happen.

I do not seek to speak against the amendments, which go in the right direction, but guarantees need to be given that existing independent conveyancers will be at least able to continue, even if we do not wish to create more.

Iain Smith: I lodged an amendment on this matter at stage 2. One of the independent conveyancers who is registered under the existing provisions is based in my constituency. In fact, her office is about 50yd from my constituency office, and I believe that the shop in Dundee, to which Mr Crawford referred, operates under the same partnership. There is a concern that the partnership will not be able to expand its business because it will not be able to take on new partners or open shops in other areas. The partnership was hoping to open a shop in Glasgow, but that may not be possible now.

I received a full explanation of the problems at stage 2, and I hope that the Executive will continue to review the matter. If a solution could be found to the particular problem of indemnity against fraud by a practitioner, the avenue of registering independent conveyancing practitioners could be re-examined in future. Independent practitioners are an interesting way of bringing competition into the profession, and it would be useful to receive an assurance that the door is not closed on the matter.

Peter Peacock: I am aware of the concerns around the matter. Iain Smith, who has a constituency interest, has raised concerns over a number of months.

I will pick up on the points made by Donald Gorrie and Bruce Crawford, who asked whether existing practitioners may continue in business. The answer is yes, absolutely. As part of our approach—this picks up on Donald Gorrie's points—we recently held a meeting with the independent conveyancing practitioners involved. My officials sought to give them the assurances that they were looking for, particularly on the question of the guarantee fund and insurance arrangements. The Executive is making strenuous efforts to ensure that existing practitioners are not prejudiced in any way by the changes that are taking place in relation to their independent conveyancing practices.

As Iain Smith is aware, the bill does not permit the future registration of new independent conveyancing practitioners. However, as with any situation that is subject to parliamentary scrutiny, such matters are always kept under review as time moves on, and I trust that this matter is no different.

Amendment 13 agreed to.

Amendment 14 moved—[Peter Peacock]—and agreed to.

Section 14B—The Advisory Council's functions

The Deputy Presiding Officer: Amendment 37 is grouped with amendments 38, 26, 40 and 39.

Peter Peacock: All the amendments in this group relate to the historic environment advisory council, which the bill will establish. Amendments 37, 38 and 39 are essentially technical. Amendment 37 refers to the role of the advisory council in giving advice to ministers either when asked or whenever the council considers it appropriate to do so. The intention is to make that provision clearer than currently drafted. Amendment 38 would add the advisory council to the list of bodies subject to the commissioner for public appointments in Scotland. Amendment 26 would clarify the tenure of office for members of the new body.

Amendment 40 would enable ministers to pay a salary to the chair of the historic environment advisory council. The bill provides only for the payment of expenses to the chair and members of the council, but not for their remuneration. Colleagues with policy responsibility have been giving further consideration to the role of the new body and to the question of remuneration. We expect the chair of the council to make available significantly more time than its members. Accordingly, we have concluded that provision should be made for the chair to receive remuneration, should ministers consider that appropriate. The chair of the Historic Buildings Council for Scotland receives an annual salary, but the chair of the Ancient Monuments Board for Scotland does not.

Amendment 39 is a technical amendment to insert the name of the advisory council into the long title.

I move amendment 37.

15:45

Karen Gillon: I welcome the amendments and the establishment of the historic environment advisory council. The Education, Culture and Sport Committee felt it vital that the Executive should be able to receive independent advice, not only when it needs such advice but whenever members of the advisory council should feel that the Executive was not getting the independent information that it should be getting.

Although the amendments are technical, they are very welcome. They will allow the chair of the new body to be paid, if necessary. If the post is to be meaningful, there should be provision for remuneration to be made in future, if required.

Amendment 37 agreed to.

Section 15—The National Survey of Archaeology and Buildings of Scotland

Amendment 15 moved—[Peter Peacock]—and agreed to.

Section 16—The National Survey's functions

Amendment 16 moved—[Peter Peacock]—and agreed to.

Section 17—The National Survey's functions: further provision

Amendment 17 moved—[Peter Peacock]—and agreed to.

Section 18—Power of the National Survey to obtain information etc

Amendment 18 moved—[Peter Peacock]—and agreed to.

Section 19—Property etc and staff of the Royal Commission

Amendment 19 moved—[Peter Peacock]—and agreed to.

Section 21—Orders and regulations

Amendment 20 moved—[Peter Peacock]—and agreed to.

Section 23—Interpretation

Amendments 21 and 22 moved—[Peter Peacock]—and agreed to.

Schedule 1

THE COMMISSIONER

The Deputy Presiding Officer: Amendment 23 is grouped with amendment 7.

Peter Peacock: Amendments 23 and 7 relate to exclusion from holding office as commissioner for public appointments. At stage 2, amendments similar to amendments 23 and 7 were lodged by Tricia Marwick and Sandra White.

It is agreed that it is vital that the commissioner should not be left open to any allegation of conflict of interest when carrying out his or her role. Independence of the commissioner from Government—from ministers and the civil service—is crucial to securing a public appointments system that commands public confidence for being fair, open and transparent, and that is perceived as being free from political influence. For that reason, I was happy to accept in principle Tricia Marwick's intention that members of the House of Lords should not be allowed to hold office as commissioner for public appointments in Scotland. Clearly, there would be a direct or potential conflict of interest if active members of the United Kingdom legislature carried out the role of commissioner.

However, as a result of House of Lords reform, a number of peers no longer have a vote in the

house. In their case, there is no conflict of interest. Amendment 23 seeks to refine Tricia Marwick's stage 2 amendment by excluding only peers who have a vote in the House of Lords. Our support for the amendment is based on the potential conflict of interest between one legislature and another, rather than the issue of privilege, or perceived privilege—the argument in which Tricia Marwick majored at stage 2.

Amendment 7, in the name of Alex Neil, relates to the exclusion of paid officers of political parties. I take this rare opportunity to agree with the member on the principle of the matter that is the subject of his amendment. It would be wrong for someone holding paid office in a political party to be responsible formally for scrutinising the work of ministers who might be drawn—although not exclusively—from the party to which they belonged. Clearly, in that case there would be a potential conflict of interest.

However, after considering amendment 7 in detail, I cannot accept its practical effect, for reasons that I will set out. The principle of excluding specific groups of people from appointment to the office of commissioner is entirely appropriate, but I do not believe that it is possible to provide an exhaustive list in the bill. If such a list were included in the bill, that might imply that anyone not included on the list did not have a similar conflict of interest. In respect of political parties, I do not believe that to be the case. Proceeding as Alex Neil suggests is not appropriate.

Amendment 7 varies significantly from the amendment that was lodged at stage 2, when I undertook to consider the issue further. I have done so first in relation to the question of national office holders in political parties, which was the subject of the stage 2 amendment. After considering the issue in detail and examining a number of different options—including draft amendments prepared by officials—I concluded that it was not possible to capture adequately and fairly all the relevant circumstances.

It appears that, on reflection, Alex Neil has come to a similar conclusion. That explains the altered approach that he has taken in amendment 7, which relates to paid employees of political parties. However, after giving detailed thought to the matter, I do not think that it is appropriate to make such an exclusion in the bill.

Clear definitions that describe all relevant persons are impossible to draw. Inevitably, any definition will leave out someone who should be excluded. If the Parliament were to agree to amendment 7, a person holding high office in a large political party—for example, a chief executive or general secretary—might be excluded from office because that is a paid post.

However, the equivalent national officer for a smaller political party would not be excluded, because he or she received no remuneration for his or her efforts. As members are aware, there are significant differences between the scale and structures of political parties. The number of people whom they employ—and, therefore, the number of people who would be captured by amendment 7—varies considerably.

Over time, things may change even more, making such a definition obsolete. Amendment 7 implies that, although it would be inappropriate for the paid chief executive of the SNP—or the holder of the equivalent post in another political party—to be appointed commissioner because of a conflict of interest, it would be acceptable for the national chair of the party to be appointed. That cannot be right.

It has proved impossible to provide an exhaustive list of levels of political involvement. Why should we assume that the constituency chair of a party is less involved, less committed or less influential than national paid officials of that party? By attempting to draw the line, the impression is given that anyone not included in the definition should be eligible for appointment. That is clearly not the case. A qualitative decision is necessary on a case-by-case basis.

In the circumstances, I have concluded that the issue of conflict of interest on the basis of any political activity is one best dealt with by the interview panel that will select the commissioner. Any selection panel for a post that is specifically designed to monitor and judge the actions of ministers must take into account the question of a direct or potential conflict of interest. Based on a person's holding other paid employment or another office—whether that office is party political, commercial or otherwise—it will, and should be, up to the panel to decide whether there is a conflict of interest that would prejudice the role of commissioner of public appointments in Scotland.

Although I share Alex Neil's concern about the issue of principle, I believe that the matter is best left to the good judgment of the Parliament's selection panel.

I move amendment 23 and ask Alex Neil not to move amendment 27.

The Deputy Presiding Officer: Mr Neil, at this point we are so far ahead that, if you wish, you could make a speech of one hour and 47 minutes' duration. [MEMBERS: "No."] I am perfectly sure that you will not want to detain the chamber unnecessarily.

Alex Neil: Can I take that as a request that I do so? [MEMBERS: "No."] Given the consensus, unity and agreement that is nearly breaking out

between the minister and me, members will be glad to know that I do not intend to take longer than two or three minutes.

Everyone—both inside and outside the chamber—is agreed that it is important that the person appointed to the job has the full confidence of all members of the Parliament and of civic society. We are all trying to maximise the guarantees to ensure that that is what happens.

We support the bill's provisions on excluding members of the House of Commons, members of the Scottish Parliament and members of the specified authorities from appointment as commissioner. I understand that, when we get down to practicalities, the proposed parliamentary committee on public appointments is likely to be the body that recommends who should be appointed to the position.

Given that the minister has outlined some practical points about the definition and the need to ensure that the Parliament passes qualitative legislation, I am willing not to move amendment 7, provided that he guarantees that he will support whatever measures the public appointments committee proposes to put in place to ensure the political neutrality of anyone appointed to the post of commissioner. There is unity on that fundamental principle.

Tricia Marwick will say more about the matter, but it is a great pity that her stage 2 amendment on members of the House of Lords was not agreed to. That would have made the bill all-encompassing because, despite the fact that the minister has lodged an amendment that refers to those who have a vote in the House of Lords, all members of the House of Lords have a certain amount of influence that others do not have. Tricia Marwick will expand on that point.

Provided that I get that guarantee from the minister, I am happy not to move amendment 7.

Tricia Marwick: Presiding Officer, how much time do I have?

The Deputy Presiding Officer: I hope that you will not detain the chamber unnecessarily.

Tricia Marwick: I will not. I have already given the security guards a guarantee that we will probably be out of here by half-past 4 and I am not about to go back on that.

Throughout the passage of the bill, Peter Peacock has proved extremely willing to listen to the arguments. I am grateful that the three key amendments that I lodged—on the age of the commissioner, on reporting by the commissioner and on the House of Lords—have been accepted by the minister to a greater or lesser extent. However, as Alex Neil said, I am disappointed that my stage 2 amendment—which proposed that the

commissioner should not be a member of the House of Lords—was not agreed to. The bill states clearly that someone cannot be appointed as commissioner if they are a member of the House of Commons or of the Scottish Parliament. It seemed to me that there was a startling omission, as someone who was a member of the House of Lords could be appointed as commissioner.

Given the debacle of the voting in the place down the road yesterday, nobody actually knows how the House of Lords is likely to end up and whether it will be appointed or elected in the future. It is a pity that we do not have a simple amendment today that refers to members of the House of Lords, because if Tony Blair has his way, it is perfectly possible that the membership of the House of Lords will be 100 per cent appointed. That is truly the pinnacle of patronage, and it would be wholly wrong that somebody who was appointed by the political system to the House of Lords would also have the opportunity to be appointed as commissioner.

While I regret that today we are not debating my stage 2 amendment and that we do not have the opportunity—thanks to the Presiding Officer's selection process—to have a straight vote on whether the commissioner can be a member of the House of Lords, we will support amendment 23, imperfect though it might be.

Peter Peacock: It is not for me to comment on the selection of amendments, as Tricia Marwick is aware, but I understand that our amendment 27 would address her point. Whatever the outcome of decisions about the future construction of the House of Lords and whether its members are appointed, elected or a combination thereof, if a member of the Lords was a voting member—and presumably someone who was elected or appointed to the Lords would have being an active member as their purpose—amendment 27 would mean that they would not be entitled to seek appointment as commissioner.

I will deal with Alex Neil's points. Without being too pedantic, I believe that how the public appointments committee, should one be established, deals with matters is an issue for the Parliament. I completely subscribe to his point that whoever is appointed to the position must be seen to be politically neutral and appointed solely on merit. That is what underlies our approach. I would support any appointment that was made on the basis of merit.

The Deputy Presiding Officer: I say to Tricia Marwick that the Presiding Officers do not give reasons for the selection of amendments, apart from those reasons that are in the published guidelines. If you wish to write to Sir David Steel about the issue, you should so do.

Amendment 23 agreed to.

Amendment 7 not moved.

Schedule 2

THE SPECIFIED AUTHORITIES

Amendments 24, 25 and 38 moved—[Peter Peacock]—and agreed to.

Schedule 2A

THE ADVISORY COUNCIL

Amendments 26 and 40 moved—[Peter Peacock]—and agreed to.

Schedule 3

THE NATIONAL SURVEY

Amendment 27 moved—[Peter Peacock]—and agreed to.

Schedule 4

MISCELLANEOUS PROVISION

Amendments 28, 29, 41 to 47 and 30 to 35 moved—[Peter Peacock]—and agreed to.

Long Title

Amendments 39 and 36 moved—[Peter Peacock]—and agreed to.

Public Appointments and Public Bodies etc (Scotland) Bill

The Deputy Presiding Officer (Mr George Reid): The next item of business is a debate on motion S1M-3729, in the name of Andy Kerr, that the Public Appointments and Public Bodies etc (Scotland) Bill be passed.

15:58

The Deputy Minister for Finance and Public Services (Peter Peacock): I am pleased to open the debate on the Public Appointments and Public Bodies etc (Scotland) Bill. The bill is another important building block in the platform of modern legislative measures that the Executive has sought to construct to support the operation of the public sector in the 21st century. The bill follows other important legislation that has been approved by Parliament to modernise the public sector in Scotland. That legislation includes: the Public Finance and Accountability (Scotland) Act 2000, the Ethical Standards in Public Life etc (Scotland) Act 2000, the Freedom of Information (Scotland) Act 2002 and the Scottish Public Services Ombudsman Act 2002. All that legislation is about bringing more transparency into public affairs in Scotland, increasing the rights of Parliament and qualifying the rights of ministers.

The Public Appointments and Public Bodies etc (Scotland) Bill builds on the extensive work that has been done in the years since the Nolan committee was established. The bill's main aim is systematically to create a transparent, open, accountable and depoliticised framework for appointments to public bodies in Scotland. The framework will ensure consistently that people who have the right skills are appointed on merit to our public bodies. The framework is designed to inspire confidence among Scottish people from all walks of life. We want them to feel that they are able to serve on public bodies and that they can make valuable contributions to public life.

Consultation on the bill has been extensive and we have sought to respond constructively to all the points that have been raised. The bill was shaped by careful consideration by the Local Government Committee and the result will be well-thought-through and effective legislation.

The key functions of the Scottish commissioner for public appointments will be to regulate the appointments process by prescribing and publishing a code of practice for public appointments, to oversee ministers' compliance with the code and to report to Parliament. In addition, the commissioner will have a more dynamic role in promoting diversity through a

diversity strategy, appoint and train independent assessors to scrutinise each appointment round and inform the Parliament of significant breaches of the code. Crucially, that can be done before an appointment is confirmed. That is the powerful whistleblowing role to which I have referred. The commissioner for public appointments in Scotland will build on the many positive aspects of the operation of the UK commissioner for public appointments, but will have the advantages of having particular awareness of the environment in Scotland, and of having a more substantial and influential role.

Members will be familiar with the bill's contents and the increased role that it will give Parliament. Parliament will have a role in the commissioner's appointment: as a consultee on the code of practice and the diversity strategy; in acting on breaches of the code that the commissioner has reported; and in scrutinising the commissioner's annual report.

The Local Government Committee played an important part in weighing up the commissioner's powers in relation to Parliament. The bill strikes a good balance between independence and accountability and it gives Parliament effective and valuable powers of scrutiny without tying the commissioner's hands.

The promotion of diversity in public appointments is an important aspect of the commissioner's additional remit. The boards of public bodies need to reflect the diversity of Scottish society and to bring to bear varied experience in decision making and giving advice to ministers. Through promotion of the diversity strategy, the commissioner will aim to attract all categories of people to apply for public appointments. That additional aspect of the commissioner's operation underlines the Executive's commitment to ensuring that as wide a cross-section of people as possible serves on boards. The positive impacts of involving a wide range of interests, beliefs and opinions are that such involvement informs the delivery of public services and advice from bodies, and promotes equal opportunities and social inclusion.

A secondary, but important, function of the bill is that it will abolish five public bodies. Action has been, or is being, taken on 113 bodies since the public bodies review, and the five bodies to which the bill refers require primary legislation for their abolition. The bill will abolish the Scottish Medical Practices Committee, the Scottish Hospital Trust, the Ancient Monuments Board for Scotland, the Historic Buildings Council for Scotland and the Scottish Conveyancing and Executry Services Board. As a consequence of those abolitions, the bill will ensure that residual functions are properly provided for.

For example, the notarial powers that the bill outlines will ensure a level playing field for solicitors and independent conveyancing practitioners following the SCESB's abolition. Scottish ministers are grateful to the Law Society of Scotland for accepting their invitation to take over the regulatory and administrative responsibility for conveyancing and executry practitioners. We are discussing a memorandum of agreement with the council of the Law Society, which we intend to finalise before the bill's implementation. The memorandum will prescribe the detailed terms of the transfer of the SCESB's responsibilities to the council and the support that the Scottish ministers will give the council. Once signed, the memorandum will form a binding legal agreement between the Scottish ministers and the council and will be subject to periodic review.

Members will recall my commitment in the stage 1 debate to listen and respond to the concerns of the Education, Culture and Sport Committee and the public about functions that were undertaken by the Ancient Monuments Board and the Historic Buildings Council. As a consequence, the bill will establish a statutory successor body—the historic environment advisory council for Scotland—to ensure an opportunity for public influence over, and input to, the decision-making processes that impact on the historic environment.

The bill will create an opportunity to embed in public life in Scotland a culture of equality, accountability and appointment on merit. It is a major advance and another modernising measure from the Executive. It will strengthen public life and make it more transparent and accountable. In the process, the Parliament's role will be increased. I commend the bill to Parliament.

I move,

That the Parliament agrees that the Public Appointments and Public Bodies etc. (Scotland) Bill be passed.

16:05

Tricia Marwick (Mid Scotland and Fife) (SNP): Although we will celebrate the passage of the bill today, we need to look back to where it was born, which was out of the bill that was introduced by Alex Neil as the Public Appointments (Parliamentary Approval) (Scotland) Bill. That bill went much further than the Executive was prepared to go in the bill that we are debating today.

At stage 1 of Alex Neil's bill, the minister was asked to come to the Local Government Committee to give evidence on the bill. The minister, however, took that opportunity to announce that—lo and behold—the Executive was to have a similar bill all of its own. The Executive told its members, the Liberal Democrat members

and everybody else on the committee to vote down Alex Neil's bill because a better one would come along in a minute.

The Executive bill is not a better bill than the one that Alex Neil introduced, but it is a bill and we will support it today despite the fact that it does not go far enough. The true test of the effectiveness of the bill will be in four years' time. We will know then whether between 60 per cent and 80 per cent of all appointments to public bodies still come from one political party—the Labour party. If that is the case, the bill will have failed.

When Dame Rennie Fritchie, the UK commissioner for public appointments, appeared before the Local Government Committee, she said clearly that there was a role for a Scottish commissioner who would know the situation in Scotland. I look forward to the appointment of the commissioner and to the day when people will be appointed to public bodies in Scotland on merit and not because of their political affiliations. One of the reasons why so many Labour party members are appointed to public bodies is simply that people from other political parties realise that there is absolutely no point in putting themselves forward because they will not be appointed.

Alex Neil cited the very good example of appointments to the Gaelic board. Everyone recognises that the number of Labour party members—and, indeed, Liberal Democrat members—on that board does not reflect the Gaelic community. It is also not reflective of the balance of the political parties in Scotland.

Although I welcome the bill because it is a step forward, it is not the giant leap forward that was needed and it is certainly not the giant leap forward that would have been achieved by Alex Neil's bill. That said, we will support it, all the same.

16:07

Mr Keith Harding (Mid Scotland and Fife) (Con): The Scottish Conservatives support the bill. We are committed to cutting bureaucracy, red tape and cronyism in Scottish politics and we congratulate the Executive on taking a step in the right direction, albeit that I suspect—as Tricia Marwick said—that it came about as a result of Alex Neil's member's bill. However, we must ensure that the appointment of a commissioner for public appointments does not result in another empty promise from the Executive, but that it translates into real change for the benefit of public life.

I refer members to the empty promises that are contained in the Executive's champions for change initiative, which the Executive abandoned earlier this week. What has happened to the

performance improvement unit, which has sunk without trace, or to the improving regulation in Scotland unit, IRIS, which has managed to produce only five press releases in three years and has cut no red tape at all? The Executive introduces such initiatives in the glare of publicity, but as my leader David McLetchie said, they disappear under the cover of darkness.

I support part 1 of the bill, which sets out the creation of a commissioner for public appointments in Scotland. The new code of practice will mean that appointments can be made in an open and transparent manner and that any serious breach of the code can be investigated. I hope that that will reduce the cronyism and jobs-for-the-boys mentality that pervades the appointments system in Scotland.

I continue to have concerns about section 2(10), which seeks to impose diversity in the selection process by setting targets for appointments from minority groups. The Scottish Conservatives celebrate diversity in every way. We would very much like to see more balanced representation of all groups in our society, but that must be achieved on merit and not through setting targets. I believe that positive discrimination is a dangerous and inherently flawed concept and I cannot support its use.

Furthermore, as I articulated in committee, there is some legitimate concern about the term of office that is prescribed under schedule 1, which states that there can be no more than three five-year terms, and that a third term will be permitted only in special circumstances and if it is in the public interest. As I suggested when evidence was given by Roger McClure of the Scottish Funding Councils for Further and Higher Education—who considers five years to be too long—the enforced shelf life of the commissioner might be a deterrent to good candidates applying. Why should a good commissioner who serves the public interest be forced out of office to the public's detriment when he or she is doing a perfectly good job? The same logic applies to the age of the commissioner, and I am pleased that the bill has been amended to allow the commissioner to continue in the position past the age of 65.

Part 2 of the bill provides for the abolition of some non-departmental public bodies—quangos. Five in total are to be abolished. We agree fully with that and have argued for a long time that there is a desperate need for the amount of red tape and bureaucracy to be cut to allow officials to get on with the jobs that they are supposed to do. However, we would have preferred the promised bonfire instead of this damp squib. Despite the protestations of unelected bureaucrats, such bodies do not perform any functions that other, preferably local, bodies could adequately carry

out. The removal of an unnecessary level of bureaucracy is welcome and long overdue.

Despite the small reservations that I have mentioned, the Conservatives support the bill.

16:11

Iain Smith (North-East Fife) (LD): Well—better the sinner who repenteth. I seem to recall that the Conservatives created more quangos than anyone else; I am glad that we are getting rid of some of those bodies at last.

Phil Gallie (South of Scotland) (Con): That is because we were in government for a long time.

Iain Smith: That is a fair point.

I am a little concerned that the SNP seems to want to judge the legislation's success by the number of appointments of people who have political affiliations that will have been made by the end of the next session of Parliament. The nationalists' claim that they expect the Labour party to have made more such appointments than other political parties in four years' time, so they seem to be admitting that they will not be in government four years from now. Obviously, they have already given up on winning the election.

The bill is very good and it is important, because it creates the right balance between the commissioner's independence and the final accountability of the appointments process to Parliament. It is significantly better than Alex Neil's Public Appointments (Parliamentary Approval) (Scotland) Bill; I should point out to Tricia Marwick that the reason why his bill did not make it to stage 2 was not that the Executive told us not to support it, but that it was fundamentally flawed. That was why I did not support it in committee.

Alex Neil's bill would have politicised the appointments process even more, because every single appointment to every single quango would have had to face the scrutiny of politicians, not independent assessors or people who would consider applicants' merits. Would politicians have considered whether applicants were the best people for jobs? No; they would have been looking for political reasons to challenge the Executive's appointments to particular posts. In fact, the witch hunters of the SNP showed that quite clearly by the way they treated the appointment of the Scottish information commissioner—and Parliament—with contempt.

Tricia Marwick: Does the member acknowledge that, alone among the parties, the SNP allowed its members a free vote on the information commissioner? The SNP was the only party that did not vote en bloc for the appointment; the Labour party, the Liberal Democrats and the Tories all voted en bloc.

Iain Smith: I do not recollect that our group made any such decision on the matter; instead, our members made up their own minds on the merits of the argument. We did not think much of the merits of the SNP's argument and, accordingly, voted the right way. The important point is that the appointment was made—at least by some of the parties—on the merits of the candidates and not on any political basis. The danger with going down Alex Neil's proposed route is that we would start to appoint people for political reasons and make the process more, not less, political. The Public Appointments and Public Bodies etc (Scotland) Bill is important because it will correct such flaws.

It is interesting to note that we will complete consideration of the bill two hours early. That is because the Local Government Committee has a very good working relationship with the ministers, which means that our concerns can be addressed and we can reach agreement on changes early in the process. By doing so, we improved the bill at stage 2 and do not have to waste too much of members' time at stage 3. I thank the minister and his staff for their work in that respect. I also want to thank the Local Government Committee clerks and our other staff for their important work in supporting our consideration of such bills.

The origins of the Public Appointments and Public Bodies etc (Scotland) Bill were not in Alex Neil's bill, as Tricia Marwick claimed; rather, it came out of several discussions and investigations by the Executive about the future of public bodies and public appointments long before Alex Neil introduced his bill.

The Liberal Democrats were not initially convinced by the Executive's position on how it would deal with the Scottish commissioner for public appointments. We were not satisfied that there was sufficient parliamentary involvement in the proposed process. We, as a party, discussed with ministers how to improve that. We did that not because of Alex Neil's bill, but because we wanted improvements. We got agreement from ministers to make the significant improvements that mean that Parliament is the backstop. Parliament will appoint the commissioner and have the final say if the commissioner is not satisfactory. That is as it should be and it is the case because Liberal Democrats and Labour can work together, whereas the SNP cannot work with anyone.

16:16

Dr Sylvia Jackson (Stirling) (Lab): Presiding Officer, I am sorry about my croaky throat.

The aims of the bill are laudable. In addition to setting up the post of a commissioner for public appointments in Scotland, the bill enshrines the

central principles of opening up the appointments system, making it more accountable and ensuring that appointments are made on merit. Amendments this afternoon dealt with issues concerning those principles—notably, what should and should not be in the code of practice with regard to an applicant's political activity, the role of the commissioner with respect to the code, and the role of the commissioner with respect to Parliament. That has been a big issue.

The bill strikes the right balance on those issues and frankly, as was said earlier by Iain Smith, I do not want a rerun of the earlier debate about the post of a freedom of information commissioner. In her evidence, Dame Rennie Fritchie remarked that we must open up the appointments process to a wider cross-section of people—to those who might not be thinking about standing for such appointments at the moment. I remember that horrendous debate and I did not think that people would be attracted to those posts.

There has also been debate today about charitable status following the McFadden report and, hence, the need to withdraw from the bill the dissolution of the Royal Commission on the Ancient and Historical Monuments of Scotland, and to include the establishment of the national survey of archaeology and buildings of Scotland.

A fundamental part of the bill is the degree of autonomy and responsibility that will be given to the commissioner to undertake his or her job. In that connection, sections 7 and 8 of the bill are important; they deal with what should be reported back to Parliament. I am pleased that the minister has listened, as Iain Smith said, to what members of the Local Government Committee said, and that he has found the words that allow us to get over the difficulties that we discussed at stage 2.

Finally, it would be disingenuous not to say something about the earlier debate about Alex Neil's bill. That debate was informative and useful and it formed a basis for what came after it. I do not think there was a need for the amount of negative comments that came from Tricia Marwick, but the debate was useful nevertheless.

As the minister outlined, much work remains to be done; for example, the code of practice and all the other procedural matters need to be dealt with. I wish the bill well.

I give many thanks to Local Government Committee colleagues, to the convener—Trish Godman—and to the clerks.

16:19

Ms Sandra White (Glasgow) (SNP): I am glad that Sylvia Jackson clarified a point for Iain Smith. The bill did exist in another form and was

introduced by Alex Neil in September 2001, to be exact. I echo the minister's words when I say that that bill was introduced for all the right reasons that he mentioned—transparency, openness and accountability. I hope sincerely that the Public Appointments and Public Bodies etc (Scotland) Bill will attain all that has been mentioned.

I thank Peter Peacock for the genuine interest he took in the many amendments that the SNP lodged. They were lodged not only by me, but by Alex Neil, Tricia Marwick and others. He listened carefully, although he did not always agree with us, and he introduced amendments at stage 2 and stage 3 that most of us in the SNP can live with.

I also thank the clerks—who worked so hard on the bill—and my colleagues on the Local Government Committee. Many groups were involved in consultation on the bill and we held many evidence sessions. Openness and transparency are what this Parliament is all about and they are necessary if we are to justify ourselves to the public.

My only regret is that amendment 5, which would have strengthened the bill, was not agreed to. It is unusual that the Conservative party supported amendment 5, because we do not agree with it on many issues. Although I am disappointed that amendment 5 was rejected, I suppose that we can live with that.

I welcome the bill and I accept what the minister and members of the Local Government Committee have said. I look forward to the implementation of the bill and to scrutinising it during the next session of the Parliament, when it has been enacted.

16:21

Trish Godman (West Renfrewshire) (Lab): I, too, will begin by thanking the members of the Local Government Committee and its clerks, who worked very hard on the bill. I also thank the minister, who was often available when we needed clarification.

Sylvia Jackson was right to say that there were some parts of Alex Neil's bill with which the Local Government Committee was happy. We considered those aspects carefully and some have been included in the Public Appointments and Public Bodies etc (Scotland) Bill. However, I have been here for four years and it sometimes upsets me that even when one agrees with something, members of the SNP still get on their feet to make negative comments. That is beginning to get us all down.

Most people would like to have a much more transparent system of public appointments. A fair, honest and plainly visible procedure of recruitment

and selection of applicants for public appointments will kick into touch once and for all the old boys' network and the equally squalid practice of cronyism. I am in favour of transparency and the introduction of comprehensive checks and balances on ministerial appointments.

We need a separate commissioner for public appointments in Scotland. Among other things, that role will involve monitoring, regulating, advising and reporting on ministerial appointments to public bodies. The commissioner will also prepare a code of practice, investigate complaints and report annually through Parliament.

I am especially keen for the commissioner to promote diversity in public appointments, because that would send a positive message to ethnic groups and to others who, until now, have simply been spectators in the public appointments process. Attracting more women, more people from ethnic backgrounds and more people with disabilities to apply for public appointments should be central to the work of the new commissioner. The commissioner should also encourage applications from younger people.

The commissioner will have responsibility for ensuring that all categories of people are afforded the opportunity to be considered for public appointments. Although it will upset some of those who have benefited from the old and rotten system of appointments, I welcome that move.

In the committee's deliberations on the code of practice, we agreed with the Deputy Minister for Finance and Public Services that the independent position of the commissioner would be eroded by any procedure that was stronger than consultation with the Parliament and ministers. I am pleased that the bill makes that explicit. I am also satisfied that the bill gives the commissioner adequate powers in the event that the code of practice is breached or ignored by a minister. It allows for the commissioner to intervene before an appointment is made and to inform Parliament that he or she believes that the minister in question is ignoring the code of practice, intentionally or otherwise. That is a highly significant inclusion.

The principle behind the bill is to have an independent Scottish commissioner for public appointments. Our public consultation provided strong support for the establishment of such a commissioner with the powers that the bill seeks to confer. It is right and proper that we increase the Executive's accountability in relation to public appointments. In doing so, we will go a long way towards eliminating powerful networks and the plague of cronyism. The principle of appointment by merit alone should be absolute and transparent—nothing less will do. We must assure the public that cronyism is dead and that merit is alive and well.

It gives me a great deal of satisfaction to endorse the bill.

16:24

Donald Gorrie (Central Scotland) (LD): I pay tribute to all those in the Local Government Committee and the Executive who have contributed to the bill. I also pay tribute to Alex Neil, who deserves credit for raising the issue. Perhaps he thinks that he offered the Parliament a full bottle of malt whisky and that the Executive is now offering a half bottle of a blended whisky. However, at least we are getting whisky. It is often the role of the Opposition or back benchers to propose ideas—one does not get what one wanted, but one gets quite a bit.

I will try to talk about political appointments without putting my foot in it. It is not a sin to be a supporter of the Labour party or of any legitimate democratic party. However, in some of the discussion that has taken place, there has been an undertone that people with any political involvement or political past are rather dubious when it comes to appointments. That is wrong. Such people should have a fair chance, like everybody else. People should not have their past hung around their necks. Throughout history, many people in politics have started on the extreme left and ended up on the extreme right—members of the Cabinet in London typify that. I naughtily say that Gladstone and I started on the right and became steadily more radical in growing older.

It is important that people with a political background should not be excluded. However, we must accept that, over the past 50 years or more, one party has become dominant in some parts of Scotland and many applicants for jobs come from a political background. That is fair enough, but people in those areas need to be careful not to exclude talented people who do not happen to be members of that party. A balance must be struck.

SNP members spoke about allegations of bad appointments—that matter must be pursued with people who make such appointments. The person who is appointed is not necessarily a bad person. If, through prejudice of any kind—political or otherwise—a person makes a bad appointment, they should be held to account. The bill will help to ensure that that happens.

On people's political positions, my experience is that any person who is half-decent leans the other way in favouring people. If one is a Presiding Officer or a judge on any matter, one is conscious of one's background and says to oneself, "I must be very careful not to favour someone." If anything, the other side is favoured. Perhaps I have been lucky, but that is my experience.

The bill is a great step forward. It may lead to further steps forward in the future and I hope that the commissioner and the whole system will help us to produce a fair and open system of appointments from which the whole community will benefit.

16:28

Alex Neil (Central Scotland) (SNP): Like Donald Gorrie, I welcome the bill as a step forward—it is a significant step in the right direction. Now that we have debated the bill, we should look forward and think about how to implement its provisions.

I would like to say something about the proposed establishment of a public appointments committee in the Parliament. If the Parliament decides to delegate its responsibilities to a public appointments committee, it is important that the membership and convener of that committee are seen to be objective, like the commissioner—the committee must not be dominated by members of an Executive party or an Opposition party. I hope that, when we discuss the composition of the public appointments committee, we will take into account the fact that its remit will be unique and that its structure and membership will probably need to be somewhat unique, too. That would be an indication of an act of faith by everybody that we are determined to make the bill work and make it work fairly, transparently and objectively.

I hope that the bill is the beginning of major reform not just of the public appointments system, but of wider public administration in Scotland. There is certainly a feeling in some parts of the chamber—probably throughout the chamber—that we need to consider reform of the civil service and examine how it operates in Scotland. I hope that the bill will be the forerunner of a long-term programme of reform to make public administration more politically accountable, democratic and transparent.

We cannot pluck numbers out of the air to say how many quangos or next-steps agencies are required to perform the functions of government. That number will change from time to time and from function to function. However, the Parliament has created new quangos in the past few years. Despite George Robertson's promise back in 1997 that we would have a "bonfire of the quangos", something like 19 new bodies have been created since the Parliament came into being, although there has been a net reduction of four or five bodies overall.

We should not think purely in terms of numbers; we must consider the effectiveness of the bodies and the need to achieve modern, efficient and holistic public administration. For example, about

58 quangos or next-steps agencies are involved in the administration of the health service in Scotland. I hope that we take a serious look at the number, structure and remits of those bodies to try to improve the effectiveness and efficiency of the delivery of public services.

Although the bill does not go as far as I would have liked, it is undoubtedly welcome and the SNP will support it at decision time at 5 o'clock—or earlier. We hope that the bill will bring about significant change in the nature of appointments.

However, I say to the Executive in all honesty that it should be conscientious about the whole issue of cronyism. It should try to ensure that we do not have a repeat of the past, when one political party had an absolute monopoly on public appointments in Scotland. We want a new kind of Scotland—not one run by Lanarkshire Labour, but one that is open, democratic and transparent and of which we can be proud.

16:33

Peter Peacock: As is usual at this point in the stage 3 debate, I will thank the clerks to the Local Government Committee, who have worked extremely hard to help the bill through the process, as they have with many bills during the session. I thank the committee convener and the members of the committee, with whom I generally have a very constructive relationship. I hope that we have made real progress with the legislation. I also thank the many people who have responded over many months to consultations on the bill.

In particular, I thank my officials in the Executive bill team, who have worked extremely hard, too. They have helped me through a great many of the complications of the various provisions. I place on record my thanks to them—if they are still around later tonight, I will be happy to buy them a drink. That invitation extends to the officials and members of the committee, not to the whole Parliament. Opposition members are welcome to come along. Genuinely, I want to thank those people for what they have done.

As always, the processes of the Parliament have, as a consequence of the committee system and the scrutiny that takes place, led to the bill being better than when it was introduced. We have genuinely moved the bill forward.

I welcome the constructive comments that members of all parties have made about where the bill takes us. As I have tried to make clear throughout the passage of the bill—I have done so again today—the bill is part of a range of measures that the Executive has initiated to improve the operation of public life in Scotland.

I am sorry to be a bit dispiriting at this point, but, contrary to what the SNP says, the bill was not

introduced in response to anything that it said or did in relation to our comprehensive approach. I am glad to tell Alex Neil that the Executive consultation on the prospect of a commissioner started in February 2000, whereas his bill, which was a spoiling bill, was introduced in September 2001—a full 20 months behind the pace.

Alex Neil: Is not it the case that, a few weeks before the Local Government Committee considered my bill, the Executive said that there was no need for legislation on the matter?

Peter Peacock: As I said, we consulted on the prospects for a commissioner a full 20 months ahead of the introduction of Alex Neil's bill. Alex Neil was smarter on his feet just now than he was in responding to our initiatives on the matter.

The bill is contrary to what the Tories have said—one of its principal aims is to clear up the mess that the Tories left after years of misuse of patronage during the dark old days of the Thatcher years and beyond.

The bill makes sensible provision for the future and will take political considerations out of the appointments process. That approach is the opposite of the SNP's proposed approach. The SNP has attempted to politicise the appointments process and to create a climate of suspicion around it. As Alex Neil knows, the vast bulk of people who serve on public bodies have no political connections whatever; we want to encourage more people to apply for such jobs in that spirit. The SNP complains about the number of SNP supporters who are appointed, but I encourage SNP supporters to apply. If they have the required qualities, they will be appointed to the bodies, which will add to diversity in the process.

Sadly, the SNP's approach through its amendments and through Alex Neil's bill has been to seek to provide a vehicle for a variety of witch hunts, which, it was intended, would end up as show trials of individuals in the chamber. However, the bill, through its inventive and positive measures, will comprehensively thwart the SNP's intentions. More important, the bill will give Scotland a modernised, independent, accountable, transparent, open, powerful and constructive public appointments landscape that will serve Scotland well for many years to come. I commend the Public Appointments and Public Bodies etc (Scotland) Bill to Parliament.

Parliamentary Bureau Motions

16:37

The Presiding Officer (Sir David Steel): The next item of business is consideration of four Parliamentary Bureau motions. To save time and unless members object, I ask Euan Robson to move motions S1M-3850, S1M-3851, S1M-3852 and S1M-3853 en bloc.

Motions moved,

That the Parliament agrees that the Justice 1 Committee be designated as lead committee in consideration of the draft Advice and Assistance (Financial Conditions) (Scotland) Regulations 2003.

That the Parliament agrees that the Justice 1 Committee be designated as lead committee in consideration of the draft Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 2003.

That the Parliament agrees that the Justice 1 Committee be designated as lead committee in consideration of the draft Civil Legal Aid (Financial Conditions) (Scotland) Regulations 2003.

That the Parliament agrees that the Justice 1 Committee be designated as lead committee in consideration of the Civil Legal Aid (Scotland) Amendment Regulations 2003 (SSI 2003/49).—[*Euan Robson.*]

Motion without Notice

16:37

The Presiding Officer (Sir David Steel): I ask Euan Robson to move a motion without notice on decision time.

Motion moved,

That the Parliament agrees under rule 11.2.4 of Standing Orders that Decision Time on Wednesday 5 February be taken at 4.37 pm.—[*Euan Robson.*]

Motion agreed to.

Decision Time

16:37

The Presiding Officer (Sir David Steel): The first question is, that motion S1M-3729, in the name of Andy Kerr, on the Public Appointments and Public Bodies etc (Scotland) Bill, be agreed to.

Motion agreed to.

That the Parliament agrees that the Public Appointments and Public Bodies etc. (Scotland) Bill be passed.

The Presiding Officer: The next question is, that motion S1M-3850, in the name of Patricia Ferguson, on the designation of a lead committee, be agreed to.

Motion agreed to.

That the Parliament agrees that the Justice 1 Committee be designated as lead committee in consideration of the draft Advice and Assistance (Financial Conditions) (Scotland) Regulations 2003.

The Presiding Officer: I will put the next three questions together. The question is, that motions S1M-3851, S1M-3852 and S1M-3853, in the name of Patricia Ferguson, on the designation of lead committees, be agreed to.

Motions agreed to.

That the Parliament agrees that the Justice 1 Committee be designated as lead committee in consideration of the draft Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 2003.

That the Parliament agrees that the Justice 1 Committee be designated as lead committee in consideration of the draft Civil Legal Aid (Financial Conditions) (Scotland) Regulations 2003.

That the Parliament agrees that the Justice 1 Committee be designated as lead committee in consideration of the Civil Legal Aid (Scotland) Amendment Regulations 2003 (SSI 2003/49).

Under-age Drinking

The Deputy Presiding Officer (Mr Murray Tosh): The final item of business is a members' business debate on motion S1M-3612, in the name of Trish Godman, on tackling under-age drinking. I ask members who are leaving the chamber to do so quickly, quietly and efficiently.

Motion debated,

That the Parliament commends the members of the Renfrewshire Council on Alcohol for their innovative and widely welcomed Young Persons Advisory Project which seeks to guide and educate young people and school children on the growing social, personal and health problems associated with underage drinking; notes that many of the youngsters that have attended the project's counselling programmes have benefited from their participation; further notes that they and their parents now have a greater awareness and a more sensible view of alcohol and its dangers; is pleased to see that there is growing interest in the project's work from as far away as the New Zealand Police, and believes that such initiatives dealing with alcohol and substance misuse amongst children and young people should receive appropriate support from the Scottish Executive.

16:39

Trish Godman (West Renfrewshire) (Lab): I promise not to make an overlong speech, to allow other members to contribute on an issue that causes widespread concern and, in some cases, inflicts serious health problems on young people and brings misery to their families. Some would say that under-age drinking has always been with us and that young people will, by their very nature, experiment with smoking, drug misuse and alcohol. However, we have to tackle the problem of under-age drinking head on.

Sometimes young people drink themselves into oblivion, with disastrous consequences. No community is immune from the problem. Last week, for example, concerned voices were raised in Dublin over the number of young girls who were going into health clinics admitting that they had been so drunk the night before that they did not know whether they had been date raped or even whether they had had sexual intercourse. None of us wants to hear of that happening among our young constituents. The Dublin clinics' experience shows us just how dangerous heavy drinking can be.

The message has to be, "Do not indulge." However, the question is how we can get youngsters to accept that blunt advice. The task is formidable. The Scottish Executive's consultation with youngsters on the issue, which was carried out by Save the Children, revealed that many children with an average age of 14 related alcohol to having a good time, which acted as a powerful incentive for them to drink. The youngsters who

were interviewed saw drinking alcohol as an active, pleasant and informed choice of behaviour. Of the young people whose average age was 17, 65 per cent said that they drank alcohol.

As that consultation and other research suggest, the reasons why young people drink are many. For example, they say: "It is the influence of the group that I hang around with." They say: "It is my older brother," or, "It is my older sister." They also say that drinking is cool, that it makes them feel good, that they are just experimenting or that it helps them to solve problems.

What about parents? I ran one of the first groups for the families of drug addicts in the east end of Glasgow. I assure members that I sat through many harrowing hours, hearing tales of youngsters misusing drugs and of the effect that that had on their families. But what happened at the end of those meetings? Some parents went off to the pub because, they said, they were under stress and drinking helped. That happened even though some of the discussion in the group had been about the fact that alcohol is a killer when misused. The parents were also aware that the World Health Organisation said, in 1987, that if alcohol were introduced to this country today, it would be a prescribed drug.

What about the media's obsession with reporting on footballers and pop stars who get drunk? For some reporters, it is a case of saying, "Lads will be lads." There is no consideration of the effect that their articles will have on impressionable youngsters.

My motion commends the fine work of the Renfrew Council on Alcohol. Members of that council have, all along, sought the active involvement of youngsters in tackling the problems of under-age drinking. Numerous youngsters who drank heavily have benefited from attending the council's counselling programmes. Their parents have also welcomed that approach to their children's problem drinking. That is important. Local police and other professionals are supportive and play an active part in the council's programmes.

However, much more needs to be done. Youngsters believe that we need better health programmes in schools—that is what they tell us when we ask them—and that they should be actively involved in the design and implementation of those programmes. We also need to provide youngsters with a much wider range of alternatives to drinking—for example, community activities, drop-in centres and youth cafes—all of which should be designed in consultation with young people. It is essential that we intervene at an early age because, for some adolescents who are developing into early adulthood, drinking has already become part of their daily activities.

That is why schools have an important part to play. Once drinking becomes ingrained, it is much more difficult to tackle effectively. We all have a role to play: we, in the Parliament, who must support financially—and in other ways—initiatives such as the Renfrew Council on Alcohol; people who work in the media; local authorities; teachers; community workers; people in the public eye whom youngsters look up to; parents; and the young people themselves. It is essential that young people and their parents can seek positive help quickly. That help must not be of the pursed-lip variety, which is not what our youngsters need. I shall listen closely to what the minister has to say.

16:44

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

I thank Trish Godman for lodging the motion, which tackles an important issue. It has been said on a number of occasions that the Parliament has not given the issue of alcohol the attention that it should have. The minister will correct me if I am wrong, but I think that we are still waiting for an Executive debate on the subject. My colleague Keith Raffan mentioned that today and it struck a chord with me, because, if the Executive led a debate on the subject, that would show that we take the issue seriously and want to tackle it.

As Trish Godman said, under-age drinking could be seen as a rite of passage. I know that we all did it—well, I certainly did—so it could be seen as part of growing up. However, I believe that under-age drinking is now out of hand. The type of drinking and what it leads to is different from what used to happen. Trish Godman outlined some of the dreadful effects of heavy drinking in teenage years, which can have lifelong consequences.

We all have examples to give. We have all received complaints from constituents about gangs of young people hanging about and drinking in play parks, smashing bottles and causing a disturbance.

To deal with the problem, we have to examine some of our attitudes to alcohol. Scotland has a culture of drinking, which is not the same as that on the continent. Europeans enjoy drinking, but they have a different way of drinking—they drink more often with a meal and unusually to excess. The Scottish drinking culture is one of getting drunk—that is the purpose of alcohol in the minds of many. The culture of binge drinking is at the root of the problem. Unless we address our behaviour as adults, young people will not take us seriously when we address their drinking. We have to set a clear example.

I will focus the rest of my remarks on those who sell alcohol to under-age children. An answer to a

parliamentary question that Roseanna Cunningham lodged showed the extent of prosecutions in Scotland of those who had been found selling drink to under-age children. I accept—and I was approached about this—that it is sometimes difficult to spot whether someone is 16, because they might look older. If people sell under-age children alcohol inadvertently, of course there is a defence. However, some people consistently sell alcohol to under-age drinkers and are well known for doing so.

Across Scotland, there is huge variation in the numbers of people who are prosecuted. I do not think that that is just because some areas are worse than others—the issue relates to the prosecution service. I know that that is not the minister's responsibility, but I would appreciate it if she would take on board the need for an investigation into why some procurators fiscal are prosecuting and others are not. The selling of alcohol to under-age drinkers should be taken seriously and the full force of the law should be used against those who consistently break it.

16:48

Johann Lamont (Glasgow Pollok) (Lab):

I congratulate Trish Godman on securing this debate on a very important issue. I acknowledge the work of Renfrew Council on Alcohol and I hope that the lessons of its work are being disseminated throughout groups and organisations far beyond its area. I am aware that important work is being taken up by groups in my constituency and I note the important work that Glasgow City Council has done on the issue.

The starting point for me is that we know that young people might experiment with drink, but we also know that a lot of young people are damaged by adults' drinking in their homes. They are not strangers to drink, regardless of whether they drink, and there is a broader issue of how we address the problems.

I will focus my comments on two areas and flag up to the minister, and to the Executive more broadly, the importance of giving further consideration to those issues. It is important that there is serious, joined-up thinking, of which the previous speaker gave us an example. The impact of under-age drinking on the safety of our communities is an important issue in my constituency and, I am sure, elsewhere. The police tell me that it is difficult to manage under-age drinking, never mind eradicate it. Gatherings of young people drinking cause disorder and create fear for many people in our communities.

My constituents often highlight problems to me in relation to off-licences that become a magnet for young people. There is a problem with people

who, knowingly or unknowingly, sell alcohol to under-age teenagers, but a more difficult problem, for which I do not have a solution, is adults who buy alcohol on behalf of young people. Our communities know the off-licences that are involved in such practices and are often in despair at the regularity with which those practices happen. We need to have an education campaign among adults to challenge the off-licences that act in that way. Some off-licences have developed codes of conduct, but more work must be done in conjunction with the police and the licensing authorities to tackle the matter.

Being involved in such a culture can have a terrible impact on young people; young girls are particularly vulnerable. Parents have to be aware of what is involved. We know the connection between chaotic drug abuse and drink abuse and the impact that that abuse can have on the community, in terms both of young children seeing older people acting in that way and of the health and well-being of the under-age drinkers.

Schools and people who work with young people must keep in mind the fact that, sometimes, poor attendance, lack of attention and bad behaviour might be connected to a young person's drinking habits. Once, I was trying to get a young person to attend school, but he kept saying that he did not like French. Finally, his mother came to a meeting and told us that he was a lot better since he had got off the drink. His problem was that he was an alcoholic, but, because he was 14 years old, we had been treating him as if he had a simple problem with attendance. I tell that story to emphasise that, even when offending behaviour is not evident, the pupil's problem might be related to alcohol. People who work with young people should be aware of that fact.

I wish the Executive, the police and local authorities the very best in the important work that they must do to address the broader consequences of under-age drinking.

16:52

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

I congratulate Trish Godman on obtaining the debate and I am glad that she highlighted the effectiveness of the young persons advisory project, which is run by the Renfrew Council on Alcohol. The strengths of that project lie in its fast-track, multi-agency, teamwork approach. That ghastly jargon simply means that everybody—social services, the police, the Renfrew Council on Alcohol and the office of the reporter to the Paisley children's panel—gets together.

The project is flexible in terms of educational and counselling options. It involves parents and

consults young people. Perhaps most important of all, it has street credibility. Within two or three weeks, young people are into the programme. Those who have completed the programme—which is everyone who has started it—are far less likely to reoffend than those who have not been involved with the project. That is an example of the kind of practice that we need if we are to tackle this problem.

The problem is immense. There is a huge human cost and it loses our country £1 billion a year. There is a growing problem among younger people. In 1999-2000, there were 486 alcohol-related hospital admissions for under-16-year-olds. Binge drinking is on the increase. A Joseph Rowntree Foundation report shows that, among 15 and 16-year-olds, 27 per cent report three or more binges in the previous month and that 16 to 24-year-olds are the most likely age group to exceed recommended weekly limits. Further, as has been said, there is a connection between drinking and drug taking. Thirty-nine per cent of 12 to 15-year-olds who drink once a week will have taken drugs in the past month, compared with 1 per cent of those who have never had a drink.

The "Plan for Action on alcohol problems" was published a year ago, but we are yet to have a full debate. A lot of concern has been expressed, not least by Alcohol Focus Scotland, but the Scottish Executive has yet to commit a substantial increase in funding.

Government income from alcohol is huge—the figure for 1999-2000 was £11.5 billion. Drinks companies spend millions on advertising their product. We need to look at what New Zealand has done. The Alcohol Advisory Council of New Zealand receives millions of New Zealand dollars of funding from a levy on all alcohol produced in the country and imported into it, and was given 3 million New Zealand dollars-worth of free air time to counterbalance alcohol advertising.

Despite the Scottish training on drugs and alcohol initiative, there is still a shortage of alcohol counsellors. There are still problems with waiting lists. Alcohol Focus Scotland spends £250,000 a year on training, but the Scottish Executive gives it only £25,000. The "Plan for Action on alcohol problems" called for the education of young people, but we have yet to set appropriate standards and guidelines. In Alcohol Focus Scotland's view, there has been little progress in the communication strategy since it was launched in April last year.

Those are some of the issues that I hope the minister will address in her response to the debate. If we are to make progress in tackling under-age drinking, we will need more financial resources.

16:55

Mrs Lyndsay McIntosh (Central Scotland)

(Con): I support the motion in Trish Godman's name on under-age drinking and congratulate her on securing the debate.

When David McLetchie asked me whether I would handle the Conservative contribution to the debate, I had to question why he thought me most suited to the role. What had he heard about my drinking activities? I was reassured when he advised me that I was best placed to speak because of my comparative youth.

It is said that confession is good for the soul. With that in mind, I confess not only that a varied assortment of spirits and, in my younger days, beers has passed my lips, but that some of it was before I reached the age of 18. I hasten to add that I was not moved to challenge the drinking laws every night. The vast majority of my under-age drinking was done in my parents' home and invariably under their supervision. I will return to that point in a moment.

I think back to occasions such as new years, when my family would travel to see my grandmother after the bells, the justification always being that it would be her last new year and we had to go.

Johann Lamont: That is the best excuse that I have heard.

Mrs McIntosh: Johann Lamont must have been through the same experience.

Until I was about 15, the drink that was regularly proffered was Harvey's Bristol cream. My grandmother had no concept of Coca-Cola, and I always associate Harvey's Bristol cream with the festive season. I also think of holidays abroad and changes of water. A mild shandy was always thought of as being a thirst quencher.

I could bore members rigid with stories of innocent imbibing—[MEMBERS: "No."] Members should hear about the Pimm's. However, that would be to detract from the point of the debate. The point for me is that my under-age drinking and indulgence happened under supervision. Consequently, that taught me to respect the power of alcohol and to adopt a sensible attitude to it. If only all my contemporaries had taken the same view.

Through our committee or constituency work, we are all aware of the profound effects that alcohol has on our society. Our social, health and police services all cope with the downside. The malign effect of alcohol takes up huge resources that could be directed elsewhere, and I am sure that others will comment on that. However, I pay tribute to the members of the Renfrew Council on Alcohol for their work on guiding and educating young

people and children about the problems of under-age drinking.

In my younger days, the chances of seeing young people under the influence and very much the worse for wear were rare indeed, whereas now it is almost a daily occurrence. It would be easy to blame the retailers and say that they are eager to sell products and make a profit. It would be easy to blame the alcopop manufacturers and castigate them for identifying a market for their wares. However, alcohol is identified with many of the milestones in our lives. We wet a baby's head at a christening. We toast a happy couple at a wedding or an engagement. We give somebody a send-off with a drink at a funeral. I understand that drink was even involved in the celebrations of Margo MacDonald's new accommodation in Parliament headquarters.

The answer must be to promote a responsible attitude towards drinking. Rightly or wrongly, I encourage my children to respect drink and to have friends round for a meal with a glass of wine. Some may frown, but I admire the continental attitude in which wine with a meal is acceptable.

We all, including parents, have a role to play. We politicians should respect that and hope that the Executive will lodge a motion early in the next parliamentary session to tackle the matter.

16:59

Colin Campbell (West of Scotland) (SNP): I suppose that I was of the pursed-mouth variety, because neither of my parents drank and neither did I for a considerable length of time. I was safely through my youth before I was at all interested in alcohol.

The social problems that alcohol causes have already been touched upon. They include crime, disorder and the unprotected sex that is part of the accidental outcome of too much alcohol consumption among the young. The major difficulty is that unhealthy habits are begun at that time. As a result of that, people may end up alcohol dependent for the rest of their adult lives. With that come various mouth and throat cancers, a propensity to high blood pressure and, if people really work at it, cirrhosis of the liver. Gout can also develop in some situations.

The British Medical Association notes in its briefing that a Scottish health study was undertaken among eight-year-olds in 1998. The study found that 12 per cent of boys and 6 per cent of girls of that age said that they had had alcohol. Even allowing for the bravado of children when answering such questions, those are alarming figures. At the age of 15, the figures rise to 67 per cent of boys and 68 per cent of girls.

In a parliamentary answer given on 6 January this year, Mary Mulligan stated:

"23% of 13-year-olds and 46% of 15-year-olds reported that they had drunk alcohol in the previous week."—[*Official Report, Written Answers*, 6 January 2003; p 2671.]

There are people out there marketing the products, and that is part of the problem. In particular, there is the problem with alcopops: we see these strange, astonishingly colourful drinks on the type of gantries that did not exist when I was a lad. They are designed, through the sweeteners that they contain, to be palatable. Anyone who recalls their first drink will remember that they probably did not like it terribly much, as was the case with their first cup of coffee. It was necessary to persist, for whatever social reasoning, but the alcopop business has got round that. A 1997 health education survey in England stated that 11 to 18-year-olds thought alcopops "cool". There is a need for standard labelling on alcopop bottles, so that kids—or anyone else—know what they are getting into.

Drinking oneself to oblivion has been a long tradition in Scotland. I think that that is largely to do with a lack of hope, but that is a whole other agenda and debate. To sum up—in order to get us all out of here sooner and to prevent the Presiding Officer from tearing his hair out—I take this opportunity, at no risk whatever to my political career, to congratulate Trish Godman on securing the debate. I also congratulate Renfrew Council on Alcohol.

17:02

Sarah Boyack (Edinburgh Central) (Lab): I am struck by the fact that members are almost giving away their generations and ages by indicating their first alcohol of choice. I will not follow that pattern.

Under-age drinking is a major problem in my city-centre constituency. It is a very visible problem, although that is not the whole story—part of the problem is hidden. We all talk about the problem as if it were visible and obvious, but there is a lot of hidden abuse of alcohol by young people, and it is a difficult thing for them to deal with.

I have spoken to representatives of the groups that support young people on my patch and it appears to be easier to resist drugs than it is to resist alcohol. Alcohol is so available—it is easy to get hold of and, because of peer pressure, it is very difficult to resist. Other factors are boredom and lack of confidence and self-esteem. It is not enough simply to look at the issues in isolation—the problems caused by alcohol alone. A lot of good work is being done, and it is appropriate that Trish Godman has highlighted a local group that is

working in her constituency and which is making a contribution through joined-up work and education.

In my constituency, work is being done by NCH Scotland and an organisation called Streetwork, which talks to young people and gives them support on the street. Those organisations inform me that they regularly pick up young people—usually young girls—of an average age of 12 who are totally unconscious from heavy binge drinking. Members have already mentioned the dangers of unprotected sex. Children who are already hardened drinkers at the age of 12 are storing up awful health problems and other severe problems for the future.

Members have discussed where young people get access to alcohol. It was made clear to me at a police briefing that I attended last week that it is not just through corner shops that young people get access to alcohol. The problem can lie with parents who supply them with alcohol, or, sometimes, with parents who have alcohol problems. We need a joined-up approach, and one of the issues that we need to address is that of family support. We need alcohol counselling that takes into account the number of young people who live in a family that might be headed up by somebody with alcohol problems. The issue is very difficult.

I hope that the report arising from the Nicholson review will give us a further context in which to tackle under-age drinking. Despite the difficulty of the problem, I believe that a joined-up approach can be effective if it involves local agencies that have credibility, which is critical. Young people need to be able to trust the organisations that provide them with counselling and support. Groups on my patch such as Crew 2000 and Streetwork are able to talk to young people, to engage them in thinking about what is making them turn to alcohol, and to give them a better alternative. Such groups are important.

I congratulate Trish Godman on raising this issue. I hope that when Mary Mulligan sums up the debate, she will discuss the Executive's approach. One of the key problems is resources, and another is the short-term nature of many projects. Voluntary groups are always asking us for long-term support. I do not expect the minister to wave a magic wand, but it would be greatly appreciated if she could provide us with a context that shows how, structurally, we can ensure that organisations survive to do the work that is desperately needed.

17:05

Donald Gorrie (Central Scotland) (LD): One of the most worrying things that I have heard was said a couple of years ago at a conference on the

subject of young people's misuse of alcohol, at which I spoke. A lady reported on some research into the attitudes and experiences of teenagers across Europe in which teenagers were asked to list the positive and negative aspects of alcohol. Teenagers from all the other European countries listed a number of positive effects, such as the fact that alcohol makes people feel better. However, they also listed some negative aspects of drinking too much. The Scots who participated in the survey listed no downsides of alcohol. Other speakers have said that we must change attitudes—that attitude is one that must be changed considerably.

Trish Godman, in her excellent opening speech, and other members talked about Scots drinking to oblivion. That is at the heart of the problem. Many continentals drink more in a year than Scots do, but they do not get so drunk. The big problem is binge drinking.

I am grateful to Trish Godman for drawing our attention to the young persons advisory project in Renfrewshire, which sounds interesting and which I will bring to the attention of other people. That excellent project appears to succeed through its speed of response. We all know good organisations, but it takes a while for the system to crank up.

Other members have spoken about off-licences. We must get more of a grip on those off-licences that persistently sell alcohol to under-age people. An issue that has not been mentioned is that of the white vans that come up from the continent to sell cheap booze to people. To an extent, that is a reserved matter, as customs is reserved. However, it should be possible to do more about such vans locally.

My main emphasis is on the need to provide good leisure activities. When we visit schools and ask what the problem is, the kids tell us that there is nothing to do. We must provide good activities for them—both organised youth activities and facilities such as youth cafes, which provide good bases for informal activities and for youth projects such as Streetwork. There is a youth cafe just around the corner from the chamber.

All departments should invest in such facilities. The health department could produce—

Johann Lamont: Will the member give way?

Donald Gorrie: I am probably not allowed to take an intervention.

The Deputy Presiding Officer: On you go, Mr Gorrie—I will have to extend the debate anyway.

Johann Lamont: For some youngsters, drinking may be a result of boredom. However, in my constituency young people gather to drink behind the swimming pool that provides them with free

swimming lessons and free swimming time. They do not engage in such activities. This is not a simple issue of resources. Youngsters need to value themselves, so that they would rather go swimming than stand outside the swimming pool causing bother to those who are going in.

Donald Gorrie: I accept that this is an issue of self-esteem. However, constructive activities—whether physical or social—help people to have higher self-esteem. They also help to combat peer-group pressure to drink too much. Other members have referred to that pressure, which is very strong.

The task is huge. Other members have made some good suggestions. However, if we invest more money from existing budgets in preventive activity—in health and education and in good social, recreational and sporting activities—we will go some way towards dealing with the problem.

The Deputy Presiding Officer: At this point, I would be willing to accept a motion without notice to extend the debate by up to 15 minutes.

Motion moved,

That, under Rule 8.14.3, the debate be extended by 15 minutes if required.—[Mr David Davidson.]

Motion agreed to.

17:10

Mr David Davidson (North-East Scotland)

(Con): I congratulate Trish Godman on securing tonight's debate. The problem is something we all see in our constituencies, regions, towns, and streets on a Friday night, whether on Union Street or in Market Square in Stonehaven—you name it. The problem will not go away unless we take action.

Many people have talked about the risk to health. Young mothers, pregnant women and married women are drinking to oblivion. Why? Because of a lack of education and understanding about the potency and addictive nature of alcohol.

Donald Gorrie mentioned people who lack self-esteem. That is causing a rise in addictive disorders, whether eating disorders such as bulimia, drinking or drugs. That is a fact of life today and it is not being taken seriously enough by all of us in the Parliament. It is not just the Government parties that are responsible; we are all responsible and the public are looking to us to do something.

People have talked about the example set by others. Keith Raffan mentioned marketing and peer pressure. It all adds up. Some have tried to make out that there is a huge retail problem, but the problem is with a few retailers who give the rest a bad name. This week, I met representatives

of the Scottish Grocers Federation, who wanted to discuss proof-of-age cards, which is an issue that has been at the back of my mind. We must have a national system, not myriad cards such as the Accord card in Aberdeen and a different card in Glasgow. At the moment the Young Scot card, the Portman card and the Citizen card are all being used as proof-of-age cards. We need a national scheme and the Government should ensure that such a scheme is put in place. There would be less of an abuse problem, although it would take time to educate young people through proper marketing and posters in various outlets and pubs. That is a possible solution and I would like the minister to think about that proposal, take evidence on it and, possibly, ask one of the committees to consider it.

I have another possible solution. Recently, a young postgraduate student came to one of my surgeries to run a business idea past me. It was a simple idea that fits tonight's debate. The large commercial nightclubs in Aberdeen lie empty until late in the evening but there are plenty young people with nowhere to go. The student asked me for guidance in setting up a business so that deals could be done with nightclubs. His idea was that parents could bring their children along—the children would get to go to a proper disco where the big people go, with the right music, the right DJs, properly controlled entry but no alcohol. That creative approach of a young man who was, I think, 21 is the sort of thinking that we should bring into the chamber.

17:13

Brian Fitzpatrick (Strathkelvin and Bearsden)

(Lab): As with so many other issues, I am tempted to tell David Davidson to take a wee trip to Glasgow. He should go down Union Street on a Saturday night, where he will see youngsters under drinking age in clubs until the adults come in. Perhaps Aberdeen could learn from that.

Trish Godman is to be congratulated on securing the debate and on highlighting local work on the issue. It is right to say that under-age drinking causes real concern in many constituencies in Scotland. I want to mention two areas of particular concern.

As Johann Lamont said, education is a key to solving the problem. If I did not know that before, I found it out when I attended a community safety partnership event in my constituency of Strathkelvin and Bearsden. That event was addressed by, among others, fifth-year pupils from Lenzie Academy. They had worrying things to say about access to and experimentation with alcohol—they moved in mixed-age groups, where there was easy access to alcohol.

I trust that the minister will be aware of recent information on the incidence of information and education programmes on alcohol abuse. Those data highlighted worrying disparities between the performance of local authority schools and fee-paying schools in the provision of programmes. I urge the minister to ensure that best practice is disseminated to all our schools. If the fee-paying sector is falling behind, we should name and shame those schools that are not participating in alcohol-abuse programmes. Alcohol may manifest itself differently, but the problem is no respecter of divisions, whether they relate to class or geography.

There is a need for a variety of measures to tackle under-age drinking. The police in my constituency are adopting a commonsense programme, which is to be commended. They summon parents to the places where they have identified youngsters—particularly youngsters who are at risk—who are under-age drinking. During a visit that I undertook with my local police, we discovered two 14-year-old girls in a park in my constituency with a group of men aged between 17 and 25. Rather than removing the girls and taking them to the station, the police summoned their parents. Their parents nearly died when they saw the vulnerable situation that the girls were in—I doubt that those young women will repeat that behaviour. That approach struck me as a constructive way of dealing with the problem, as opposed to the more bureaucratic procedure of taking the youngsters off to a police station and hoping that work could be done there.

I urge us not to take too rosy tinted a view in our retrospective on Scotland's problem with drink. Scotland has always had a problem with drink. I am reminded of my late maternal grandmother, who was for 50 years a pioneer. She was a pioneer because she did not accept that oblivion was the only way in which people could change their social circumstances. She thought that people who accepted oblivion changed nothing. Not much has changed in 50 years, but we should try to do something about this issue.

17:16

Richard Lochhead (North-East Scotland)

(SNP): I congratulate Trish Godman on securing this important debate. Alarm bells started ringing for me about the issue when I visited the accident and emergency unit of Aberdeen royal infirmary, where I was informed by one of the ward sisters that admissions of under-13s to hospital with alcohol problems had increased by about 50 per cent over the past two to three years, so that between 50 and 60 under-13s were being admitted with alcohol problems.

When I lodged a parliamentary question on the number of under-16s being admitted to hospital, I

was shocked to learn that Grampian had the worst figures in the country, with 107 admissions in 2001-02. That was 15 per cent of the national figure, although I recognise that each hospital has a different method of recording the statistics. The minister should turn her attention to investigating that. Teenage bravado is turning into hospital cases. That is certainly the case in Grampian. Our medical, social work and teaching professions are being left to pick up the pieces.

For the last youth lifestyle survey in Grampian, first-year to sixth-year secondary school pupils throughout the region were interviewed. Some of the statistics are shocking. They show that the attitude of young people in Grampian towards alcohol is relaxing. Between 1998 and 2001—when the survey was last carried out—the percentage of young people who thought that drinking too much alcohol can cause health problems fell from 85 to 80 per cent. The percentage of young people who thought that drunk people are unpleasant fell from 56 to 48 per cent. The percentage of young people who felt that once someone starts drinking they are unlikely to stop fell from 46 to 37 per cent.

Some statistics increased. The percentage of young people who thought that drinking alcohol was sociable increased from 56 to 60 per cent. The percentage of young people who thought that drinking alcohol was enjoyable increased from 55 to 58 per cent. Indeed, the mean consumption of alcohol among people at secondary schools was 17.8 units. For males, the increase was from 12.3 units in 1995 to 19.4 in 2001. For females, the increase was from 9.7 units in 1995 to 16.4 in 2001.

Those are the last available statistics for secondary pupils in Grampian. I know that the Health Education Board for Scotland has run its "Think about it" campaign since 1997, but I suggest that those figures illustrate that the campaign is not having much impact on young people. The minister should address that issue.

There is a danger that parliamentarians and people throughout the country, despite the good work of our agencies and police forces in places such as Grampian, are taking their eye off the ball, because we are obsessed about the impact of drugs on young people. Perhaps we have taken our eye off the ball too much.

We will not stop under-age drinking; there will always be 16 and 17-year-old kids who want to take a few lagers to their mate's house to have a drink. There is no point in trying to stop that. However, my final plea to the minister is that we identify the underlying trends. People are now more likely to get paralytic, not just merry. Why is that? Why do 57 per cent of young people think that they must drink alcohol to escape stressful

lives and why do a similar proportion of young people think that local communities do not have enough facilities as an alternative to drinking alcohol and taking drugs?

17:20

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I, too, congratulate Trish Godman on securing the debate. For some of us at least, it is easy to stand in the chamber and talk about the problem without knowing it face to face. However, the problem came home to me when, not very long ago, my wife and I had a telephone call one Sunday morning from Raigmore to tell us that our son was in hospital and had taken too much drink the night before, after a dance in Tain. Been there, done that—it is called doing a Euan Blair.

I wondered whether I should give him the most almighty roasting of his life or take the more gentle way to stop him. I took the more gentle way and said, "The bad news, lad, is that because I am an MSP, you are liable to find yourself on the front page of the *Ross-shire Journal*." He said, "Oh my God, Dad—I hope not." In a way, that taught him a lesson. The problem exists and is among us. In many ways, that experience was necessary to bring the problem home to me.

We have talked of the culture of drink. I have worked in Sicily and in the Faroe islands, so I have seen both extremes of European drink culture. That is a debate for another day; Donald Gorrie and I discussed the issue earlier. It would be worth while for the Parliament to talk the matter through. Is drinking macho because drink is special and hard to get at? Is that why the French, the Italians and other people from Mediterranean countries do not have the problem that exists in northern climes, or is the problem related to climate and light? That debate is interesting.

The heart of the problem is binge drinking. That is not only an inner-city problem, which Sarah Boyack talked about. In a constituency such as mine, the matter is uppermost in our minds. To that end, I recently talked to head teachers of some local secondary schools, including Tain Royal Academy, Farr High School in Bettyhill and Thurso High School. It was put to me fairly strongly—it was not said to do down the excellent work that has been undertaken—that, by building on the guidance system in our secondary schools, the problem could be further tackled.

I do not know whether extra resources need to be provided or existing resources need to be redirected, but the schools suggested two points. One is the notion of taking into a school somebody who has had a drink problem and who can talk about cirrhosis of the liver and teenage

pregnancies. That does the trick in a way that a teacher, an MSP or anyone else talking at the young people cannot. The second idea—I was struck by it—relates to the medium of drama. Role playing can be surprisingly successful and drink workshops might be held. The head teacher of Farr High School, Jim Johnston, gave a surprising example of a recent role-playing workshop about road safety, which he said impacted on the students in a way that nothing else had ever done.

Those two positive suggestions could be considered. I do not know whether they would require the redirection of existing money or extra money. We must co-ordinate more. I am sure that, using her good offices, the minister could think about that. I would be grateful if those suggestions were taken on board.

17:23

The Deputy Minister for Health and Community Care (Mrs Mary Mulligan): I congratulate Trish Godman on securing the debate. I listened with interest to her speech and to all the other speeches. As ever, the debate has been lively. The number of contributors makes it clear that the motion struck a chord with many members. That is also evident from the number of written and oral questions that members have asked in recent months about young people's drinking and about alcohol problems more generally. As has been said, we have not had an Executive debate on the issue, but the matter has been discussed in several related debates.

We commend the valuable work of Renfrew Council on Alcohol to get young people who are drinking back on track. I understand that the project has won several awards for its innovative approach. It is clear that it is a partnership in the true sense of the word. It is such locally driven multi-agency approaches—I apologise for the jargon, but members know what I mean—that are most likely to succeed.

All the members who have spoken today have noted the scale and complexity of tackling under-age drinking in Scotland. Issues that relate to our European neighbours have been mentioned enough times in the debate to warrant another debate. Young Scots, however, are drinking more than ever before. The figures have been quoted in the debate and I will not repeat them.

Young people drink for all sorts of reasons. Some drink to show their independence; others drink because their friends do. Some drink because adults tell them not to; others follow the example of their role models. Parents are a powerful influence, but they sometimes give out mixed messages. As Sarah Boyack said, parents can be a bad example.

I was interested in the example that Brian Fitzpatrick quoted in respect of the actions of local police. I contrast that example with the experience of the police in my area. When the police take home some children who have consumed amounts of alcohol, the reaction of parents has been to say that what the children did was okay, as only alcohol was involved. We have to fight against that kind of mixed message. For some young people, early experimentation is nothing more than that but, unfortunately, for an increasing number, those early experiences lead to a lifetime of problems with alcohol.

As members have mentioned, last January we published the "Plan for Action on alcohol problems". The plan set out an ambitious framework for reducing alcohol-related harm. It made clear our determination to change the cultures that surround drinking in Scotland and tackle the many entrenched attitudes, including the acceptance of binge drinking as the norm and a view that getting drunk is acceptable and fun. Reducing harmful drinking by children and young people is a key priority of the plan. Action to achieve that aim is under way on a number of fronts, but I have time to touch on only a few of them today.

The role of schools has been mentioned. In partnership with parents and the community, schools can make a difference to young people's behaviour. Ninety-five per cent of all schools provide alcohol education as part of their drug education programmes and Her Majesty's Inspectorate of Education is currently evaluating the effectiveness of those programmes.

We have also set up the Scottish health promoting schools unit to assist schools to foster mental, physical and social well-being and healthy development. The aim is to develop young people's self-esteem. All schools are expected to be health-promoting schools by 2007. We are developing a national alcohol communications strategy that will include targeted advertising and promotion to challenge the binge-drinking culture. New resources are being developed for parents to help them to discuss alcohol issues with their children.

We are also continuing to provide funding for HEBS and Alcohol Focus Scotland to provide information and advice about under-age and excessive drinking and to undertake a wide variety of preventive activities with schools and youth and community groups. Alcohol Focus Scotland recently held a seminar on young people that included a presentation by Renfrew Council on Alcohol. The seminar highlighted the need to improve the way in which information about good practice is shared. We will think about how we can assist in that process.

Prevention and education help to encourage young people to make sensible choices. At the same time, we need to have effective controls. Efforts are being made to influence the supply of alcohol to children through trials of proof-of-age schemes. David Davidson said that we should pursue those schemes. We need to see how the trials develop and learn from them. Many councils have introduced public byelaws to curb drinking by young people in public places and those byelaws have been used extensively by the police. In that respect, we need to look again at the influence of parents.

Mr Stone: Does the minister agree that the problem with byelaws that prevent people from drinking in one place is that those people simply move to another part of the community? Does she agree that the use of byelaws can have the effect of hiding the problem?

Mrs Mulligan: I agree that the answer is not to hide the problem elsewhere, but certain places attract inappropriate drinking and we need to deal with that.

We need to consider the influence of parents. Perhaps it is not such a bad thing to introduce young people to drinking before they are 18 if that can be done in a responsible and supervised manner. That needs to be debated and talked about, particularly with young people. Under-age drinking is one of the areas being examined as part of the review of licensing law, and the Nicholson committee undertaking the review is due to report in the next few months.

I have raised concerns about certain advertising and marketing practices with the UK Government. That area will be considered at UK level as the Cabinet Office strategy unit develops an alcohol harm reduction strategy for England.

I think that it was Colin Campbell who mentioned labelling. We must be careful with labelling because it can have a perverse incentive if it allows people to see how strong a drink is. However, we need to consider that further.

The "Plan for Action on alcohol problems" acknowledges the need to improve services for people with alcohol problems, including those for young people. In September, we published the "Alcohol Problems Support and Treatment Services Framework", which noted that a young person's alcohol problems cannot be tackled in isolation, and that support and treatment services need to work closely with others.

The "Plan for Action on alcohol problems" makes clear the Executive's determination to tackle young people's drinking. We are under no illusion about the scale of the task, or of the effort required to make a step change in the culture that has developed. However, I believe that an

important start has been made, and that initiatives such as the young persons advisory project in Renfrew is a good example of what can be achieved through the partnership approach.

Meeting closed at 17:32.

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