

MEETING OF THE PARLIAMENT

Thursday 25 March 2004

Session 2

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Scottish Parliament

Thursday 25 March 2004

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

Zero Waste

The Deputy Presiding Officer (Murray Tosh):

Good morning. The first item of business today is a debate on motion S2M-1089, in the name of Shiona Baird, on zero waste, and three amendments to the motion.

09:30

Shiona Baird (North East Scotland) (Green):

According to Audit Scotland, the amount of waste that was collected by local authorities in Scotland last year was 3.2 million tonnes—an increase of 200,000 tonnes on the amount that was collected the year before. Each household in Scotland produces more than a tonne of rubbish a year. We are, as campaigners in Canada put it, exploiting natural resources as if mother nature had announced a going-out-of-business sale. If mother nature goes out of business, we are all in trouble.

The Scottish Executive currently has no target or strategy to reduce the amount of waste that Scotland produces. Granted, there are targets to increase recycling and composting and to reduce the amount of waste that goes to landfill; however, none of those targets tackles the root of the problem. We are all, quite rightly, happy to aim for zero unemployment, zero poverty and zero famine. Why are we not prepared to accept zero waste? The commitments on waste in the partnership agreement are patchy. Although the Greens support pledges to require public bodies to conduct waste minimisation audits, if one looks at the policies as a whole it is not hard to see why Scotland's waste mountain is growing. There appears to be a lack of breadth, thought and coherence in policy on this important issue.

When the Greens talk about zero waste, we are talking about not just more recycling and composting, but a fundamental shift from a historically narrow focus on waste management to a comprehensive approach to managing resources and eliminating waste. Zero waste means taking a wider perspective and looking at the whole system of production and consumption. That includes the front end of the system, where natural resources are extracted, materials are produced and products are designed and manufactured. That is where many of the worst environmental impacts of waste can occur, when pollutants are created, energy is consumed and habitats are destroyed. It is also where there is

great opportunity for innovation and efficiency. However, that innovation and efficiency will not come about if, all the time, the Government's waste policy focuses largely on the other end of the process—managing waste.

Zero waste was born in the world of business, more out of a desire for greater efficiency and cost savings than through concern for the environment. Many businesses have been extremely successful in examining the whole of their operations and dramatically cutting waste production. Honda in Canada has reduced its waste production by 98 per cent in the past decade, and Hewlett-Packard in California now has a rate of 97 per cent waste diversion.

Some progressive companies are now adopting what are known as factor 10 goals of achieving a tenfold increase in efficiency through zero waste. Therefore, adopting a goal of zero waste increases efficiency, cuts costs and saves resources. It is an enterprise issue, and I am pleased that the Executive has recognised that.

Certain measures are key to ensuring the success of zero waste, such as the extension of producer responsibility to ensure that manufacturers and producers take their share of the responsibility for recovering their products and packaging. Similarly, zero waste requires us to encourage the designing of products that are durable and easily repaired, with thought given to the end of their life cycles, as well as incentives for manufacturers to switch from using virgin material to using recycled material. Directives are coming from Europe on some of those aspects, but progress is slow. It would send a strong and positive signal if Scotland were to take them on for itself.

Zero waste is also gaining ground at state and national Government levels. Australia's capital, Canberra, has set a target for a waste-free society by 2010, and New Zealand has formally adopted zero waste at a national level. Western Australia is aiming for zero waste by 2020. Many cities and counties in the United States have also set a zero-waste target, as have Bath and North East Somerset Council and Essex County Council in England. Once minds are made up and targets are set, progress can be rapid. For example, Edmonton, in Canada, landfilled all its waste in 1998 but by 2000—just two years later—it had reduced that by 65 per cent.

Zero waste requires long-term vision, but it is also highly practical and applicable today, and it can be achieved in steps. It is surely a non-party-political issue. We ask the Executive to produce a strategy on a concept that could have immense benefit for Scotland. I urge the other parties not to move their amendments. Let us work together, support the motion and do our best for Scotland.

I move,

That the Parliament notes that, despite a small increase in recycling and composting, the Scottish Executive is yet to achieve any reduction in the overall production of waste; urges the Executive to adopt a "zero waste" approach, which has the potential to dramatically reduce waste from the design, production and use of materials and products, to boost reuse, recycling and composting rates and to cut costs for business, stimulate innovation and create more "green" jobs in Scotland, and recommends that the Executive produces a strategy for reaching a target of zero waste and reports back to the Parliament on the potential of that policy for Scotland.

09:36

The Deputy Minister for Enterprise and Lifelong Learning (Lewis Macdonald): We welcome the debate, recognising the extent to which it touches on enterprise as well as environmental issues. It allows us to consider the practical challenges that we face in reducing waste, in increasing the sustainable reuse or disposal of waste products and in working towards containing and ending the growth in waste. We have set out a blueprint of how to achieve the best practicable environmental options in waste management in "The National Waste Plan 2003", which was published a year ago as part of our wider national waste strategy, as I am sure that Shiona Baird is aware.

The waste plan sets out how we propose to minimise and prevent waste, reduce landfill and increase recycling. We believe that it is right to focus on the targets in that plan, which include an aim to stop the growth in municipal waste by 2010.

Bruce Crawford (Mid Scotland and Fife) (SNP): The plan is laudable in many ways. Under the heading "Looking to the Future", it contains a section that is entitled "Towards a Resource-efficient Economy", which states that

"it is recognised that the direction of Scotland's National Waste Strategy must be reviewed regularly to ensure that its future development takes account of, and benefits from an understanding of emerging international thinking and good practice in waste and resource management."

Can the minister give us a flavour of what work has been undertaken, since the plan was produced, to act on that statement and create a resource-efficient economy?

Lewis Macdonald: Bruce Crawford will recognise the fact that the plan also states that we value the concept of zero waste. We welcome the debate on zero waste, as it allows the approach that we have taken to be considered and progress to be measured. However, we believe that the priority, at this stage, is to make progress on the targets that we have set. Mr Crawford will be pleased to hear that I will say a little more about resource efficiency shortly.

Shiona Baird: Although the Executive has many targets for recycling, it does not have a definitive target for waste reduction. That is, basically, what we are talking about. We urge the Executive to consider producing a strategy for that.

Lewis Macdonald: Members will be aware of the targets that have been set. Our focus is on reaching those targets, as we recognise that as the way in which to move forward. On the evidence of the debate in January, there is clearly an understanding of the fact that Scotland starts from a position that is a long way back. We need to improve our recycling record, make use of resources properly and reduce the amount of municipal waste that is sent to landfill. On the back of those achievements, we will be able to reduce the amount of waste that is produced.

In fact, a number of initiatives are already under way. For example, some of the strategic waste fund awards that have already been given include elements of waste prevention, such as the promotion of home composting. Consultants with the Scottish Environment Protection Agency are working on a toolkit for councils and community groups that will allow them to carry out domestic waste reduction campaigns and programmes. We are also resourcing the UK waste and resources action programme's innovative design work on minimising or eliminating waste in a whole range of products.

As far as enterprise is concerned, my own particular focus is on encouraging businesses to minimise waste. Businesses understand resource efficiency. They understand that by-products that go to waste are lost business opportunities and that saved resources also provide financial savings that go straight to the bottom line. Since the beginning of the year, envirowise has carried out 214 waste audits for businesses in Scotland and identified potential savings for those companies of more than £3 million a year.

Furthermore, following our previous debate on this subject, a national steering group is now co-ordinating the work of local waste minimisation partnerships such as those in the north-east of Scotland and Midlothian. The Scottish industrial symbiosis programme is examining possible synergies between businesses by establishing whether the by-product of one business process could be used as the feedstock for another. As another example of Government helping businesses to help themselves in a way that helps others, we will also provide around £1 million in additional funds in each of the next two financial years to support business waste minimisation further.

In January, my colleague Allan Wilson said that we will consult widely with businesses and waste

producers on a framework for dealing with non-municipal waste, which forms the majority of waste that is produced. That will include work on how to prevent waste in the first place.

As a result, we have a strategy that combines action to reduce household and municipal waste and action to reduce waste produced by the private sector. We will also encourage public bodies to minimise waste in line with the partnership agreement. We are taking those actions because they are environmentally essential and because they form part of our evolving strategy for green jobs. We will consult soon on that strategy and I hope that it will attract the support of those who advocate zero waste as well as those who are already involved in the delivery of the national waste strategy.

I move amendment S2M-1089.4, to leave out from "notes" to end and insert:

"welcomes the recent increase in recycling and composting; notes paragraph 7.3.3 of the National Waste Plan 2003 which states that zero waste "provides a platform for challenging our current systems and radically reducing waste beyond even the best current levels of achievement" and the aim in the National Waste Plan to stop growth in the amount of municipal waste produced by 2010; further notes the work being carried out by the Waste and Resources Action Programme, Envirowise, the Scottish Environment Protection Agency and others to minimise business and household waste; recognises the Scottish Executive's commitment to increasing packaging recovery targets from 59% to 70% by 2008, and calls on the Executive to continue its work to prevent and minimise waste, to increase recycling and to divert waste from landfill."

09:42

Richard Lochhead (North East Scotland) (SNP): I do not need to repeat the statistics that underline Scotland's rather regrettable environmental record, particularly on recycling and waste. However, the fact that this is the second debate in as many months on reducing Scotland's waste says a lot about the value of the Scottish Parliament. After all, Westminster never debated the issue in a Scottish context. That we can now begin to tackle issues that have been neglected for so long shows that this Parliament is worth while.

As the Scottish National Party has a long-standing commitment to achieving a sustainable Scotland, we are sympathetic to the vision that the Green party has set out in its motion, which we will support. I appreciate that we are talking about a vision; however, we should start to realise that vision now rather than try to do so further down the line when our record in Scotland will be even worse. The people of Scotland will certainly support such a long-term objective. Although targets are important, we have to underpin them with a vision.

As the Greens and other members have previously pointed out, we must move the focus from managing to reducing waste. Managing waste centres on the role of landfill sites and incinerators, which, as we know, is a very contentious issue in communities throughout Scotland. I know that other members will highlight local constituency issues in that respect, because such facilities raise concerns about public health and their detrimental impact on the environment. Of course, sending our waste to landfill sites or incinerating it also represent a completely inefficient use of resources.

If we are serious about reducing waste in Scotland, we must recruit the support of consumers and end our throwaway culture. We have to ensure that consumers use their power to make retailers and others reduce the amount of packaging and other waste.

However, consumers must also be able to access facilities to ensure that they play a direct role in waste minimisation and recycling. For example, when, after January's debate, I ordered a compost bin from Aberdeenshire Council, I was told that I had to drive 12 miles to an industrial estate in the city of Aberdeen to get it. Not only do I have to get in a car and drive to pick up this bin, but I have to travel 12 miles to get it. Moreover, not everyone has a car. How on earth can we ensure that people can play a direct role in waste minimisation and recycling when we cannot even provide the facilities for them? I should tell the chamber that I have not yet had the time to drive over to the industrial estate to pick up the bin. However, I hope to do so soon.

We also have to recruit the public sector. I wish that ministers would say more about the role that Government and the public sector play in waste minimisation. Where are their strategies? What have they done in the first five years of the Scottish Parliament to provide an example for the rest of Scotland of how to reduce waste?

We must persuade industry that reducing waste makes businesses competitive and reduces costs. We like to think that Lewis Macdonald is representing the Executive today because he has responsibility for enterprise and that there is a link between the enterprise and environment portfolios. The real reason is that Allan Wilson is elsewhere launching a document on fishing, after which he has to come to the chamber and speak for the Executive in the debate on genetically modified crops.

However, it is appropriate that Lewis Macdonald is speaking in the debate with his environmental hat on, because so many green jobs could be created in Scotland through waste minimisation. He must do more to ensure that the enterprise companies are playing their role. They are clearly

dragging their heels on this matter and, after four years, they are only now putting together their action plans.

As I am running out of time, I want to turn to the crux of the SNP's amendment, which highlights the fact that we have to conduct today's debate in the context of the Scotland Act 1998 and that the Parliament has only limited powers to address Scotland's environmental record. After all, although the carrot-and-stick approach is perhaps the most effective way of addressing the issue with industry, retailers and so on, all those powers lie with the Westminster Parliament. If we want to make a real difference and tackle the problem much more quickly, the relevant powers must be transferred from Westminster to the Scottish Parliament. For example, the Scottish Parliament has no power to tackle junk mail or to introduce research and development incentives.

Mr Duncan McNeil (Greenock and Inverclyde) (Lab): Will the member give way?

Richard Lochhead: No, I am in my final two seconds.

We have no power over tax breaks and other carrot-and-stick approaches that we could take to make industry change its behaviour or to try to encourage consumers to do the same. Instead, we have to find convoluted ways of introducing even such simple measures as the carrier bag tax, which is the subject of a Westminster private member's bill. Any other independent Parliament can simply pass a piece of primary legislation and immediately introduce such a levy.

If the Parliament had more powers, we could be much more efficient and make a real difference to Scotland's environmental, recycling and waste minimisation record as a result. I am delighted that the Deputy First Minister has seen the light and is arguing that the Scottish Parliament should have more powers. Indeed, I hope that he will argue that the Parliament should have more environmental powers.

The SNP will not withdraw its amendment, as the Greens have asked us to do. We feel that it is very important to put the debate into context and make the people of Scotland aware of the fact that we need more power to change things. As a result, we urge the Green party to support our amendment in the same way as we will support its motion.

I move amendment S2M-1089.3, to insert at end:

"and further notes that many of the powers required to reduce waste and achieve a sustainable Scotland reside with Her Majesty's Government and that such powers should be transferred to the Scottish Parliament."

09:47

Alex Johnstone (North East Scotland) (Con):

Although waste is not the most exciting subject that we have ever discussed in the Parliament, it has increasingly become a cause of concern for the Parliament and the Scottish Executive. We should welcome the fact that the Greens have secured this debate this morning. Although I think that the time for zero waste has not yet come, the concept is certainly worthy of discussion. As a result, the Conservative amendment seeks to position us somewhere along the road towards achieving zero waste while dealing with some of the issues that stand in the way of progress on the matter.

When the Environment and Rural Development Committee investigated the matter last year, it became obvious that the Executive was involved in one or two activities that did not achieve its aims in the national waste plan. For example, I am concerned about the setting of targets. Other members have said that the targets that have been set are significant and valuable. However, the targets for waste reduction and for increased disposal of waste by certain methods deliver relatively little. In fact, many of the targets seem quite arbitrary and have no reason or logic behind them.

I therefore suggest that the time has come to abandon nationally set targets and to examine how we can devolve responsibility for the matter to local authorities and empower them to ensure that they can meet their own aims and objectives. After all, the member who moved the motion clearly highlighted that that was already happening in other parts of the country.

For example, the Executive could consider the successful impact of the landfill tax on how industry and business dispose of their waste. The landfill tax has a direct impact on businesses, but it does not have a direct impact on those who produce domestic waste. I will not make this a direct proposal to the chamber, but I encourage everybody to consider the positive aspects of direct charging and how it might be extended to household waste disposal. There is a great deal of evidence from other countries that when individuals have to pay for the waste that they produce by volume or by weight—which is more successful—the amount of waste that they produce can be radically and quickly reduced.

Shiona Baird: I wonder whether Alex Johnstone understands the concept of zero waste, because he is talking about the end-product. Our point is that waste is an enterprise issue; it is about businesses designing goods that can be reused and repaired. We want something that goes a stage further than what Alex Johnstone seems to suggest. I am not certain that he understands the concept in the motion.

Alex Johnstone: Indeed, there are many Green policy concepts that I do not understand, but I stand here to be educated.

If we are to head towards zero waste, it is important that we understand that it involves the management of existing circumstances. I want to refer briefly to a couple of issues that it is appropriate to raise at this stage. There is an intrinsic deficiency in the planning system in this country that makes it difficult to deal with waste and, indeed, with the management of a zero-waste policy. If we are to reach a zero-waste position in Scotland, we must have a dynamic and fluid planning system that allows for radical change. We are undergoing a review of planning law and it is important that the review considers waste management and long-term zero-waste policies.

If we are to achieve zero waste, we must be as flexible as possible. My amendment seeks to empower local authorities and to take away the big-stick attitudes that central Government has tried to impose on local authorities.

I move amendment S2M-1089.2, to leave out from “urges” to end and insert:

“notes that Scottish local authorities need to improve their recycling performance by 15.4% over the next two years, three times the figure they have achieved in the last four, to meet the Executive’s target of 25% of waste recycled by 2006; calls on the Executive to admit that its top-down approach is not working, and, as an alternative to a zero waste policy, urges it to allow local authorities the flexibility to deliver the best solutions for their areas in the long term.”

09:52

Nora Radcliffe (Gordon) (LD): I have no quibble with Alex Johnstone’s description of the size of the task, of which we are all conscious. However, he cannot accuse the Executive of having a top-down approach in its preparation of the national waste plan. The approach was emphatically a bottom-up one, because it was prepared from area waste plans. The national waste plan delivers the flexibility for local authorities for which Alex Johnstone calls.

I read Shiona Baird’s motion carefully because I agree that the concept of zero waste is a useful tool for changing perceptions and practice. Indeed, my Liberal colleagues approved a motion at our autumn federal conference last year that noted the launch of the zero-waste charter and adopted a set of aims and policies that are based on it. The zero-waste concept also gets an honourable mention in the Executive’s 2003 national waste plan. However—sorry, but there is a however—I argue that the Executive, other tiers of European Government and local government and various other bodies are already working on the objectives that the Green’s motion cites. I do not see the

advantage in the Executive squandering time and effort at this stage on producing another strategy and reporting back to Parliament on its potential. There is far more value in pressing on with the existing strategy. Much time was spent on getting it all in place; it is now being put into practice and is beginning to take effect.

We have an operational national waste plan. The Environment and Rural Development Committee took evidence and reported on how the plan was working in its first year—

Shiona Baird: Will the member give way?

Nora Radcliffe: I ask Shiona Baird to let me finish my point.

The committee flagged up several issues and concerns that could be addressed to make the plan work better.

Shiona Baird: I accept that what the Executive has done so far is helping, but we are trying to get people to understand the concept of zero waste because of its implications for business, the environment, health and so on. All we are asking is for the Executive—with the support of Nora Radcliffe and her colleagues—to support zero waste. I do not understand why there is a difficulty in doing that. If we do not support zero waste, we will lose out on the research and development issues that other countries, such as New Zealand, are taking on board.

Nora Radcliffe: I agree generally with Shiona Baird, but I do not agree that we should encourage people to start running before we have got them walking. The issue is not whether a zero-waste strategy is right or wrong, but whether this is the right time to implement such a strategy and whether it would be effective if we did so. The time to start changing people’s perceptions more widely is when we achieve a momentum.

The motion talks about the potential for reducing waste by paying attention to

“the design, production and use of materials and products”.

Pressure to achieve such an holistic approach is being applied now, through European directives that are coming on stream—for example, the end-of-life vehicle directive and the waste electrical and electronic equipment directive. I believe that such directives will have a major effect in time.

Richard Lochhead: Does Nora Radcliffe share my concern that, according to Scottish Enterprise Grampian, although the enterprise companies play a key role in the partnerships that are trying to get industry to introduce waste minimisation strategies, which were conceived in November 2001, they are only now, nearly three years later, beginning to develop action plans? Why has there been such a delay?

Nora Radcliffe: Whatever the delay has been, we should start from where we are now. If the enterprise companies have started their task, we should encourage them to keep going.

The motion talks about boosting

“reuse, recycling and composting rates”.

We should reuse the acronyms RAGS, SWAG and WRAP, which are, respectively, the Recycling Advisory Group Scotland, the Scottish waste awareness group and the waste and resources action plan. Those groups are beavering away to get people to recognise the waste hierarchy and to reduce, reuse and recycle. Local authorities are putting in place a variety of kerb-side and neighbourhood collection schemes to facilitate an increase in recycling to meet the partnership agreement targets of recycling 25 per cent of waste by 2006 and 55 per cent by 2020 and halting the increase in waste production by, I think, 2010. Among other things, the partnership agreement also commits us to creating significant opportunities for new products manufactured from waste and to using public purchasing rules to enhance the status of recycled and reusable goods. Sustainable recycling depends on having markets for its products.

On composting, Aberdeenshire Council has a significant municipal composting operation with dedicated staff who do a great deal to promote and encourage home composting. When Richard Lochhead collects his compost bin, he will get advice on making the best use of it.

The motion talks about cutting costs for business. Last year, I attended an excellent presentation in Aberdeen, which the Scottish Council for Development and Industry organised, on how businesses could cut their costs by eliminating waste. The presentation was illustrated with real local examples.

A lot is going on out there. I would be the first to agree that that work is still not making a significant impact on reducing waste, but these are early days and that will come. I would prefer to put effort into maintaining existing momentum on dealing more effectively with our wastefulness, rather than go back to square one to produce a differently branded strategy on doing what we have started to do already. I ask the Parliament to support the Executive's amendment and to keep the zero-waste concept firmly in mind.

09:58

Robin Harper (Lothians) (Green): First, I want to address a couple of points that the minister made. I am glad that the Executive is co-operating with business on waste management and that it is encouraging business activities in that area.

However, the record so far is abysmal. Scottish Enterprise's ambition last year was to encourage only 50 businesses to get environmental certification and it was proud that 55 businesses achieved that. Not only was the target miserable, but so was the achievement. I believe that Scottish Enterprise has upped its target this year to 250 businesses. However, that is still a miserably low target for Scotland, considering the size of the problem and the Executive's objectives. If the Executive wants to keep the concept of zero waste in mind, it should consider the issue in detail.

The Executive should encourage Scottish Enterprise, the Scottish Higher Education Funding Council, the Scottish Further Education Funding Council and other quangos to take as many steps as they can to encourage everybody with whom they deal to conserve energy and to minimise waste. The Executive has been slow in doing that.

If the Executive wants a good example of what can be done, it need look only at what Business Environment Partnership in Midlothian has done by encouraging young people—after six weeks of training—to work with businesses up and down Scotland. Although that has saved millions of pounds through conservation of energy and through waste reduction, it has not been rolled out throughout Scotland, even though the Executive has had numerous opportunities to do so. My first point is that the Executive could do very much more than it is doing, although I accept that it is doing something.

Lewis Macdonald: Does Robin Harper accept that the initiative that we, along with the Scottish Environment Protection Agency, have taken in setting up a business waste minimisation steering group for the whole of Scotland so that we can build on the achievements in Midlothian and the north-east is a firm step in the direction in which he advocates we should go?

Robin Harper: If the minister can assure me that the steering group will be effective and that it will get things moving, that will certainly be good news and a step on the way.

When I hear the phrase “best practicable environmental option” I wonder where is the excuse—the let-out that allows us not to do what we should be doing. Let us examine the job statistics in order of usefulness. I want to put on record the results of a study by the Institute of Local Self-reliance in the United States, which found that one job is created for every 15,000 tonnes of solid waste that is landfilled each year, that seven jobs are created by the composting of a similar amount of waste and that nine jobs are created in collection and processing if that amount of material is recycled. Another 25 jobs can be added if the recycled material is turned into new products. That is where zero waste—which means that nothing is wasted—comes in.

Last year in Scotland, households produced 2.6 million tonnes of waste. Based on the figures above, if that had all been recycled, about 1,500 jobs could have been created. If the potential for additional jobs in manufacturing items from recycled waste was taken into account, the figure would be closer to 6,000 jobs. Members can see how a zero-waste approach could result in the creation of many more jobs than waste management—even with a recycling component—results in.

Let us consider some of the results in New Zealand, which has been mentioned. In 1998, a survey of 64 recycling businesses in Auckland that was undertaken by Waste Not Ltd showed that about 1,700 employees were directly involved in recycling in the Auckland region alone. That figure is equivalent to the size of the forestry, fishing and agriculture sector in the region, which should be borne in mind in relation to Scotland. Another 300 jobs were expected in recycling in the few years following the report.

A Demos report entitled “Creating Wealth from Waste” concludes:

“An intensive recycling programme in Britain provides the scope for 15,000 jobs in collection and sorting and at least 25,000 to 40,000 jobs in manufacturing and reprocessing: 40,000 to 55,000 jobs overall.”

I suggest that that should be immensely encouraging to the Executive.

I ask the Executive to give serious consideration to voting for our motion on zero waste, because it is only by having that target—which is achievable—in front of us that we will progress at the required rate.

10:03

Sarah Boyack (Edinburgh Central) (Lab): I am very glad that we are having a debate on zero waste this morning. It is worth noting that it is our second debate on waste in the past couple of months. I hope that we can move forward a little today.

Shiona Baird’s speech contained much that I agree with. We should be examining in depth some of the examples from around the world that she and Nora Radcliffe cited. Canberra, Edmonton and California have been mentioned, as were other regions around the world that have signed up to zero waste. New Zealand, too, has signed up to zero waste. Those places are not thinking about achieving zero waste instantly but about achieving it by 2015; they are considering how to change what they do now for the future. I agree strongly with the concept of using debates on zero waste as a trigger for action. I accept that we can move faster than we are moving at present, so let us use the debate to explore the options that exist.

I listened to Nora Radcliffe’s analysis of progress to date; she was spot-on. We have a national waste plan—albeit one that took a long time to get in place—that is a mix of bottom-up and top-down approaches. The waste plan is not just about how we dump waste and get it out of our horizons and it is not just about management of waste; it is about how we will reduce waste in the long run. At the moment, the pressure is on in respect of how we manage our waste, but the long-term approach must involve examination of resource use. That must be the focus.

In that regard, zero waste helps, because it is a clever tag that makes us wonder whether we could have no waste at all. It is clear that that is a huge objective, but using our resources more effectively offers many benefits to business and to us all as consumers, residents and citizens. The result will be that we will not have unattractive landfill sites throughout the country.

Quite a few members mentioned composting, which is one of the key elements of the national waste plan. We all create a huge amount of domestic waste, much of which is deeply unpleasant when it starts to biodegrade. It poses the greatest health risk when it rots and leaches from landfill. The cities that have adopted zero-waste policies have made a big change very quickly. High achieving cities and councils have done the kinds of things that we are beginning to bring on-stream in Scotland. What we are now doing on recycling, separation of waste and composting is the right way forward.

We need to progress the debate on zero waste, although we should acknowledge that progress has been made. I remember the previous debate that we had on waste, in which Allan Wilson—in response to the Environment and Rural Development Committee’s negative and positive comments—was very positive about the way in which zero waste could add to the debate. This morning, Lewis Macdonald has picked up that mantle.

I turn to the amendments. I found the Tory amendment to be deeply ironic. The biggest setback to recycling in Scotland was the reorganisation—the Balkanisation—of our local authorities. Recycling figures plummeted after the reorganisation of local government, so I cannot take a lecture from Alex Johnstone on the need to have a bottom-up, rather than a top-down, approach. What the Tories did to Balkanise local authorities destroyed their capacity to make progress, to be innovative and to come together on recycling.

The whole point of the national waste plan is that it seeks to harness the energies and the experience of local authorities and to put the matter in a regional context. The plan is allied to

national targets, because without such targets we will not get anywhere. It is crucial that the plan is getting leadership and money from the Executive.

Shiona Baird: The member praises local authorities, but I wonder whether she takes on board the fact that their concept of best value often means that they opt for the cheapest contract. Ultimately, community businesses, which provide so many add-ons, are being missed out.

Sarah Boyack: I do not accept that best value is about the lowest possible price: it must be about other social objectives and, under European procurement policy, bodies are encouraged to take account of those other objectives. As long as companies compete on a level playing field, environmental standards can be imposed. There should be no excuse for local authorities not to do that; Parliament should encourage them in that regard.

The nationalist amendment is one of the laziest amendments that the Scottish National Party has produced. Are the other places around the world that are pursuing zero waste sitting back, navel gazing and complaining that they are not independent national states? Of course they are not. The last time I looked, Bath and North East Somerset Council was not an independent legislator on the world stage. Let us get real. I would not have minded if Richard Lochhead had even mentioned in his opening speech the fact that Europe is the driver in that it directs 80 per cent of our environmental legislation. There is the landfill directive, the WEEE directive and the work on chemicals and integrated product development. We must work in a global context on waste. It is no use pretending that we in Scotland cannot do anything.

Richard Lochhead did not even provide an analysis of the most recent budget. If he wanted to get tough by saying, "Here's how we can change the fiscal mechanisms", he could have made the effort to examine Gordon Brown's recent budget to identify what opportunities were being missed from a nationalist perspective. Not an ounce of effort was made; the SNP wants to have the same tired old debate.

We face some real challenges. I am glad that we are having a debate on zero waste and I think that the Greens' constructive approach is useful. A lot more needs to be done on commercial waste, but some good work is being done by SEPA, the enterprise companies and the Federation of Small Businesses, which has an excellent environmental toolkit that assesses resource use. There is a job to be done in raising the bar and saying that we must do a lot more, but let us acknowledge the work in progress so that we encourage the champions out there that are doing a good job. Let us push them to do more and let us ensure that we raise the level of debate in Parliament.

10:10

Alex Neil (Central Scotland) (SNP): If Sarah Boyack looks at the independence budget that I launched yesterday, she will see that I covered waste disposal and what more we could do in that respect in an independent Scotland.

I rise—not in a lazy way at all—to speak in support of the Green party motion and the SNP amendment. In doing so, I want to focus on landfill. I will first paint the national picture and then look at some of the local effects of current landfill policies. Landfill accounts for about 91 per cent of the disposal of municipal waste in Scotland. Although we are supposed to be grateful for the landfill tax, as all of us know, landfill is not the most environmentally sound way in which to dispose of municipal or any other waste. We require such a high landfill capacity in Scotland because we have failed to use alternative methods of disposal to their maximum. The landfill tax is not primarily driven by environmental considerations; it is merely a revenue-raising device that produces about £50 million for the Chancellor of the Exchequer every year from Scottish landfill.

The landfill tax credit scheme allows landfill operators to use up to 20 per cent of their landfill tax for environmental purposes. However, it is often left up to the operators to decide how the money is to be used; in effect, they decide how to recycle the money. Needless to say, it is not in the interests of the operators to recycle the money into alternative methods of waste disposal. Far too little of the revenue from the landfill tax goes back into funding alternative methods of waste disposal. The decision-making process in respect of how the money is used needs to be reformed.

I concede the point that Sarah Boyack made on landfill. We do not need independence to change the two matters that I have just raised; they could be changed tomorrow if the will existed in the Labour Government down south and the Executive up here. The issues to do with landfill are well within our grasp. If they were tackled, we could make a substantial difference to the way we deal with disposal of waste, especially municipal waste.

I want to pick up on the Environment and Rural Development Committee's very good report of earlier this year, which highlighted the particular issue of the Greengairs area in Lanarkshire. Many people now know not only about Greengairs but about the adjacent villages of Plains, Glenmavis and Wattston, all of which are badly affected by the number of landfill and open-cast sites in the area. At present, there are eight in total in that part of Scotland. The villages are becoming islands in a sea of landfill and open cast. Eden Waste Recycling Ltd has made an application for a ninth site of huge proportions, which the Executive is

“minded to accept”. I say to the Executive that it should look at the practicalities. In saying that, I remind the Executive of what Nora Radcliffe said about her inability to accept the concept of zero waste because we are not at the stage at which it is a practical proposition. One way in which we could make the concept of zero waste a practical proposition is by turning down such planning applications. The Eden Waste application is neither necessary nor is it desirable either in terms of the villages that I mentioned and their populations or in terms of the national waste plan.

I carried out a survey of the Greengairs population—I will mention three of the findings. The effects of landfill and open cast in the area have resulted in 50 per cent of households reporting health problems. That might not be unusual in many communities, but when people were asked whether they had suffered health problems before they moved to the area, 62 per cent indicated that they had not, but said that only since they moved to the area had their health suffered.

People told me that one of the effects of the concentration of landfill and open-cast sites was the creation of insect populations inside their houses. If members were to go up to the lofts of any house in Greengairs, they would see beasties that they never knew existed. I invite members to do so at the earliest opportunity.

Greengairs is a good example of the fact that the debate today is not an academic or theoretical exercise; it is about the quality of life of people in areas such as Greengairs. If we do not tackle the landfill problem, we will end up with more situations throughout Scotland like the one in Greengairs. I say to the Executive that of course I believe in additional powers—independent powers—for the Scottish Parliament. I also believe that the Executive could make far more imaginative and innovative use of the powers that it has to save Scotland from becoming the waste capital of Europe.

10:16

Mark Ballard (Lothians) (Green): Like Shiona Baird, I welcome the fact that we have the Deputy Minister for Enterprise and Lifelong Learning in the chamber for the debate on zero waste because I too think that zero waste is an enterprise issue. It should be seen in the context of “A Smart, Successful Scotland”—but with the addition of the word “sustainable”—and in the context of a green jobs strategy. It is revealing to compare the current Executive targets with the current enterprise targets that we hear about from Scottish Enterprise and so on.

There is a lot of talk about the life-sciences industry and about biotechnology. Although it is

always dangerous to bet on winners, I am worried that we are missing out on a potential winner if we do not debate waste minimisation. The future does not lie in life sciences and biotechnology. Like other technologies—such as nuclear technology, which we were told would be the technology that would revolutionise society but which has turned out to be a false dawn—it was actually the smaller-scale technology of microtechnology that led to the real changes in society. We face the same situation with biotech. It will not be the future because it suffers from many of the problems that the nuclear industry faced: it is too big, the technology is too complicated and it produces too many side effects in terms of the waste that it produces.

Rhona Brankin (Midlothian) (Lab): Does the member agree that many aspects of the biotech industry are absolutely essential in terms of finding cures for diseases such as pulmonary emphysema?

Mark Ballard: I acknowledge that, just as I do not doubt that many medical advances have come about as a result of nuclear-derived technology. However, if we are talking about placing bets on Scotland’s future economic development, we must recognise that the future will be based on resource efficiency and the use of waste as a resource.

John Scott (Ayr) (Con): Does Mark Ballard accept that without nuclear power this country would have absolutely no chance of meeting its Kyoto objectives and targets?

Mark Ballard: The Kyoto objectives did not come out of nowhere. They are about a shift towards use of sustainable energy; we want that to happen. The solution to the climate crisis is to invest in sustainable energy: small-scale, locally-controlled and sustainable energy.

I will return to the point that I was making about the future. As I said, I see the future in terms of waste minimisation. We need to learn to make better use of our resources. The concepts of factor 10 and factor 4 were mentioned. Those factors aim to benefit human society and to reduce waste by using our resources more efficiently. It is in that regard that the concept of zero waste comes in. I will address directly the Tory amendment by saying that zero waste is a market signal; it is a signal to business that this is the direction in which we are going to go. It lets business know that we want a reduction year on year in the amount of waste that is produced.

We have the chance in Scotland to get in early on the concept of waste minimisation and zero waste. It is a concept that is spreading around the world, but it is not too late for Scotland to take a lead on the issue. We do not want to get left behind in investing in a concept that is—as

opposed to biotech and the other big sciences—the future of the economy. Very often it is not the big sciences but the small sciences that are the future.

I welcome the remarks that Sarah Boyack made about changing our approach to waste from being about management of the waste that we produce to minimising the resources that we use. Waste is a big issue, as are landfill sites, which are not an issue only for the residents of Greengairs. Nobody wants a landfill site on their doorstep and nobody should have to have one. Similarly, nobody wants an incineration plant on their doorstep but, all too often, the poorest communities have them dumped on them, with their associated problems.

We must move towards waste minimisation because of its economic benefits and because we want to prevent communities from suffering the problems that Greengairs will suffer. That is why I support Shiona Baird's motion.

10:20

Iain Smith (North East Fife) (LD): This has been an interesting and constructive debate. I welcome the fact that we have had the opportunity to debate again the important issue of waste.

In response to Mark Ballard, I say that I am not sure that many people would want a composting plant on their doorstep either, but that does not mean that we should not have them; they are important in terms of the overall waste-management strategy.

Mark Ballard: I have a composting plant at the bottom of my garden. It is called a compost heap.

Iain Smith: I also have one, but not everyone has a garden. If composting is to be an important part of our waste-management strategy, there will have to be plants to deal with the composting requirements of, for example, city centres. The point that I am making is that people generally do not want to live beside waste-management facilities, regardless of whether they are composting plants or sorting plants.

The debate is as much about badging as it is about strategies. Everyone in the chamber agrees with the strategies that the Scottish Green Party mentions in its motion—no one disputes the suggestion that we should move towards waste minimisation. Indeed, although the Greens have accused the Executive of having no waste-management plan, waste reduction is at the top of the Executive's waste-management policy hierarchy, followed by reuse, recycling and the recovery of waste.

I say that the debate is about badging because other countries do not necessarily call their recycling policies zero-waste strategies. As I have

said previously, I went last summer to Prince Edward Island as part of a Commonwealth Parliamentary Association delegation. That province's waste-management strategy is not called a zero-waste policy, but it is similar in concept to what has been defined as zero waste today. The province has a strong policy of ensuring that everybody is involved in separating their waste. Everyone has separate bins and there are separate collections for different types of waste, including compostable waste, recyclable waste and the small amount of waste that is neither. There are separate bins in the streets and even in hotels, which have simple guides that tell visitors what to do. The province has moved from a situation in which it had a serious amount of landfill to one in which it has little landfill. Most of its waste is either composted or recycled. The small amount that cannot be composted or recycled is incinerated in a heat energy project.

Eleanor Scott (Highlands and Islands) (Green): Does the member accept that what he describes is still waste management, albeit good waste management, and that a zero-waste strategy is about designing waste out of the system in the first place? That is something that the Executive has recognised by sending the Deputy Minister for Enterprise and Lifelong Learning to the debate instead of the Deputy Minister for Environment and Rural Development.

Iain Smith: I do not dispute that point. The other point that I make in that regard is that Prince Edward Island is working with businesses on waste reduction. Waste management is an important part of the province's approach, however, and we have a lot of catching up to do.

The Conservative amendment has got it completely wrong. If we left recycling to local authorities, there would be no guarantee that the targets would be met. We should bear it in mind that the targets are minimum rather than maximum targets; perhaps the Conservatives think that the local authorities should be recycling less than those targets. I think that they should be recycling significantly more than the targets. After local government reorganisation, North East Fife, my constituency, moved from the top of the recycling tree to the bottom. That was because the local authority was considering only the costs, not the benefits. That was a major problem, but the situation has improved because of the investment that Fife has been able to make in recycling through money from the strategic waste fund, and because the council has worked with local businesses. One business is now collecting a significant amount of paper to recycle. It is important that we have a national strategy as well as a local strategy.

10:25

John Scott (Ayr) (Con): I support the sentiments of the Scottish Green Party in relation to zero waste, as well as Nora Radcliffe's and Sarah Boyack's sensible comments on the subject. However, I want to raise with the Executive the issue of its much-vaunted target of 25 per cent of domestic waste being recycled by 2006.

Despite Ross Finnie's statement about recycling having become a part of Scottish culture, it has apparently not become part of the Scottish Executive's culture. The reasons for that are all too evident, as Shiona Baird, Richard Lochhead and Alex Johnstone said. Although I welcome the minister's belated new commitments and strategy on business waste, which has been developed in conjunction with SEPA, I wonder how much progress will have been made in a year or two.

We produce about 3 million tonnes of domestic waste in Scotland and we have a recycling target of 25 per cent by 2006, which is just two years away. At the moment, we recycle only 9.6 per cent of our domestic waste, so we are—apparently—to increase our capability by 15.4 per cent in just two years. That is just not possible. We are talking about a huge amount of stuff—25 per cent of 3 million tonnes is 750,000 tonnes of domestic waste—and questions have to be asked and answered about where it will all go, how it will all be collected and where it will be sorted. Will it all go to landfill, as Alex Neil suggests? Those questions have not yet been answered.

Sarah Boyack: Will the member take an intervention?

John Scott: I would rather not; I am probably going to be short of time.

There are other questions that must be asked. Where will the material recovery stations be sited? When will the planning applications be submitted and approved? Indeed, how many planning applications are under consideration at the moment?

In addition, the time that is required for pollution-prevention certification, plus the building of facilities, makes the claim that we will be able to recycle 25 per cent of domestic waste by 2006 laughable. Will the minister concede today that that election claim—which was made less than a year ago—will not be met? I know that he will say that that, as it should be, is a matter for the 11 area waste plans and the local authorities. However, that is a cop-out: the minister must face the fact that ability to meet that recycling target—in terms of plants and markets—does not exist and will not be in place by 2006.

As Robin Harper said, the Executive must

recognise that the quantity of domestic waste is increasing significantly and that job opportunities in the recycling industry are being scorned. Last year, the quantity of domestic waste grew by about 7 per cent, according to Audit Scotland. I know that, last year, a new method of calculating the volume of waste was used, but I maintain that the trend is that there is a marked increase in the volume of waste every year.

We need to invest in education to reduce waste. The Scottish waste awareness group is doing a good job, but will its funding continue after March this year? Is funding in place for similar campaigns in the next financial year?

Today's debate has raised more questions than the Executive probably needs at the moment—given Allan Wilson's recyclable ministerial role and work load—but the fact remains that we are not moving quickly enough to meet our recycling and waste-reduction targets and the Executive's commitments on those targets.

There is a feeling that the waste recycling and reduction industry is not receiving the encouragement that it needs to deliver on the Executive's goals. I urge the Executive to consider again how those goals are to be achieved. I also urge Parliament to support our amendment.

10:29

Mr Adam Ingram (South of Scotland) (SNP): Waste, and how we generate, manage and dispose of it, has been a recurring theme of debate in the Parliament since it opened its doors five years ago. I welcome today's focus on the elimination of waste and a move towards resource efficiency. However, to a significant extent, the impetus and imperative for change has come from outwith this place, notably in the form of European directives that are aimed at reducing the amount of waste sent to landfill.

A case in point is the national waste plan target to reduce the 90 per cent of domestic waste that we currently send to landfill to 30 per cent by 2020. It is sad that, left to their own devices down the years, United Kingdom Governments have signally failed to develop the infrastructure and effective policies that we need, to the point where we are now scrambling to play catch-up with our European neighbours and competitors in waste-management practice and, as the Greens' motion suggests, in taking advantage of the economic opportunities that arise from embracing the sustainability agenda.

I do not want to be over-critical of the Executive this morning. I acknowledge that after decades of underinvestment, the waste infrastructure was not there to build on and I acknowledge the efforts that have been made to date in trying to correct that by

putting such infrastructure in place, particularly in relation to dealing with municipal solid waste. The sad fact is that it looks as though we will miss the 2006 target of recycling 25 per cent of that waste stream, not only because the infrastructure is not in place but because the waste stream is growing at a rate of 5 per cent per annum.

The motion that is before us points the way forward. The last thing that we should do is to be tempted to seek a quick fix or a big-bang solution to missing targets, such as adopting incineration or huge regional waste management centres, which have been proposed for Westfield in Fife and Killoch in Ayrshire, not least because in doing so we would be visiting environmental injustice on communities that deserve a better future.

Tommy Sheridan (Glasgow) (SSP): Does the member agree that we cannot deal with the problem by continuing to break promises to communities such as Greengairs? That community was promised that there would be no more waste development in its area, but the promises have been broken.

Mr Ingram: I agree totally. It is shameful for the First Minister to promise the people of Greengairs that there will be no more landfill sites and then, apparently, to renege on that promise.

We need to have a big national push on waste minimisation. Scottish National Party policies in that area include: introducing a national campaign to promote home composting, refuse junk mail and reduce packaging in shops; requiring major industrial and commercial producers to develop and introduce waste-minimisation audits and report to SEPA on the waste that they produce; providing SEPA with powers to direct waste producers to dispose of their waste by a particular route or process; and introducing an obligation on companies to ensure, where appropriate, that the design of products incorporates waste-minimisation principles at the development stage, including the capacity to reduce, reuse and recycle.

I see that the Presiding Officer is not going to allow me to say what the rest of the SNP's policies are in that area. It is unfortunate that many of those policies and necessary actions cannot be implemented by this Parliament alone, given the limited powers at its disposal; that is yet another example of how we continue to be hamstrung in our attempts to tackle Scotland's problems. Although we support the motion and the vision that it encapsulates, we believe that our amendment is necessary to give it effect.

10:34

Lewis Macdonald: The debate has been constructive. I am particularly glad that there is

much support throughout the chamber for the idea of linking our waste strategy with our enterprise strategy and that there is an acknowledgment of the potential for green jobs. When we consult later this year on a green jobs strategy, we will seek views from all interested parties on how best to gain new business and new jobs from pursuing sustainable development and putting that at the heart of our drive for economic growth.

It is clear that the picture is varied. In renewable energy, Scotland has the potential to lead the world, but in recycling and dealing with waste, we have a lot of catching up to do, although we have made a start.

Christine May (Central Fife) (Lab): Will the minister join me in welcoming the initiative from the strategic waste fund that has allowed Fife Council to arrange for Smith Anderson in my constituency to recycle the council's waste paper and sell it back to it as envelopes and other paper goods?

Lewis Macdonald: Yes. That is an excellent example of the initiatives that are beginning to appear. Recently, I have met representatives of Remploy and the Wise Group, which employ people in recycling, some of whom are at a distance from the labour market, and United Glass Ltd in Alloa, a commercial firm that makes money from recycling used glass.

Richard Lochhead: Is the minister aware that SEPA has introduced a charge for companies that want to recycle waste for paper mills and spread it on fields? Might that prove to be a disincentive for companies to recycle paper-mill waste, which I am sure we all agree should not go to landfill?

Lewis Macdonald: SEPA is working within the terms of the waste strategy and its requirement to interpret European legislation in that regard. There are a number of tricky issues around the margins, but the important thing is that SEPA is working on the basis of European legislation and using it as a vehicle for addressing more difficult issues.

The targets that we have set for local authorities to improve recycling and composting rates are stimulating business in those areas. I am pleased that recycling and composting rates have increased from 7.4 per cent to 9.6 per cent in a single year, in advance of the major investments that, critically, will flow from the national waste plan in the next two or three years.

I turn to John Scott's speech. The Tory position appears to be that we cannot achieve our ambitious targets, so we should abandon them.

John Scott: I hope that the minister is not deliberately misunderstanding what I said. Does he agree that despite the Executive's good intentions, for which it enjoys the support of

members throughout the chamber, the targets simply will not be met?

Lewis Macdonald: Certainly not—quite the contrary is true. I hope that we will have support from all parties. In seeking to meet the targets, we are seeking to stimulate the kind of business investment that will make what we want to achieve possible. We acknowledge the need for infrastructure, which is driven as much by European targets as by those that are set in Scotland. We believe that our targets in that regard can best be achieved by our focusing precisely on the means of doing so.

We will continue to fund the Scottish waste awareness group, which was mentioned in the debate. Richard Lochhead asked what the public sector is doing to lead by example. NHS Scotland has put in place an environmental management statement, which includes commitments on waste minimisation and green procurement. The waste and resources action programme, which we fund, is working with local authorities on procurement issues, as members who were at the recent Convention of Scottish Local Authorities conference will know. The Scottish energy efficiency office, which Robin Harper mentioned, is working directly with business; its advice, like that of envirowise, is adding millions of pounds to the bottom line of companies that take that advice. I urge all companies that have not yet sought advice from either the Scottish energy efficiency office or envirowise to do so.

Bruce Crawford asked what we have done recently to learn from international examples. I am sorry that he is not in the chamber to hear the reply, but I assure members that we are participating in work on new technologies and linking with the Department for Environment, Food and Rural Affairs and others elsewhere. We have also met representatives of a number of international companies that are pioneering new technologies in composting and recycling.

Yes, progress has been made and yes, there is a long way to go, but rather than shy at the fence, which the Tories would have us do, we need to concentrate our efforts on achieving the goals that we have set. It is clear that if we do so, we have the potential not only to improve the environment in Scotland, but to stimulate the economy and put ourselves where we ought to be as one of the key players in the marketplace for sustainable products and processes in the future.

10:39

Chris Ballance (South of Scotland) (Green): The debate has been excellent. There is a great deal of consensus about the fact that in this area we all want to be angelic, but there is a complete

lack of consensus about whether, at the moment, our primary focus is correct. The debate is designed to investigate that and move us forward.

Much of what Lewis Macdonald said was constructive, but the Executive is still focused predominantly on waste management and recycling rather than on waste production and taking a holistic view of production, consumption and end use. That holistic view is the concept of zero waste, which is what the Scottish Green Party is trying to promote in the debate.

The minister mentioned the Scottish energy efficiency office. That office must be given maximum support and it must get greater and continuing commitment from the Executive. Most important of all, it must get a budget that is not dependent on underspend money, but that is fixed and will continue over the next few years.

There is much that we agree with in Richard Lochhead's speech for the Scottish National Party, but it is important that we realise that Scotland is not completely impotent on waste and that we must act now to show leadership and vision. There is no need to wait, and it is unfortunate that we have the standard SNP single-issue amendment, which simply says that everything depends on independence. Everything does not depend on independence; there is stuff that we can do now, and we should change the focus now.

We had an honest acceptance from Alex Johnstone that he does not understand the concept of zero waste. That confirms our impression, and I trust that, over the next few months, we will be able to help him with that. John Scott's speech was interesting and contained much with which we would agree.

To Nora Radcliffe, I say that now is the time to adopt a zero-waste policy, not a few years hence. If we do not adopt a zero-waste policy now, we will be faced with an increasing number of issues such as the Greengairs landfill site, which is an embarrassment to a First Minister who announced his environmental justice policy at that site.

Nora Radcliffe: People must walk before they can run; we must encourage people to walk with us, and if we do not get them walking, there is no point in us running out in front.

Chris Ballance: We certainly must walk first, but the point of a zero-waste policy is that it would turn the Executive's priorities on their head: the priority should be not recycling, but waste minimisation. We must address the problem from the beginning of the process, and we must do that in tandem with recycling.

Robin Harper gave a clear analysis of the benefits to business, Government and the community. We are all aware that Japanese

companies in particular have given a great lead in that sphere. We have a lot to learn from Japan.

Alex Neil highlighted the issues around landfill and, for his constituency, the encouragement of insects. In the region that I represent, the increase of landfill will lead to the extinction of two species of insect. We debated that at question time last week.

As Adam Ingram said, we are running to catch up with European Union directives. We should be ahead; we should be in the vanguard. The national waste plan, which was prepared by SEPA and the Executive, is not working. It is failing communities and it is failing Scotland. The plan is failing because, although it contains 132 glossy pages of 75 per cent recycled paper, there is almost nothing in it on the subject of waste minimisation. Reduce, reuse, recycle—the waste hierarchy clearly puts minimisation first. That is the most important thing, but the most significant aspect of the waste minimisation plan in the national waste plan is the production of waste prevention leaflets for households; in most council areas, the households will not even have the facility to recycle those leaflets. We need more action on waste minimisation, which is the most important area.

Lewis Macdonald: Does Mr Ballance accept that the target of an end to the growth in municipal waste by 2010 is a significant step in that direction, that the target will be challenging and that we will have to work hard to achieve it?

Chris Ballance: It is a step in the right direction, but it does not go far enough. We are spending far too much time congratulating ourselves on a slight increase in recycling rates rather than going to the front end. A radical rethink is needed and, as Shiona Baird outlined in her speech, we must consider the whole system of production and consumption. Zero waste does that and is a tool by which we can do that. Zero waste is not only an environmental issue—I realise that the Deputy Minister for Enterprise and Lifelong Learning is here to make that point; it also concerns health, creates jobs, encourages innovation and saves money. The Executive can adopt a zero-waste policy to send a strong and positive signal to business, local authorities and communities.

Who wants waste? The public do not want it. Business should not want waste, because it is expensive and wastes money as well as resources. Does the Government want waste? At the next election, the Scottish Green Party will go to the people saying that it wants zero waste. How much waste does the Executive want?

Genetically Modified Crops

The Deputy Presiding Officer (Trish Godman): The next item of business is a debate on motion S2M-1091, in the name of Mark Ruskell, on genetically modified crops, and one amendment to the motion.

10:47

Patrick Harvie (Glasgow) (Green): No doubt some members will let out a sigh as they contemplate another debate on genetically modified crops—I even heard one wag describe the debate as groundhog day—but I will explain exactly how the debate has moved on and why we require another opportunity to debate the matter and another vote.

The Executive has not seen fit to give any of its debating time to the issue. Despite the overwhelming opposition to the commercialisation of GM crops, the irreversibility of the decision and the warning signs from other countries, the Executive opposed our call for a debate. Therefore, the Opposition parties—the Greens and the Scottish National Party—have brought the issue to the Parliament. The Greens did so in November, when commercialisation was only a threat; now, it has become Government policy, and the SNP was right to give it time last week.

In last week's debate, it was clear that, whatever arguments were advanced to challenge the Executive's position, Labour and Liberal Democrats MSPs would trot out a rehearsed line and say that we must abide by the law and that the most restrictive approach possible had been taken. The Greens did not believe it then, and today we are backing up our beliefs with a legal opinion, copies of which are available at the back of the chamber.

The act of commercialising Chardon LL maize is a major step, about which full debate is required. We had part 1 of that debate last week; today we are having part 2. I ask all members who voted with the Executive or held back from opposing the Executive to consider their position, but first, let us consider the minister's position. Members could be forgiven for thinking that Allan Wilson's amendment has not changed at all—its wording is almost exactly the same as that of the amendment that we considered last week. The only change from last week's amendment is that the advice that was given to the Transport and the Environment Committee on the legality of a blanket ban on GM crops has been highlighted. If Allan Wilson wants to practise misdirection, he should learn a little subtlety; there is nothing in the Green motion about a blanket ban.

The Deputy Minister for Environment and Rural Development (Allan Wilson): Will Patrick Harvie explain to me, given that I had the benefit of seeing the legal opinion overnight, what is new therein?

Patrick Harvie: What is new is that we have a legal opinion that challenges the minister's claim that he has no powers to act further. Our motion and the debate are on that point, not on a blanket ban; they are on the commercialisation of Chardon LL maize and the Scottish Executive's ability to act.

Members should not be distracted by talk of blanket bans, and those who voted with the Executive because of that should think again. To members who are still writing to constituents to defend their position on a blanket ban, I say, "Wake up! Catch up! We have moved on."

I ask Liberal Democrats to think deeply about their position, because their decision not only loses them credibility, but demeans and undermines our Parliament, which is the last thing that our young institution needs. At the outset of devolution, Scotland was promised a new politics. The handling of the GM issue has been a slap in the face for anyone who believed that promise.

Our desire for a more restrictive Scottish position led us to consult an advocate, as I have explained, who has cast serious doubt on the Executive's claim that the most legally restrictive approach has been taken. That independent legal opinion concludes that the Scottish Executive could have used its powers to block GM maize cultivation. It says that a stronger position could have been adopted on three counts. The first is "on the grounds that" the crop

"did not satisfy the requirements the variety is of satisfactory value for cultivation"

and the second is

"on the basis of the precautionary principle",

which we argue has been improperly applied. The opinion says:

"It is also arguable that in accepting Chardon LL maize on to a National List, the Scottish ministers have failed to apply the precautionary principle properly."

The third ground is that the Executive

"failed to take independent steps ... to avoid adverse effects on human health and the environment."

We are all aware of the evidence vacuum on health. To commercialise now is to leap before we look.

George Lyon (Argyll and Bute) (LD): I thank Patrick Harvie for making available copies of counsel's opinion to his party. He quoted from the conclusions at paragraph 105, but failed to move on to paragraph 106, at which his counsel says:

"I acknowledge the potential for challenge to any such refusal, not only on general grounds of rationality, but on grounds that such a refusal is inconsistent with the European Communities' objectives of harmonisation."

His counsel endorsed the Executive's position.

Patrick Harvie: The Scottish Green Party and I do not claim that only one option exists and that the Executive can use only one interpretation. We argue that a choice is available and that the option of the most legally restrictive approach has not been chosen. The motion that we have lodged as a result of the legal opinion is reasonable. All that it requests is that the Parliament asks the Executive to review all the legal advice and to report to the Parliament, so that we can be assured and satisfied that the most restrictive approach is being taken.

The Executive claims to take a cautious precautionary approach to commercialising GM maize and says that no further legal option was open to it. That claim looked pretty shaky last week; today it has been demolished. The obvious conclusion is that the issue is a straightforward matter of political will. The political will exists in Wales. After a debate on a motion from the Liberal Democrat group there, which was stronger than our motion here, the Assembly's Minister for Environment, Planning and Countryside gave a commitment not to add Chardon LL maize to the UK seed list without the Assembly's authorisation through a free vote. Why should we have less than that? All that we need is the same strength of will.

Nora Radcliffe (Gordon) (LD) rose—

Patrick Harvie: I am sorry; I must move on if I am to finish on time.

Will that strength of will come from Jim Wallace? In *The Herald* today, he says of the GM debate:

"The Scottish Parliament could say something, but what would it mean?"

I will tell members what that would mean. It would mean that the Scottish Parliament had stood up for what Scottish people want and that Scottish politicians had more than a shred of honesty and credibility. It would mean that an irreversible decision that affects Scottish agriculture—a devolved matter—was not ducked and dodged while fingers were pointed at London and Brussels. Members should stop pointing the finger and assert their authority. They have been put here to make such a decision. They should make that decision for Scotland and not for the GM industry.

I move,

That the Parliament notes with concern the preliminary legal opinion of independent counsel that the Scottish Executive had discretion to use legal powers to refuse the next stage of GM maize commercialisation which it chose not to exercise; calls for the Executive to review its own

legal advice on which its decision over GM maize was based and to reassess the extent of its discretion accordingly, and calls on the Executive to put on hold the decision on final consent to the placement of GM maize on the UK National Seed List, at least until it has reported back to the Parliament on the outcome of such a legal review and satisfied the Parliament that the most legally-restrictive policy possible toward GM commercialisation has been used.

10:54

The Deputy Minister for Environment and Rural Development (Allan Wilson): I am not one of those who regret the opportunity to debate GM crops yet again. I welcome the debate. It is time to return to a clear understanding of the legal framework and the evidence base for decisions on GM crops and to move away from some of the high emotion and high-drama politics that some Opposition members favour.

The Executive has already undertaken an in-depth review on GM crops, as I said last week. We considered the evidence carefully and I announced our conclusions to Parliament on 10 March. The Greens' motion exposes their approach of looking for any interpretation that supports their preconceived notions. That is not the way for the Parliament to proceed.

I will clarify the Executive's legal position on deliberate release, as that is at the heart of the motion. First, we are required to meet our legal obligations under the Scotland Act 1998. If the Greens care to check, they will find that section 57(2) of that act includes an absolute requirement for the Executive to comply with European Community law. Article 10 of the treaty establishing the European Community also requires member states to abstain from any measures that could jeopardise the Common Market.

More specifically, article 22 of directive 2001/18/EC on the deliberate release of genetically modified organisms says:

"Member States may not prohibit, restrict or impede the placing on the market of GMOs ... which comply with the requirements of this Directive."

I referred to that last week, too.

In legal advice to the Transport and the Environment Committee and the European and External Relations Committee, the Parliament's legal directorate confirmed that neither the Parliament nor the Scottish ministers have the power to impose a blanket ban on the release of GM crops.

Rob Gibson (Highlands and Islands) (SNP) rose—

Patrick Harvie: Will the minister give way?

Allan Wilson: I will take Patrick Harvie's intervention.

Patrick Harvie: I fail to understand why the minister is trying that misdirection again after I talked about it in my speech. Our motion is not about a blanket ban. Legal advice about whether the Executive has the power to impose a blanket ban is irrelevant. Why will the minister not address the motion?

Allan Wilson: Such advice is not irrelevant. As George Lyon said, the opinion of the Greens' counsel—whoever that may be—says that a challenge could be made

"on grounds that such a refusal is inconsistent with the European Communities' objectives of harmonisation."

That is the legal opinion that was given to the Greens.

I will deal with national seed listing, which relates to the substantive point that Patrick Harvie sought but failed to make. It has been claimed that the Executive can and should block the national seed listing of Chardon LL maize. My understanding of the legal opinion that the Greens quoted is that it identifies three grounds on which it claims that that seed listing should be refused. Members should be aware that Chardon LL was the subject of an extensive public hearing under the regulations on national listing, which concluded in June 2002 and for which 227 written and 63 oral submissions were received and thoroughly assessed. The issues that the current legal opinion raises reflect points that were made by Friends of the Earth during that hearing and which were duly considered by the UK, devolved Administrations and our advisers.

The National List and Seeds Committee's view is that Chardon LL satisfies cultivation and use criteria as required by the regulations.

The Government's expert bodies—the Advisory Committee on Releases to the Environment, the Advisory Committee on Novel Foods and Processes and the Advisory Committee on Animal Feedingstuffs—all considered the evidence that was provided to the hearing on regulation 5(4)(b) of the Seeds (National Lists of Varieties) Regulations 2001 (SI 2001/3510) and the precautionary principle and concluded that no new evidence of risk on which to refuse listing had been provided.

Robin Harper (Lothians) (Green) rose—

Patrick Harvie: Will the minister give way?

Allan Wilson: I will take another intervention from Patrick Harvie, but I need to make progress.

Patrick Harvie: How many of the organisations that the minister listed have conducted long-term studies into the health consequences of GM crops—whether Chardon LL maize or others?

Allan Wilson: Those organisations considered all the available evidence. I repeat what I said last week: our expert advisers will consider any new evidence from whatever source—the Green party or elsewhere. If evidence of consequential harm to the environment, human health or animal health were supplied, we would use our powers to ban the introduction of Chardon LL maize.

On whether the requirements of article 4.4 of directive 2002/53/EC to avoid adverse effects on human health and the environment have been met, our legal advice is that we have correctly implemented the common catalogue directive by making a part C consent a requirement for national listing.

I make the fairly obvious point, which I have made three times from the dispatch box, that the seed has not been listed. It is clear that whoever was asked to provide the legal opinion to the Greens thinks that it has been listed. We have applied for an amended part C consent to enable the prospective listing of the seed.

Notwithstanding all that, all Administrations considered that a decision on listing should await the outcome of the farm-scale evaluations. That evidence could be relevant to the listing decision. Now that we have received that advice, we are seeking an amendment to the part C consent and we will not consider the listing of Chardon LL until such an amendment has been secured.

I am over my time, so I will finish. However, I would be happy to answer any questions that members might have about any of the scientific evidence that we have received or about any of the legal points that have been raised subsequently or in so-called new advice.

I move amendment S2M-1091.1, to leave out from “notes” to end and insert:

“acknowledges that at present there is little support for commercialisation of GM crops; further acknowledges the European and UK legislative framework for GM; notes the legal advice provided by the parliamentary solicitor to the Transport and the Environment Committee and the European and External Relations Committee that the Scottish Executive is not permitted by EU law to impose a blanket ban on, or blanket approval for, GM crops; understands that decisions are required on a case by case basis; welcomes the Executive’s decision to reject the commercial growing of spring GM oil seed rape and beet; notes that the Executive does not have scientific evidence nor the powers to ban the cultivation of GM maize; supports the Executive’s decision to seek amendment to the EU approval for Chardon LL maize to restrict its cultivation; supports the Executive’s decision not to agree seed listing for Chardon LL unless and until such EU changes are made; welcomes the Executive’s commitment to consult on coexistence measures that will protect farmers who wish to grow conventional or organic crops, give consumers the choice not to consume GM foods, and introduce compensation and liability measures; supports the Executive’s initiative with the farming industry to ensure consumer confidence and consumer choice in Scottish

produce, and welcomes the continuing commitment in the Partnership Agreement to apply the precautionary principle.”

11:00

Roseanna Cunningham (Perth) (SNP): I could summarise the minister’s position as follows: “We’ll wait until the horse has bolted and then we might think about closing the door.”

I thank the Green party for providing the opportunity to revisit a subject on which the response from both Executive parties has been hypocritical and downright obtuse. I had hoped that, unlike in last week’s performance, with the constant referrals to blanket bans, the Executive parties would keep to the terms of the debate this morning and discuss the legal powers of the Scottish ministers, but it is already clear that they will not.

I am concerned about the minister’s ability to understand some simple concepts of legal terminology, let alone his ability to use the legal powers that we believe he has. In dismissing what I said last week, Mr Wilson said:

“I noted that, in her conclusion, Miss Cunningham said that the point is ‘arguable’—no more, no less.”

The minister should know that, when the term is used legally, “arguable” means that there is a case that can be put and not that the case is tenuous or weak, which is what he apparently thinks. He then compounded the error by saying:

“Anything is arguable in legal terms.”—[*Official Report*, 18 March 2004; c 6773.]

That is simply not true and displays a basic and worrying misunderstanding of the law. Perhaps that explains, although it does not excuse, his apparent inability to exercise his powers under the law.

Allan Wilson: The opinion claims that it is arguable that ministers can refuse to accept Chardon LL. Any opinion is, of course, arguable. The advice is rooted in whether there is any scientific evidence of increased risk to human health and the environment. Can Roseanna Cunningham provide members with any such evidence?

Roseanna Cunningham: Like other members, I spent a considerable time last week discussing our concerns about the extent of that scientific evidence and its validity. This week, I wanted—paradoxically—to concentrate on the motion. I know that that is an unusual concept, but we should at least try to do so. I am still concerned about the minister’s misunderstanding of the word “arguable” in a legal context.

I thank the Greens for letting us see a copy of the opinion that they obtained. Such a courtesy

was not extended by the minister in respect of the detail of his legal advice. I presume that that means that even the Lib Dems are arguing in the complete absence of any knowledge of that detail, although it seems from George Lyon's intervention a few minutes ago that, even when he has an opinion to read, he can do so only selectively, so perhaps we would not have been any further forward in any case. The minister has powers in relation to Chardon LL—however much he might try to wish those powers away—and he should use them.

The preliminary opinion to which the motion refers raises a number of important concerns that should be addressed. Some of those concerns involve points that I made last week. I will not go over that ground again, because the opinion raises other points that need to be addressed—for example, the fact that the precautionary principle in relation to Chardon LL appears to have been interpreted and applied more narrowly than the definition that was given by the Government in the document "The GM Dialogue: Government response" and that there is some disjunction even with the definition, a fact that, in the opinion of counsel, the legal authorities would support. There is therefore a big grey area.

Another interesting question is the definition of risk. When the European Union sought to ban the use of hormones in beef and thereby exclude much United States beef from EU markets, it took the view that a one-in-a-million risk is sufficient justification for avoidance action. I wonder what kind of risk assessment has been done in the context of the introduction of Chardon LL to Scotland.

We are discussing a GM seed variety that still has many question marks hanging over it. It is unsuitable for growing in Scotland and, indeed, most of the United Kingdom. Even the Netherlands does not seek to have it included on the European common catalogue. It is not grown in the Netherlands or anywhere else in the European Union.

The issue is so important for Scottish agriculture and Scottish consumers that it is amazing that the GM crop that the minister wanted to use as a trail-blazer was not of a variety that one could argue might be of more use to Scotland. I can see no purpose in promoting the GM crop that we are discussing as a potential addition to the UK's national seed list other than for it to be a Trojan horse for subsequent introductions. Chardon LL is being used to bridge the Rubicon. It is a bridge too far.

11:04

Alex Johnstone (North East Scotland) (Con): We have heard Roseanna Cunningham speak to

the motion. I am not a lawyer, so I will confine myself to explaining my position, perhaps with a slightly different level of detail, and addressing one or two issues that are raised in the Executive's amendment.

In the previous debate, Mark Ballard said that he believed that bioscience was not likely to be a great industry in the future. I think that that is untrue and that bioscience in Scotland could be one of the heavy industries of the 21st century. Consequently, I have shown a great deal of interest in how that aim could be achieved. In previous debates, I have made it clear that I believe that what we describe broadly as GM technology has enormous potential and that, in the future, there could be huge advances in pharmaceuticals and in other fields, which would be potentially beneficial and should be considered. Therefore, I am happy to agree with the Executive's amendment that such things should be treated

"on a case by case basis".

However, there is little else in the cobbled-together amendment that I would be happy to accept.

Allan Wilson: At least we have a common position in so far as we accept that there is no scientific evidence that the technology per se represents an increased threat to human health or the environment. On Chardon LL maize, which is the specific variety that we are discussing, I ask the member the same question as I asked Roseanna Cunningham, although I did not receive an answer from her. Does he have any scientific evidence that would lead us to believe that the Chardon LL maize variety is any less safe to human health or the environment than its conventional counterpart?

Alex Johnstone: I would have dismissed that long intervention entirely if it was not on the next subject that I was going to discuss. I will deal with the matter briefly.

The Executive has put great store by the concept of cost-benefit analysis in respect of individual options for the introduction of GM crops. However, it is clear that Chardon LL maize produces no cost benefit. There is no viable option to increase productivity by the use of that variety in Scotland. In fact, the summary of the legal opinion states that Chardon LL maize is not

"of satisfactory value for cultivation".

We cannot be satisfied that it is of any value. Consequently, it can be nothing but a Trojan horse—as it has been described—for such technology.

Before we go down that road, even I, as a person who accepts many of the principles behind the technology, must accept that economic

considerations need to be taken into account. The issue of hormones in beef has been mentioned. I believe that such hormones can be used practically and safely, but they have been banned in this country because of public concerns and economic concerns about the quality of the product that is produced. Similarly, bovine somatotropin—BST—in milk production is widely used throughout the world, but not in Scotland because we believe that it would tarnish the image of a quality product and we do not want to go down that road. We must consider GM technology in those terms before we make a choice.

We must also consider how we can protect those who call themselves conventional or organic farmers and wish to produce a non-GM product in the future. If that is their primary economic consideration, we have the responsibility to consider their rights and concerns. I am not convinced that proper provision has been made to guarantee that they will be protected. The opportunity that has been placed before us today to consider an alternative legal opinion enables us to ask the Executive to halt the process until it has drawn proper comparisons and reinforced its conclusions. I believe that that is an appropriate way in which to proceed. I want the issues to be debated and I want the opportunity to argue cases from my point of view. The Executive has not delivered such an opportunity.

11:09

Nora Radcliffe (Gordon) (LD): Mr Harvie might choose to remember that the last time Wales adopted an ultra vires position, it was forced to retract.

From the terms of the Greens' motion, I expected a weighty debate, but instead I have a feeling of déjà vu. Those who are daunted by legal opinions should not fear—there is only one small section that they have to read. The footnote to the summary of the Greens' legal opinion establishes that their independent counsel's legal argument is built on three foundation stones—the discredited Friends of the Earth opinion of 2000, instructions to counsel and the Friends of the Earth opinion of 2003.

The Friends of the Earth opinion of 2003 runs to 14 pages, but one need look only at page 2 to evaluate it. The first sentence on page 2 begins:

"Our opinion is that there are a number of grounds upon which the Assembly could and/or should refuse to accept Chardon LL for the National List".

Unfortunately for the Greens' case, the sentence goes on—

Mr Mark Ruskell (Mid Scotland and Fife) (Green): Will the member take an intervention?

Nora Radcliffe: No. I want to finish my point.

The sentence concludes:

"the Assembly could and/or should refuse to accept Chardon LL for the National List if the evidence of FOE ... is accepted."

That is a rather big if. I do not think that many people in this country will believe that the Government should set aside its legal advice, which is based on expert evaluation of the scientific evidence from ACRE, in deference to a legal opinion that is argued solely on the basis of the views of one pressure group.

Mr Ruskell: I urge the member to be extremely cautious in attacking the legal opinion, which was prepared by an advocate who is retained by Scottish ministers. I would be cautious about trying to pull apart the legal opinion.

Nora Radcliffe: It does not matter how beautiful the edifice is if the foundations are not sound. What does the new legal opinion offer? Under the heading "Are the Scottish Ministers entitled to refuse to accept Chardon LL maize on to a National List?" paragraph 94 of the new legal opinion states:

"The Scottish Ministers would only be entitled to refuse to accept Chardon LL maize on to a National List if a reasonable decision maker could be satisfied that it does not meet the requirements set out in regulation 5(3)(a) to (g) and/or regulation 5(4)(a) or (b)."

Patrick Harvie: Will the member give way?

Nora Radcliffe: I will finish my point. The following paragraph ends:

"the Scottish Ministers would have been entitled to refuse to accept it to a National List on the grounds that they were not satisfied that it met the requirements of regulation 5(3)(c)".

That would be news if that paragraph had not begun as follows:

"In the light of the concerns expressed by the Scottish Green Party as to the ability of Chardon LL maize to satisfy the requirements".

The Executive is being asked to set aside the considered legal opinion of its advisers in favour of a legal opinion that was prepared in a few hours and argues that the Executive has powers that are predicated on accepting the concerns of the Greens. I do not find that to be reasonable and I will not be voting for the motion.

Patrick Harvie: Will the member take an intervention?

Nora Radcliffe: I have another point to make and I do not have time.

I ask the Greens and others to recognise the reality of the situation and to stop trying to build legal positions on sand. If they could produce peer-reviewed scientific evidence, that would be a

different matter and it would merit serious attention. The sensible and pragmatic way forward is to promote voluntary GM-free zones by undertaking the work that is necessary to underpin them and to make them achievable.

At First Minister's question time two weeks ago, the First Minister said:

"A statutory co-existence regime will be created and a regime will be established for penalising GM companies should any cross-contamination occur."—[*Official Report*, 11 March 2004; c 6569.]

We should be working to get such regimes right. Scottish Liberal Democrats welcome the move to establish what would constitute effective co-existence measures, through which we could pin liability where it belongs. We believe that that supports our wider aims of promoting organic farming, consumer and farmer choice and quality Scottish produce.

11:13

Dr Elaine Murray (Dumfries) (Lab): Here we are again. We seem to debate this issue more frequently than we debate amnesic shellfish poisoning. I suspect that the motive behind the debate was the fact that the vote was very close last week.

We seem to have what is a preliminary legal opinion, which seems to be based on what is arguable and on the possibility of challenges to the Scottish ministers had they made a different decision.

John Scott (Ayr) (Con): Will the member give way?

Dr Murray: I want to get on. I have been speaking for only 20 seconds.

From that legal opinion seems to have come the interpretation that the Executive wants a Trojan horse to bring in lots of GM crops. I cannot understand the basis of that argument, given that it is absolutely clear that decisions on crops will be made on a case-by-case basis. Nevertheless, I was initially disappointed when I heard the announcement by the Secretary of State for Environment, Food and Rural Affairs that the UK Government had agreed in principle to the commercial cultivation of Chardon LL T25.

In principle, I am not opposed to GM. Like Alex Johnstone, I believe that GM can be used to our benefit and that it can be used to our detriment. I was disappointed by the announcement because it seemed to be in opposition to public opinion and I believe that politicians have a responsibility to give due consideration to the views of those who elect them. However, the clarification from the secretary of state and from the Deputy Minister for Environment and Rural Development has

reassured us. The deputy minister has not consented to adding Chardon LL maize to the national seed list.

There are two important conditions to the agreement. First, the restrictions on the European Union marketing consent mean that the crop can be grown and managed only in the trials or under conditions that will not adversely affect the environment. Secondly, when atrazine is phased out in 18 months' time, further scientific analysis will be required to monitor changes in herbicide use on conventional and Chardon LL maize.

Professor Joe Perry of Rothamsted Research has conducted research into alternatives to atrazine. He has found alternatives that are beneficial to the environment and has concluded that the environmental benefits of Chardon LL could therefore decrease. However, he does not believe that those benefits will be negated. If they are negated, the crop will be thrown out.

As we have heard, Chardon LL is unlikely to be grown in Scotland. Forage maize forms less than 1 per cent of Scottish arable production and, as we know, T25 is a late-maturing variety that is poorly suited to the UK climate, although it had clearance to be grown in France in 1998.

John Scott: As the member's constituency is the one that is most likely to be the recipient of Chardon LL maize, should it ever be grown in Scotland—

Dr Murray: I am sorry, but I am not taking that intervention. My constituency is not likely to be a recipient of Chardon LL. Even the climate of Dumfries and Galloway, mild and pleasant as it is, is not likely to be suitable for that brand.

John Scott rose—

The Deputy Presiding Officer: Mr Scott, Dr Murray is not taking an intervention at the moment.

Dr Murray: I know that someone in Alex Johnstone's constituency maintained that he might grow the crop if it was commercially advantageous, but it is highly unlikely that a late-maturing variety will be advantageous. Even though the precautionary principle says that the polluter pays—

John Scott rose—

Rob Gibson (Highlands and Islands) (SNP): Will the member give way?

The Deputy Presiding Officer: The member is not taking an intervention. You are in your final minute, Dr Murray.

Dr Murray: There is a serious misunderstanding about the nature of the precautionary principle as it is applied by the European Commission. The

precautionary principle is not a politicisation of science, but a risk-management scheme. When action is necessary, measures taken under the precautionary principle in the EU should be proportional to the chosen level of protection, non-discriminatory—which is one of the reasons why ministers had to make the choices that they made—consistent, based on examination of potential benefits and costs of action or lack of action and subject to review in the light of new evidence. Moreover, there must be a capability of assigning responsibility for producing the scientific evidence that is necessary for a more comprehensive risk analysis. That is how the precautionary principle is applied in the EU and it is the basis on which ministers made their decisions. I believe that the ministers made the decisions that they had to make.

11:18

Alasdair Morgan (South of Scotland) (SNP):

In the brief time that I have, I will concentrate on public consultation and attitudes. In her statement on 9 March, Mrs Beckett said:

“People already engaged with the issues were generally much more hostile. Those not so engaged were more open-minded, anxious to know more, but still very cautious; and it was suggested that, as they learned more, their hostility deepened.”—[*Official Report, House of Commons*, 9 March 2004; Vol 418, c 1381.]

From that, I take it that, in terms of public perception, the issue is not going to go away.

In the debate last week, George Lyon quoted the Liberal Democrat manifesto. He said

“we would not permit the commercial growing of GM crops in Scotland until trials had been completed”

and

“a public debate had been concluded”.

When someone asked him what had happened to that public debate, he replied:

“I will move on to public and consumer concerns later in my speech.”—[*Official Report*, 18 March 2004; c 6791.]

He never did that, of course, so what we have is typical double-speak. What do we mean by having a public debate? The Liberal Democrats mean that we may have the debate, but they will ignore the result.

Nora Radcliffe: Will the member take an intervention?

Alasdair Morgan: I am sorry, but I do not have time.

The Liberal Democrats’ argument seems to be based on a total inability to act. If that is the case now, it was also the case when their manifesto was published. They were leading the public up the garden path, because—according to their

argument—at the time that they called for a debate they knew that legal advice would prevail and they could ignore the result of the debate, whatever that was. No wonder the public at large do not trust politicians or the political system. We should not be surprised that there is total cynicism about the political process and lower voter turnout. Politicians either totally ignore public opinion or— even worse for our credibility—we semi-agree with public opinion, but say that we are sorry but we cannot do anything about the situation.

The First Minister says that the Scottish Parliament is sceptical about GM, but we do nothing about it. At the beginning of the debate, Patrick Harvie quoted Jim Wallace as saying:

“The Scottish Parliament could say something, but what would it mean?”

Last week, the Deputy Minister for Environment and Rural Development cited the legal position. This week he has done so again at length. We are meant to say, “That’s all right then. Sorry, we did our best.” No wonder the public are cynical. MSPs cannot do anything, because we do not have the necessary legal powers. Apparently, MPs and the Westminster Government cannot do anything, either, despite the fact that we are always told that one of the great arguments for staying in the union, as part of the United Kingdom, is the power of the UK in Brussels. Presumably, MEPs cannot do anything, because the issue does not come within their bailiwick.

Patrick Harvie said that the Executive’s stance demeans Scottish politics and the Scottish Parliament. I suggest that politics at all levels is being demeaned. Certainly, the European ideal is being demeaned. We cannot keep saying that, regardless of what people want, we as politicians at all levels in this country cannot do anything about it, presumably because of laws that were made and decisions that were taken earlier. By whom were those decisions taken? They were taken by politicians in this chamber and politicians down the road at Westminster—politicians who in many cases are still making decisions. Eventually, some of us will have to make it clear that, when the public say something, it is our duty—if we believe that people want what they say they want—to translate that into action, instead of just wringing our hands endlessly and quoting lawyers. We might as well have a chamber full of lawyers and no politicians. Certainly, we should never ask the public because, whatever they say, we will do nothing about it.

11:22

Eleanor Scott (Highlands and Islands) (Green): As Patrick Harvie said, we see today’s debate as the second half of the full debate that we should have had and that, in fact, we

requested. That is why I may refer back to what was said in the debate last week.

I start by pointing out something that members may have seen in the media. At the moment, there is a competition to find an 11th commandment. How about, "Thou shalt not cause contamination that thou canst not undo"? The point about GM is that, once GM contamination of our environment has occurred, it is there—no one will go around hunting for pollen grains. I do not like the cliché but, as has been said, the genie will be out of the bottle and we will not be able to get it back in. We must take the issue seriously. We are dealing not with just another crop, but with one that is qualitatively different from anything that we have faced before. We must take that point on board.

The Executive amendment refers to "a blanket ban". That spurious phrase keeps coming up. I looked carefully through our motion which is in the name of Mark Ruskell, but it contains only one word beginning with B—"based". That cannot be misread for either "blanket" or "ban". The Executive keeps making what is an entirely spurious point to ensure that we do not discuss the real issues that are at stake.

We have agreed that the only way forward is to examine genetically modified crops on a case-by-case basis—that is why we are considering Chardon LL.

Allan Wilson: I put the same point to Elaine Scott as I put to her colleague Patrick Harvie. When we say "blanket ban", we refer to the single European market and the provision for competition therein. Paragraph 106 of the legal advice that the Scottish Green Party has received acknowledges "For completeness" that there is

"the potential for challenge to any such refusal ... on grounds that such a refusal is inconsistent with the European Communities' objectives of harmonisation."

If a ban is not potentially in conflict with those single-market principles, why would the Scottish Green Party's legal opinion have included that reference?

Eleanor Scott: There is no harmonisation issue, given that—as far as we can tell—no other part of Europe intends to grow Chardon LL maize. I will deal with the issue of challenge later.

I want to examine why Chardon LL has been proposed for planting, because—as Alex Johnstone has said—there is no need for the crop to be included on the seed list for Scotland, as no farmer will want to grow it for its merits. Our legal advice states that the crop does not fulfil the requirement of being

"of satisfactory value for cultivation".

No one disputes that.

The phrase "Trojan horse" has been used. I would like to use the phrase "thin end of the wedge" and to consider briefly what the rest of that wedge may contain. When discussing GM and the so-called farm-scale evaluations, the Executive has been careful to say that, as a result of those evaluations, we will not consider growing beet and spring-sown oil-seed rape. It has not mentioned winter-sown oil-seed rape, as the relevant report has not yet appeared. That is the crop of real concern. A so-called farm-scale evaluation of winter-sown oil-seed rape took place in the area that I represent, the Highlands and Islands. The crop would be a real problem, because it grows readily throughout Scotland, spreads like wildfire—it can be seen growing on islands where it has never been sown—and produces huge amounts of pollen that has the potential to spread genetic contamination over a wide area. In that context, exclusion zones and voluntary bans would be meaningless.

Nora Radcliffe: Does the member accept that we can refuse to accept the crop for commercial growing if we receive evidence to that effect from the farm-scale trial?

Eleanor Scott: I am not convinced of that. The farm-scale trial was very narrow in its conception. It considered the management regime but not questions such as pollen drift, an issue that was specifically raised at public meetings. The trial also did not address issues of liability.

Nora Radcliffe *rose—*

Eleanor Scott: I cannot take a further intervention, as I am in the final minute of my speech.

The Environment and Rural Development Committee is currently considering common agricultural policy reform. The thrust of CAP reform is that farmers will farm for the market and be paid for providing environmental benefits. Chardon LL has no place in that strategy—it has no place in the market and is providing no environmental benefits. That makes one wonder what is going on.

The Deputy Presiding Officer is indicating that I am out of time, but I would like to refer briefly to a comment that was made by a Labour member about the message that we are sending to the scientific community. We should send the message that a smart, successful Scotland uses science in a responsible way. We should not just roll over and make ourselves into an open-air laboratory. That would be neither smart nor successful; it would be poor and pathetic.

11:27

Christine May (Central Fife) (Lab): I am delighted to have the opportunity to participate in

this debate. Alasdair Morgan said that the issue that we are discussing will not go away. On the evidence of the past couple of weeks, it will not. The matter is probably worth debating, although we are going over some of the same ground that we have gone over before.

No member would not have liked to have been able to tell the public, "You were right—it's not safe and we're going to ban it. We have all the scientific evidence that shows that to be the case." Unfortunately, that is not the case. If we do not get what we want, there is no point in our behaving like spoiled children, stamping our feet and demanding that, somehow, reality should be different.

John Scott *rose—*

Mark Ruskell *rose—*

Christine May: I want to develop this point.

It is all very well knowing what people are against, but we need to know what they are for in the advancement of science, the economy, biodiversity and the environment. If the Greens want to be taken seriously in the Parliament, they need to stop behaving like an overblown pressure group and to start behaving like a responsible political party.

Eleanor Scott: Does the member accept that the biotech industry is not doing itself any good by advancing a young science into an uncontrolled situation in the environment when it is not ready for that? Does she accept that the potential benefits of biotechnology, which are many, particularly in medicine, could be lost if the industry becomes besmirched by some of its own actions?

Christine May: I do not accept that, because I do not think that the situation is as the member describes. The science base in the UK as a whole and in Scotland, where the industry is particularly important, is behaving responsibly in this case, as it has done on GM issues over the past 20 years, especially in the pharmaceutical industry. Let us consider for a moment the evidence that we have.

John Scott: Does the member accept that hormones for use in beef cattle and BST for use in dairy cattle were not introduced into the UK and Europe, although the scientific evidence in both cases was such that they could and, reasonably, should have been introduced? Public opinion prevented the introduction of those apparent aids to agricultural production. Does she accept that public opinion should do the same in the case of GM crops?

Christine May: That was a rather lengthy intervention, the nub of which was that we should not take the case-by-case approach that we are taking. However, that approach is the sensible one to take.

Let us look for a moment at the legal opinion of which the Scottish Green Party has graciously allowed us sight. In paragraph 5, that party's counsel says that he had little more than 48 hours to prepare his opinion. He goes on to say that he relied on a number of other opinions in order to produce his. He says in paragraph 8:

"I am broadly in agreement with the reasoning and conclusions set out in each of the said Opinions, although the actual questions to which Counsel directed themselves were slightly different from the question which I am asked."

In fact, the response is based on a different set of premises and questions. That leads me to have some difficulty in accepting the conclusions. Although I accept that most cases are arguable, what is at issue is the strength of the arguments. The opinion has not shown that the strength of the arguments is any greater now than it was last week.

The Executive has listened to the public's views. The public are uneasy about GM and we do not support early commercialisation of GM crops in Scotland. We are looking to safeguard human health and the environment. We do not have the scientific evidence, but if the Greens can bring it to us, we will be delighted and we will make it available to Parliament—

Eleanor Scott: Will the member take an intervention?

Christine May: I am out of time. I support the Executive amendment and I urge members to be responsible and to do the same.

11:31

Ms Rosemary Byrne (South of Scotland) (SSP): We are back here again and I thank the Greens for bringing the debate back to the chamber. It gives us another chance to explain things patiently to the Executive.

We in Parliament know that the majority of people in Scotland do not want GM crops to be grown. We also know that, if the Executive was serious about the precautionary principle, it would not be opening the way for the growing of GM. However, as I said, here we are again.

The Scottish Green Party motion that we are discussing today is an easy one for the Executive to understand and for it to support if it wishes. A legal opinion has been obtained from an independent counsel, which states that the Executive has the legal power to refuse the next stage of GM commercialisation. The motion calls simply for the Executive to review its own legal advice. The very simplicity of the situation begs the question of why the motion even needed to be lodged. Is the Scottish Executive so incompetent that it does not know what powers it has? Is the

Executive so uncaring that it knows what powers it has, but chooses not to use them? Or, is it the third option: that the Executive knows full well what powers it has, but merely does as it is told by Tony Blair and his science minister, Lord Sainsbury?

Legal experts have stated that Scottish ministers have the powers to refuse consent to the addition of Chardon LL to the national seed list. The ministers have those powers on three grounds. The first ground is because they have failed to take measures to avoid adverse effects. European directive 70/457/EEC, which sets out the overarching legal framework for seed listing and provides the basis for the regulations, states that all seeds that are to be added to the national list must

“be accepted only if all appropriate measures have been taken to avoid adverse effects on human health and the environment.”

Secondly, GM crops do not satisfy the requirements of value for cultivation. Value for cultivation and use is a specific mandatory requirement of European directives and domestic regulations. No seed variety can be added to the list unless it can demonstrate a clear improvement for cultivation.

The third ground is the most basic of all—the precautionary principle.

Christine May: Does the member accept that the opinion states in the second-last paragraph:

“For completeness, I acknowledge the potential for challenge to any such refusal, not only on general grounds of rationality, but on grounds that such a refusal is inconsistent with the European Communities’ objectives of harmonisation.”?

Ms Byrne: My points override the member’s points. The precautionary principle states that the relevant authority—the Scottish Executive in this case—should have regard to all relevant scientific information on the risk of serious and irreversible harm.

We have gone over and over the subject this morning. Labour and Liberal Democrat members are telling the parties on my side of the chamber that we do not understand, but we tell them that they do not understand.

Allan Wilson: Will the member take an intervention?

Ms Byrne: I do not have time; I am in my last minute.

The Labour and Liberal Democrat parties are not listening to us and they are not listening to public opinion. I do not know what it would take to get through to them that they must address the problem. The Green motion is a simple one that

they should be able to support. As for the Lib Dems, there is duplicity in the difference between their policies down south and their policies up here. It is absolutely ridiculous that they can do one thing here and another thing in another country. They should be ashamed of themselves.

The Scottish Executive has not used all the powers that are available to it to prevent the future commercial growing of Chardon LL. It must give a guarantee to Parliament that it will undertake a review of its legal advice on the matter and put on hold its consent to the addition of Chardon LL to the national seed list.

I urge members to support the Green motion.

The Deputy Presiding Officer: We move to the winding-up speeches. George Lyon has four minutes.

11:36

George Lyon (Argyll and Bute) (LD): I thank the Scottish Green Party for its courtesy in allowing us to see the legal opinion last night, which gave us the chance to look over it.

As I and others have stated many times before, the Scottish Executive has the powers to ban the commercial growing of GM crops in Scotland, but—and it is a big but—only if there is credible scientific evidence that there is a risk to human health, the environment or animal health. I hope that we all agree that that is the basis on which the powers exist.

Mary Scanlon (Highlands and Islands) (Con): Will the member take an intervention?

George Lyon: I want to make some progress as I have only four minutes.

The Executive has been able to reject the commercialisation of spring rape and sugar beet because credible scientific evidence was gathered during the trials that allowed us to reject those crops. Firm grounds have been established and accepted by the independent scientific review that was undertaken of those crop trials.

The opinions from the Greens’ counsel and from the counsel for Friends of the Earth, which was done for the National Assembly for Wales, are right to say that we have the power to reject GM crops. However, both are utterly flawed in that they are predicated on the claim of the environmental damage that would be done as a result of growing Chardon LL. None of those claims is backed by the Advisory Committee on Releases to the Environment. Therefore, the legal opinion is based on a false premise and adds nothing to the debate today.

Robin Harper: Will the member explain to us the difference between the Liberal Democrats’

position in the Scottish Parliament and their position in the Welsh Assembly? In Wales, they lodged a motion to endorse the conclusion of the UK Parliament's Environmental Audit Committee that it would be irresponsible of the UK Government to allow the commercial planting of GM crops. They also deplored the UK Government's announcement of its intention to approve the growing of GM maize Chardon LL and lodged a motion directing the Labour Assembly Government to ensure that Chardon LL is not added to the UK seed list.

George Lyon: If Robin Harper cares to read our manifesto, on which we were elected in 2003 and which lies at the heart of the Executive amendment today, he will find the position of the Liberal Democrats in Scotland. It is the position on which we were elected and it is what we are doing.

The minister has asked both the nationalist party and the Conservatives, if they wish us to move on the subject, to provide new scientific evidence to allow us to reject Chardon LL. That is the key, not legal opinion on whether the Scottish Executive has the powers. The question is whether there is new scientific evidence that would allow us to make such a decision stand up in court against the European Commission.

Eleanor Scott: Will the member give way?

George Lyon: I have to move on—I have given way two or three times. I hope that the Deputy Presiding Officer will make some allowance for the interventions that I have taken.

I turn to the serious question of where we go from here. It is clear that the Scottish Executive's position is to ensure that we take the most legally restrictive approach to any commercialisation of GM crops. Will the minister tell us how long it will take for Europe to agree to amend its current consent for Chardon LL, under part C of directive 90/220/EEC, so as to ensure that it is grown in this country only under the same management regime as applied to the trials? That is the first step of our precautionary principle approach.

Consumers' concerns must be addressed by giving them choice about whether or not to purchase certain products. How soon will the labelling regime be introduced, and will it give consumers information about which farms use GM crops for the feeding of animals?

Allan Wilson: On the earlier point, it will take several months—perhaps very many months—for the European Commission to respond to our part C consent amendment, which would determine if, how and when GM maize could be grown under conditions that replicate the farm-scale trials. The labelling regime will come into being on 1 April. The member should be aware that Chardon LL maize has consent in the Netherlands, and so could enter the European catalogue from there.

The Deputy Presiding Officer: You must finish now, Mr Lyon.

George Lyon: I thank the minister for his response.

The Greens' motion and counsel's opinion add nothing new to the current debate. The Liberal Democrats will be supporting the Executive amendment because it is based firmly on our manifesto, which was endorsed by our party conference last year, and on which we were elected to the Parliament in May.

The Deputy Presiding Officer: I call Alex Fergusson. You have four minutes, Mr Fergusson.

11:41

Alex Fergusson (Galloway and Upper Nithsdale) (Con): So did George Lyon, I think, but I will keep to my four minutes, Presiding Officer.

I am deeply grateful to the Scottish Green Party for bringing this matter back to the chamber today, principally because it gives me the opportunity to complete what I wanted to say last week, but was unable to say due to the fact that I was spending so much of my time venting my wrath at the Liberal Democrats. I will not waste my time doing that this week, other than to suggest to them that they do not bother trying to intervene on me, because I am not taking any interventions—at least not from them.

Last week, I mentioned that a farming constituent of mine was recently quoted in the agricultural press as saying that he would certainly grow GM maize if he perceived an economic advantage in doing so, and I do not blame him for that. However, I do not believe that that is what the minister means by his assertion that the consumer will decide. If my constituent, and others like him, were to grow GM crops and use them as feed for economic gain, the opinion of the consumer would be completely irrelevant, and would have nothing to do with it. An increasing number of my farming constituents are pursuing innovative niche-marketing opportunities—and are gaining premium prices in the process—by developing markets based on high-quality traceable products of high integrity and purity. If my maize-growing constituents were all to grow GM maize—and there are more of them in my constituency than in any other constituency in Scotland—the entire businesses of other producers would be under considerable threat.

I do not claim, and never have claimed, to be a visionary, but I can see a picture emerging. I can see a south of Scotland—which, as Elaine Murray rightly said, has a splendid climate for agricultural products—in which GM crops will become quite common, and where it will become impossible to

produce a high-quality niche product of high integrity, purity and value. I see a central belt, offering a natural buffer zone next to a voluntarily GM-free Scotland in the north, with the central belt and the north of Scotland enjoying all the benefits that I am increasingly convinced will come from being robustly and resolutely GM-free.

Dr Murray: Will the member take an intervention?

Alex Fergusson: I am sorry; I do not have time.

As a south of Scotland MSP, I will not stand idly by and let that happen. If there are any Labour and Liberal MSPs who should be searching their consciences today, it is those who represent the south of Scotland. They should think very carefully about how they will vote at 5 o'clock, because their constituencies have every bit as much to lose as mine does.

I will probably make up for the extra time that George Lyon had, but I repeat my endorsement of one part of the minister's comments on this subject. I agree that voluntary GM-free zones should be encouraged. As I said last week, I believe that the whole of Scotland should be one. Paragraph 10 of the preliminary opinion of the Greens' counsel, which I thank them for making available, states:

"it is arguable that the Scottish Ministers have discretion to refuse to accept Chardon LL maize on to a National List, the exercise of which would have been unlikely to have been successfully judicially reviewed."

Whether or not Chardon LL has yet been listed—and I accept what the minister says on the matter—that part of the opinion suggests that the Scottish Executive can turn a voluntary GM-free zone into a compulsory one.

If we as a country can afford not to support the motion today—

Allan Wilson *rose*—

Alex Fergusson: I am in my last minute, and I seem to remember that I had to remind the minister that he wanted to make an intervention on me last week. He will forgive me if I do not take one this week.

The Scottish Conservatives will not take a risk; we will support the motion.

11:45

Rob Gibson (Highlands and Islands) (SNP): The context of the debate is the attempts by GM firms around the world to incorporate their products into the agricultural practices of various countries. The European Union has taken the view that it wishes to delay that happening, but it is doing so in the face of pressure from the World Trade Organisation to liberalise its agriculture laws to allow it to happen.

Where field trials have taken place, they have been somewhat incomplete. The Government has a problem in getting all the evidence to maintain its stance. The evidence is incomplete because the Government has failed to ask all the questions. I heard the minister's statement on the subject two weeks ago, and I asked:

"Will he name the definitive study of the effect on human health of GM crops on which he bases his advice?"—
[*Official Report*, 10 March 2004; c 6434.]

However, there is none, because it was never asked for. That is a fundamental flaw right at the start.

If a new crop was brought in, we would expect there to be a check, with a control group, and perhaps another group near a field-scale trial—as there was at Munlochy—and for a study on human health to be carried out. We proved in the Health Committee that that did not happen, and the minister does not acknowledge the fact that that is necessary.

Allan Wilson *rose*—

Rob Gibson: I will not take an intervention at this stage, thank you.

From the minister's interventions when we were setting out our arguments last week, it is quite clear that he relies on evidence that he is not prepared to publish and on opinions from Government solicitors that have not been laid before the Parliament. It would be interesting to know whether any of those opinions are up to date. The solicitor for the Transport and the Environment Committee gave his opinion in 2000, if I am not mistaken. Has it been updated? The Friends of the Earth material, which I cited last week, was updated in 2003. [*Interruption.*] The parliamentary solicitor gave his opinion. Does the Executive have any opinions that it is prepared to publish? I see none.

We know that no study on Chardon LL has been published—the University of Reading study into the effects of the field-scale trials of Chardon LL maize has not been published. It should be noted that similar maize affected the health of broiler chickens when they were fed it. A similar maize, Syngenta Bt-176 fodder maize, was fed to cattle in Germany, 12 of which died. Syngenta paid compensation to the farmer involved, in effect admitting liability.

When the minister says that he is consulting on such liability, is he standing on the side of reason and of the public, or is he acting as a Trojan horse for bringing GM crops into the country? The minister is acting as a mouthpiece for big business; otherwise, he would adopt the same arguments adopted by the First Minister of Wales, who has said:

"The National Assembly for Wales is ... committed to applying the most restrictive approach possible to the commercialisation of GM crops ... We will continue to consider all options to protect organic and conventional agriculture".—[*Official Record, National Assembly for Wales*, 10 February 2004; p 26.]

The charge today is that the minister has not ordered health studies; he has not sought the most up-to-date opinion; and he has not published such information so that the Parliament can have the kind of debate that it requires to have. Members should reject the Government's amendment and support the Green motion.

11:49

Allan Wilson: I will try to cover the points that have been raised, although I will not have time to cover them all. I agree with something that Mark Ruskell said: this should not be a sterile debate about legal opinion. However, we have seen the legal opinion. This is not a question of shooting the messenger—far from it—but the opinion is unsigned and unattributed. Paragraph 5 says that it is a preliminary opinion prepared at 48 hours' notice. To present it as a considered review is, I would argue, misleading.

Mr Ruskell: Would the minister then agree to review the opinion? That is the purpose of our motion.

Allan Wilson: I would indeed; I am happy to give Mr Ruskell that guarantee. Obviously, if we review legal opinion, we will review all aspects of it. We are in a process of continuous review. Probably for the fifth time in this chamber—if not the umpteenth time—I will say that, when we receive reliable peer reviews and scientific evidence of harm to human health, animal health or the environment, we will use the powers vested in us to ban the cultivation of GM maize anywhere in Scotland.

Patrick Harvie: Will the minister agree to do more than merely wait for that evidence to come along? Will he agree to commission it?

Allan Wilson: I will come on to talk about all the scientific evidence, from all sources, that has been commissioned, peer reviewed, published and considered by all our scientific advisers in direct response to the points that the SNP has made.

John Scott: Will the minister give way?

Allan Wilson: Let me develop the point.

Our scientific advisers have assessed the risks of using Chardon LL maize as animal feed. They have found nothing to indicate that Chardon LL maize grain, or its products, pose any more of a risk than non-GM varieties when used in animal feed. I will quote from the science review panel, which stated:

"There have been many scientific studies, particularly in recent years, involving thousands of pigs and poultry and hundreds of beef and dairy cattle where no evidence has been found for adverse effects on animal health ... as a result of the use of GM feed containing herbicide tolerant or Bt constructs."

We have commissioned a multitude of environmental and other scientific advice and no evidence of any harm to human health, animal health or the environment has been produced.

John Scott: I do not think that the minister has understood my point. BST was not introduced in Europe and cattle hormones were not introduced in Europe, yet the science said that they were safe. The decision becomes political. Is the minister prepared to take that decision on behalf of British consumers?

Allan Wilson: We are talking about two quite different regulatory regimes. If Mr Scott wants to come back to me to talk about hormones in cattle and the regulatory regime, I will be happy to debate the issues with him. However, we are here to debate a Green motion. The motivation behind that motion is, I believe, genuine—on the basis of both legal opinion and science. The motion is on the introduction of herbicide-tolerant GM Chardon LL maize. With all due respect to Mr Scott, we are not here to debate hormones in beef.

We are not talking about blanket bans. That particular variety of maize has been reviewed by experts not only here in the United Kingdom but in the 15 member states of the EU. Chardon LL has undergone assessment before receiving a part C consent. It received a part C consent not last week, last month or even last year, but in 1998. Since then, there has been a moratorium on its growth and introduction, as a consequence of what I would argue was a responsible attitude on the part of the biotechnology industry.

I say to Alex Johnstone that no cost-benefit analysis is associated with that process. Only the risks are considered. I would argue that those risks should be paramount in the Parliament's consideration of the issues. The higher burden of proof in relation to those risks is connected with the securing of part C consent. I accept that the issue of value arises in relation to the national seed listing. However, to answer Alex's point, Rosemary Bryne's point and everybody else's points on the precautionary principle, scientific evidence and peer-review studies, the maize has secured national seed listing in the Netherlands and, from there, it could enter the EU common catalogue of national seed listing and then could be grown anywhere in the European Union.

To argue, as some have done, that we are not listening to public opinion is specious and erroneous. Of course we listen to public opinion. Public opinion moulded our opinion on the

introduction of voluntary GM-free zones. We share with the farming industry a common objective to maintain consumer confidence in the food that we eat. If farmers see the benefit in setting up voluntary GM-free zones, we will work with them to develop guidance on how zones could be established.

With those few words, I commend the Executive's amendment to the motion.

11:55

Mr Mark Ruskell (Mid Scotland and Fife) (Green): We have had a two-and-a-half hour debate on this topic: we had one and a quarter hours last week, and I thank the SNP for allocating some of its time to that debate; and we have had one and a quarter hours this week from the Green party. In the past week, we have had an opportunity to reflect on some of the words spoken last week. I will never forget Mike Rumbles bravely wafting his Scottish Liberal Democrats membership card around. Surely that was a real declaration of independence, although I am not sure what it was a declaration of independence from—political reality perhaps.

A number of myths from last week have remained on the agenda. The first is the myth of a blanket ban. It is only Labour and the Liberal Democrats that talk about a blanket ban. I suspect that the blanket ban is actually a comfort blanket for Labour and the Liberal Democrats to hide behind.

Another myth is that somehow the Executive will be acting illegally by not allowing Chardon LL on to the UK seed list. The reality is that no other EU country is growing Chardon LL and no other country in the EU is facing infraction proceedings as a result of not growing it. Our counsel has said that the Scottish Executive has wide discretion in this area. Yes, our counsel says that the opinion can be challenged, but the whole point is that such a challenge would be likely to fail if it were ever brought to court.

Allan Wilson: Does Mr Ruskell accept that Chardon LL maize is listed on the Dutch national seed list, could enter the European Union common catalogue from that source, and so could be grown anywhere in the UK or across the EU?

Mr Ruskell: I thank the minister for bringing up yet another myth. Yes, it is on the Dutch national list but, if it were to go on to the common list—which it is very unlikely to do because I do not think that the Dutch would do that—it would require the agreement of the UK.

I acknowledge that some Liberal Democrats and Labour members are sceptical about GM and, in particular, sceptical about this GM maize crop. I

know that some of those members believe that the Executive has interpreted its powers of discretion correctly. Those members have been reassured by the First Minister's comments two weeks ago when he said:

"The arrangement that has been announced is the most restrictive that we could have put in place."—[*Official Report*, 11 March 2004; c 6570.]

I question that. We have to doubt it because of the opinion of counsel. Our counsel says:

"It is arguable that the Scottish Executive has not used all measures available to it to prevent the future commercial sowing of Chardon LL genetically modified maize."

We must contrast that with what the Deputy Minister for Environment and Rural Development said in his statement on 10 March. He said:

"As I made clear, the Executive does not hold the power of veto on the national seed list."—[*Official Report*, 10 March 2004; c 6430.]

Our counsel's opinion was based on three grounds. The first is the VCU—viability of cultivation for use. Does the crop actually grow properly? For the crop to enter the national seed list, it has to show an advantage over other crops. However, the yields in the field-scale evaluations were markedly inferior. The evidence is there; the Executive needs to review it and it needs to review its decision.

We have heard a lot about the precautionary principle and about taking appropriate measures to avoid adverse effects on health and on the environment. Our opinion states:

"There is no requirement that the National Authorities be satisfied that the plant variety *is, in fact, harmful.*"

The opinion goes on to say:

"It follows that regulation 5(4) increases the National Authorities' already considerable discretion to refuse to accept a plant variety on to a National List."

It is the use of discretion that we are calling into question.

Yes, the powers exist and, yes, evidence has to be backed up. We know that virtually no studies have been done on the issue of human health. We know that, in respect of animal health, the minister has apparently seen a study into the acceptability of Chardon LL, but no one else has seen that study and it has not been peer reviewed. How is that an example of exercising the precautionary principle? It is not. The field-scale evaluations were far too narrow. The evidence is not there. They are not an interpretation of the precautionary principle.

The motion is very reasonable—it is certainly more reasonable than the Liberal Democrats' motion in the Welsh Assembly yesterday. There is nothing in the motion about blanket bans. We are asking the Executive to think again and to

reconsider the national seed listing of Chardon LL while there is still time. We are asking the Executive to agree to address the matter of the truth—no more political point scoring; no more myths; just an honest review of the Executive's decision making and the decisions that it plans to take over the next few months in relation to the crop. I call on MSPs who have any doubt about the decision that has been made over Chardon LL to vote for the motion at 5 pm.

First Minister's Question Time

12:00

Prime Minister (Meetings)

1. Mr John Swinney (North Tayside) (SNP):

To ask the First Minister when he next plans to meet the Prime Minister and what issues he intends to discuss. (S2F-765)

The First Minister (Mr Jack McConnell): I have no plans to meet the Prime Minister in the immediate future.

Mr Swinney: On 14 January, Ross Finnie said:

"I am not contemplating any further decommissioning."

This morning, the Downing Street strategy unit recommended a cut of 13 per cent in the size of the fleet, and called for a further 30 per cent of the fleet to go bankrupt by being tied up for four years without any public support. How does the First Minister reconcile Mr Finnie's remarks in January with this morning's devastating report?

The First Minister: Because we have no current plans for further decommissioning and we are not contemplating that.

Mr Swinney: I do not know which Downing Street strategy unit report the First Minister was reading, but the one that I read this morning has been warmly welcomed by the First Minister's Deputy Minister for Environment and Rural Development. The report proposes a minimum 13 per cent cut in the fleet, followed by bankruptcy for a further 30 per cent of the fleet—a total cut of 43 per cent. It is projected that 8,000 jobs will be lost. Two months ago, Ross Finnie said that there would be no more cuts. Will the First Minister stand by Scotland's fishing communities, reject the report and guarantee to the Parliament that there will be no further cuts in the Scottish fishing fleet?

The First Minister: Mr Swinney poses a false choice, because the issue in the North sea is the long-term sustainability and profitability of the fishing industry and the fisheries. The report published today by the independent strategy unit is a report to Government, which we will consider in discussions with the industry and with colleagues in London and Brussels. The report laid out the need to ensure that, given the importance of the fishing industry, we have a sustainable and profitable industry in the long term. The industry might well require to be slightly smaller than it is today, but it would not necessarily require decommissioning to get to that stage. That is why discussions with the industry are required. We must ensure that we in Scotland take some responsibility for the North sea and for

fishing, and do not always abdicate from making the hard choices and go for the easy solutions. We must make the hard choices, to ensure that we remain a strong fishing country in the long term.

Mr Swinney: The First Minister says that he has no plans for decommissioning, then he tells us that the fleet needs to be smaller. He will get there only if he presides over bankruptcy in the fishing fleet, which is exactly what the report proposes. In 2001, 98 boats were lost from the Scottish fishing fleet and, in 2003, a further 67 boats were lost. That amounts to a halving of the Scottish white-fish fleet. The fleet cannot take any more cuts. Today, however, this report—warmly welcomed by Downing Street—proposes further savage cuts in the fishing industry. Is it not time that the First Minister stood up for the Scottish fishing industry and told Downing Street that enough is enough?

The First Minister: Decisions on the report will not be made by Downing Street; if they are about the Scottish industry, they will be made by the Executive. The right decision is to ensure that there is a sustainable future for the industry. The way to achieve a sustainable future for the industry, which is what the Executive wants, is to ensure that, at this very moment, we negotiate a proper deal in Brussels. We should not go around advocating breaking international law, as Mr Swinney did last month, and destroying Scotland's case in the international arena; we should go out there and argue Scotland's case to secure improvements in the implementation of the deal that was reached in December.

This is also about the longer term. First, that means taking more responsibility here, in Scotland, and making the choices that come with that. It means working with the industry on the regional management of the fisheries in the North sea in a way that makes them sustainable in the longer term. Secondly, it means discussing with the industry how it can become more productive and profitable in the longer term.

We cannot invent fish in the sea—we cannot create them by genetic modification. We have to ensure that the fleet is profitable, on the basis of the number of fish in the sea, the size of the fleet and its capacity to ensure that there are markets, at home and abroad, to which it can deliver. If we achieve that, we will have a long term for the fisheries industry in Scotland and we will not have the depletion that we have seen in recent years.

Mr Swinney: The First Minister will not be surprised to hear that the SNP wants Scotland to have more responsibility for these issues. We make no apology for that and will take no lectures from the First Minister about it.

The First Minister wants the right to negotiate these issues in Europe—so do we. The First

Minister supported the UK Government negotiating on behalf of Scotland in December, when it negotiated such an appalling deal for our industry that he is now having to negotiate his way out of it. Will he stop trying to deceive the people of Scotland and start fighting for the fishing industry in our country?

The First Minister: Yes, of course we will fight for the fishing industry. However, we will also work with it to ensure that it has a long-term, sustainable future. We will not do that by advocating the breaking of international law and saying different things from one month to the next that would destroy Scotland's credibility in the international arena. On 23 February, Mr Swinney said:

“We believe in the equality of nations and ... we will always uphold international law”.

Only one month earlier he said:

“it doesn't strike me as wrong to break the law”

in relation to fishing. He cannot have it both ways.

Our fishing industry needs a long-term, sustainable and profitable future. We have to ensure that there are the stocks in the North sea to underpin that and that we have a fleet that can be profitable. We will do that in conjunction with the industry—yes, inside a common fisheries policy, because the sea crosses borders and we cannot create false fences in the middle of the North sea. Proper regional management, which is advocated by the report that was published this morning, is a major step forward for the industry in Scotland, as it gives the potential for real control over what happens in Scotland in the future.

Cabinet (Meetings)

2. David McLetchie (Edinburgh Pentlands) (Con): To ask the First Minister what issues will be discussed at the next meeting of the Scottish Executive's Cabinet. (S2F-773)

The First Minister (Mr Jack McConnell): The agenda for the next meeting of the Cabinet will be agreed tomorrow. However, I suspect that the report from the Downing Street strategy unit on fisheries may be one of the items that we will discuss.

David McLetchie: I strongly suspect that that will be the case, and I welcome that. Perhaps the Cabinet might like to address some of the fundamental issues arising from that. Is it not the case that the regional management scheme that has been proposed by the strategy unit cannot disguise the fact that the European Union will still determine who can fish, where we fish, when we fish, what we fish and how we fish? Is that not the fundamental problem that needs to be addressed?

As the common fisheries policy dictates that all member states must have equal access to a common resource, is it not the case that effective regional management can be achieved only if we scrap the common fisheries policy and regain the ability to determine access to our own waters?

The First Minister: No—it is quite the opposite. That is why the Scottish Fishermen's Federation said today that, with the important exception of the section on the size of the fleet, this is

“a thorough and well-researched report, which is sure to become a standard reference work for some years ahead.”

The federation thinks that the report provides

“welcome endorsement of the industry's long-standing complaints ... and a new idea in the form of UK Regional Fisheries Managers with considerable devolved responsibilities.”

This morning, the industry was big enough and bold enough to take the long-term view and to decide to engage with the debate on the report. Frankly, I think that the Tories and the nationalists in the chamber would do the Scottish fishing industry a great service if they recognised that the industry itself and the seas cross international borders. That is why we have a common fisheries policy. However, that policy should be directed towards the proper regional management of those fisheries in the North sea and elsewhere and towards devolving decision making to those who know best, such as the countries, local regions and local fishing industries that can plan a more responsible and better future.

David McLetchie: The First Minister seems to forget that, long before the common fisheries policy, fish swam around in the North sea and elsewhere and crossed borders, but countries managed to regulate access agreements on an historical basis without having them determined centrally by Brussels. The fundamental question is who should determine access and control. In this context, it is nonsense to talk about fish not knowing boundaries. After all, the situation that I have outlined pertained for hundreds of years when we had a viable industry. Is it not the case that if we scrapped the common fisheries policy, control of our fisheries management would be devolved to this Parliament? Is the Scottish fishery not a devolved function? Surely, as far as political control is concerned, that would be a sensible solution, unless the First Minister thinks that he could not do a better job for the Scottish fishing industry than Mr Blair and Mr Bradshaw. Why will the First Minister not take responsibility and advocate a policy that will give him that responsibility?

The First Minister: As I have said before, we do not support the British and Scottish nationalist policy of having a free for all in the North sea.

Such a situation would be ridiculous with any common fisheries policy. Furthermore, we feel that it is better to address the matter not through the CFP that we have had for the past 30 years but through a CFP that has proper devolved management responsibility in the North sea and elsewhere. Indeed, the same approach would apply not just inside the United Kingdom but inside Scotland, where authority and management responsibilities are devolved to Shetland, the Western Isles and other fisheries in which people can take more local responsibility over their own lives and ensure that the industry is sustainable and profitable in the long term. That should be our objective. We have finally got the common fisheries policy moving in the right direction.

Today, we received support for our approach from a report that was delivered to No 10. I think that that will mean that the British Government will support such a policy more enthusiastically in future. We intend to carry that forward. We need the politics of the future, not the politics of the past, for Scottish fishing.

Mr Alasdair Morrison (Western Isles) (Lab):

Does the First Minister agree that the Scottish Executive has a moral and political duty to protect the fishing communities that I represent from the ruinous and rapacious fishing methods that have decimated fishing stocks around other parts of the Scottish coastline? Does he also agree that the best way of protecting such communities is to put conservation-based laws on the statute book and to make regional control of fisheries a reality in the short term?

The First Minister: As I have said, the partnership is committed not only to the regional management of fisheries inside the European policy but to the further devolution of responsibility and engagement with the industry in Scotland. That approach has been successful off the west coast of Scotland and in the Western Isles. I have met members of Mr Morrison's fishing community who have taken responsibility for sustainability, reducing illegal catches and ensuring that stocks are preserved and the industry is profitable. If we can get the model going elsewhere in Scotland, we will be doing very well indeed.

Genetically Modified Maize (Commercialisation)

3. Robin Harper (Lothians) (Green): To ask the First Minister what discussions the Scottish Executive has had with Her Majesty's Government and the Welsh Assembly about the commercialisation of genetically modified maize. (S2F-780)

The First Minister (Mr Jack McConnell): Mr Harper will not be surprised to learn that we have had a number of discussions between receipt of

the scientific advice and the announcement earlier this month.

Robin Harper: The Greens have obtained a preliminary legal opinion that says that the Executive has not, in the words of its partnership agreement, "rigorously" applied "the precautionary principle". In fact, we have identified three separate grounds on which the Executive could have been entitled to refuse to allow GM maize on to the seed list but apparently chose not to.

GM maize is not satisfactory for cultivation on the basis of the precautionary principle and on the ground that no independent advice was sought to ensure the avoidance of adverse effects on human health and the environment. Is it not the case that the First Minister has wide discretion in this matter, that the evidence exists that would allow him to use that discretion and that it was lack of political will that held him back? If that is not the case, can the First Minister tell me why, despite the Liberal Democrats' policy, the partnership Government has not used its full powers to oppose GM? Is it because the First Minister does not want to do so?

The First Minister: The partnership has a united position on the issue. Not only do we accept the precautionary principle, we work carefully with the scientific advice and, of course, we use our position inside the collective decision making of the United Kingdom Government and the devolved Governments to ensure that decisions are in line with policy. That is exactly what we have done in this case. If I were Mr Harper, I would have been embarrassed to publish this morning my legal advice, which says that its own position is "arguable". Any legal opinion is arguable; the law and the legal system in this country are about arguing different positions. However, that is not the point here.

We cannot just accept scientific advice when everybody might want us to agree with it from a predetermined position. If we get independent scientific advice and there is a legal framework throughout the European Union and inside this country that we should stick to, we must go with that. At the same time, we push inside the United Kingdom, and we are determined here in Scotland, to be as precautionary as possible because, currently, there is no public demand, no public requirement and no public desire for GM crops to be grown in Scotland. That is what we are setting out to try to achieve.

Robin Harper: The First Minister mentioned devolved Governments. He will be aware that the National Assembly for Wales minister Carwyn Jones agreed yesterday that he will not allow GM maize to go on to the UK seed list without the authorisation of the National Assembly for Wales. If the Green party motion that is to be voted on at 5 o' clock is agreed to by Parliament, it would

allow the Scottish Parliament the same freedom to decide on whether GM maize should go ahead. Will the First Minister allow the Scottish Parliament to have the same freedom on GM maize as the National Assembly for Wales has?

The First Minister: The Scottish Parliament has exactly the same freedom as the National Assembly for Wales to have votes in the chamber. We had one last Thursday and the Executive's position was supported.

Scottish Water (Status)

4. Sarah Boyack (Edinburgh Central) (Lab):

To ask the First Minister whether there is any threat to Scottish Water's public status due to the general agreement on trade in services. (S2F-769)

The First Minister (Mr Jack McConnell): The negotiations on the general agreement on trade in services are about improving the markets in which a range of goods and services are sold. They pose no threat to Scottish Water's status as a public corporation that is accountable to Scottish ministers and the Scottish Parliament.

Sarah Boyack: I thank the First Minister for his unequivocal reply. A clear majority of people whom the Scottish Consumer Council questioned still want a publicly funded water system. As a result of sustained campaigning, the European Union has already stated that Europe's health, education and broadcasting sectors will not be included in further GATS negotiations. Will the First Minister reassure me that he and the Scottish Executive will consider fully the implications of GATS on public services in Scotland and that he will make strong representations through the United Kingdom formulating process to ensure that we retain democratic accountability for our public services?

The First Minister: We will, of course, continue to have discussions and make representations where they are required to secure the appropriate democratic accountability for Scottish public services and the right choices that we want to make here in Scotland. We have received assurances, again, in relation to the water industry in Scotland and that is why I am able to give Sarah Boyack the categorical assurance that Scottish Water will remain a public corporation that is accountable to the Scottish Parliament.

In relation to the opinion survey that was published this morning, it is clear that people in Scotland wish to have a public water service that is run as a public service. The Conservatives might disagree with that position and I note that a certain percentage in the opinion survey also disagreed with that. However, I do not disagree with that position. I believe that what we need in Scotland is a public water service that is run in the

interests of the public, that is as efficient as possible and that continues to drive through efficiencies, but which ultimately provides clean and safe water for people to use.

Murdo Fraser (Mid Scotland and Fife) (Con): Given that the Scottish Consumer Council poll showed that nearly a third of Scots—a percentage that is growing—would now support Scottish Water being in private hands and that the privatised water companies in England have delivered 50 times the infrastructure investment that Scottish Water has delivered, as well as lower charges to consumers and higher water quality, why is the First Minister taking such a dogmatic approach by ruling out moving Scottish Water to the private sector?

The First Minister: The great advantage that those private companies in England had back in the early 1990s was that they were no longer run by the Tory Government, so they were able to invest in water infrastructure. It is precisely because we no longer have that Tory Government that we are now able to invest in water infrastructure. That is why we have a massive investment programme in Scotland. Efficiencies are being driven through the service to try to ensure that there is as little impact on consumers as possible. In the longer term, we want to ensure that Scottish water is safe to use and clean and that we have a service that has minimal charges and maximum efficiency.

Linda Fabiani (Central Scotland) (SNP): The First Minister is being robust here in the chamber about keeping Scottish Water in public ownership, but he will be aware that the United Kingdom is asking 74 countries throughout the world to privatise their water systems. What representation from this Parliament will go to those negotiations in Geneva to ensure that Scotland's water will not be affected?

The First Minister: I am not sure that that is a complete portrayal of the UK's position on the matter, which is to increase international aid substantially, to ensure that much of that aid goes towards providing clean water supplies and to ensure that, inside those countries that need clean water supplies, the right infrastructure to deliver that clean water—and the health benefits that come from it—is put in place as efficiently and speedily as possible. As part of that, the UK is pushing for immediate action in countries throughout the world.

Barker Review

5. Murray Tosh (West of Scotland) (Con): To ask the First Minister what steps the Scottish Executive will take to analyse the implications for Scotland of the Barker review's final report on housing supply and implement any necessary action. (S2F-764)

The First Minister (Mr Jack McConnell): We will be looking carefully at those recommendations that affect devolved responsibilities in parallel with our own review of affordable housing.

Murray Tosh: The First Minister will be aware of the recent survey that showed that emergent households—mainly the young people whom we so strongly wish to attract and retain—are unable to afford housing in a substantial number of housing markets in Scotland. Indeed, he will know about people queuing up for days to snap up houses in new developments as soon as they go on sale. Does the First Minister accept the Barker analysis that that situation is fundamentally a matter of market failure, that we need better planning guidance and more up-to-date local plans, that we need to identify more land to stabilise house prices and that we need more affordable housing to encourage labour mobility and promote social inclusion?

Members: Question.

Murray Tosh: It is clearly a question, Presiding Officer.

The Presiding Officer (Mr George Reid): Briefly, Mr Tosh.

Murray Tosh: Given that we are at least a year away from the planning bill, will the First Minister take that time to commission a review to analyse those issues for the benefit of Scotland and to ensure that his planning bill will deliver a policy and legal framework that is equal to the task of meeting the demands of young households in Scotland?

The First Minister: I welcome the emerging consensus in the Parliament about the need for affordable housing and I welcome Mr Tosh's support for the review on affordable housing that is already under way, which we hope will report by the summer. Today, Margaret Curran is announcing resources that will be held back to support that review, in addition to the overall 7 per cent increase in the budget for investment in affordable housing throughout Scotland, which includes a 10 per cent increase in the budget for affordable housing projects in the coming year in rural Scotland, where there is a particular problem.

We are investing immediately and, next week, we will announce proposals to improve the planning regime in Scotland. Although we are encouraging further developments and the availability of land throughout Scotland, we also have that review in place. When it reports, we hope that it will produce further recommendations that will ensure the availability of more land and more housing both to rent and to buy, because young families in Scotland have that aspiration and we want to ensure that they can meet it in urban and rural Scotland.

Roseanna Cunningham (Perth) (SNP): With rising house prices outstripping salaries by four to one, 50,000 people faced with homelessness, 200,000 people on council waiting lists and 250,000 dwellings lost because of the right to buy, will the First Minister accept that there is a housing crisis in Scotland at the affordable end of the market? Given that the Barker review was a review of UK housing, will he address directly the recommendations of that review and wrap them into the current review, which he says that the Scottish Executive is conducting?

The First Minister: I am surprised that the Scottish nationalists want us to implement in Scotland the recommendations of a review that was, in essence, about the English housing market. The purpose of devolution was that we in Scotland could make our own decisions, conduct our own reviews and have the policies that are appropriate for Scotland.

The key difference between the housing markets in England and in Scotland is that, in England, the number of houses being built is outstripped by the demand for those houses whereas, in Scotland, the number of houses being built is greater than the increase in demand. That should not stop us from dealing with the issues of affordable housing because we want to see people moving to Scotland to work and live here.

We know that we have a particular challenge to meet in our rural communities. That is why we are to have our own review and why we will not just accept the findings of a review that is largely about the English housing market. We will also ensure that extra resources are made available. That is why Margaret Curran will announce today a 10 per cent increase in the resources that are to be made available for affordable housing in rural communities. That is a good development and even the nationalists might welcome it.

Pauline McNeill (Glasgow Kelvin) (Lab): I welcome whole-heartedly the approach of the First Minister and the Scottish Executive to affordable housing. I want to highlight a situation in my constituency of Glasgow Kelvin where an impressive development of 2,500 private houses is to be built. Out of that total, however, not a single house will be in the social rented sector.

I hope that the First Minister will agree that the need for affordable housing is not just a problem for first-time buyers and that we need a supply of social rented housing. In any review of affordable housing, would he consider placing a duty on those responsible for housing strategies and housing development to ensure that a quota of affordable housing and social rented housing is included in any new development that is built in urban and rural Scotland?

The First Minister: Those issues will be addressed in the review and in the consultation on planning that we intend to launch before the Easter recess. In many ways, the issues are being addressed currently in Glasgow with the substantial investment—hundreds of millions of pounds—that will result from the Glasgow housing stock transfer. Glasgow City Council will no longer control people's tenancies; people will control their tenancies themselves through their housing associations.

The process will be assisted by our announcement last Saturday of a co-operative development agency for Scotland. The agency will assist people in Scotland to have more control over their lives. The announcement is one that will meet with dismay on the part of the Trotskyists and the nationalists in the chamber, both of which groups oppose housing stock transfer and do not want the investment of hundreds of millions of pounds to take place in Glasgow. The people of Glasgow want to see that investment and we will deliver it.

Colin Fox (Lothians) (SSP): Given that tens of thousands of Scottish families are effectively denied access to the housing market because of the astronomical price of housing, is not the figure of 51 council houses, which is the latest figure for the total number of council houses built across Scotland, the clearest possible signal from the First Minister and the Executive that they have given up on affordable social housing in their smart, successful Scotland?

The First Minister: I am sorry, but we have moved on. In Scotland today, there are many young families who can afford to and want to own their own homes and not just rent them. That is a legitimate choice. I know that it is one to which Colin Fox's party is ideologically opposed, but it is a legitimate choice for families to want to make.

Also, and much more important for the future strength of our communities in Scotland, we want those families who choose to rent, or who have to rent because they cannot afford to buy, to have more control over their housing. That is why we no longer build so many houses for councils to rent. People have more control over their homes and their lives through housing associations, which give them more say and more ownership over the houses and streets in which they live. That is an important social development. I realise that Colin Fox's party is opposed to that, but I think that it is far more in line with the socialist principles that the Labour Party adheres to than his policy is.

Donald Gorrie (Central Scotland) (LD): Will the First Minister ensure that the planning system requires that any large development must include a substantial amount of social housing for sale and for rent as well as the commercially priced houses?

The First Minister: I believe that there are important issues in the planning system in relation to not only the availability of land for housing but the use to which that land is put, the decisions that are made and the approvals that are given in order to guarantee the availability of affordable housing, either to rent or to buy, for local families. The planning consultation that we are about to launch will address that issue in some respects and I am sure that other issues will be addressed in the course of the months ahead.

Sustainable Development (Convention of the Highlands and Islands)

6. Rob Gibson (Highlands and Islands) (SNP): To ask the First Minister how the agenda of the convention of the Highlands and Islands on Monday 29 March 2004 in Arran will aid sustainable development. (S2F-763)

The First Minister (Mr Jack McConnell): The agenda for Monday's meeting of the convention of the Highlands and Islands—which, I am delighted to say, will take place in Arran—includes tourism, European structural funds and transport. Our commitment to sustainable development runs through our plans for improvements to public transport and our policies for structural funds.

Rob Gibson: Is the First Minister aware of the deeper implications of a recent Highlands and Islands Enterprise survey that shows that the Moray area gains £93 million a year from hosting military bases while the bulk of the Highlands and Islands shares little of that gain but suffers greatly as a result of a Ministry of Defence veto on renewable energy schemes, the loss of amenity from year-round low flying and live bombing and the constant risk of catastrophic environmental damage from nuclear submarine accidents? Will the First Minister order an economic and environmental impact study to establish the wider ramifications of the Ministry of Defence's policies on the economy and environment of the Highlands and Islands and table it for discussion at the autumn meeting of the convention of the Highlands and Islands in Thurso?

The First Minister: I do not think that that would be appropriate for a number of reasons and I suspect that my view might be supported by Ms Cunningham, Mr Swinney, Mrs Ewing and perhaps even by Mr Mather, on the days when he supports certain policies.

We have to recognise that the Ministry of Defence has a considerable investment in communities across Scotland, not just in the north of Scotland, Moray and Tayside. That investment creates jobs and delivers security and peace elsewhere in the world. We should be proud to support that investment.

I recognise that Mr Gibson and many other members of the nationalist party are opposed to that investment and, although I respect that view, I think that it is wrong. For example, more damage is done to renewable energy projects across the Highlands and Islands by certain MSPs from all Opposition parties opportunistically supporting campaigns against developments than is done by the Ministry of Defence.

12:33

Meeting suspended until 14:00.

14:00

On resuming—

Point of Order

Irene Oldfather (Cunninghame South) (Lab): On a point of order, Presiding Officer. During First Minister's question time in recent weeks, the Presiding Officer has normally allowed a question on urgent constituency business. As you will know, I gave notice about the urgent situation in my constituency for workers at Ayrshire Metal Products. However, the Presiding Officer did not take my question on that situation as urgent constituency business today. Knowing that back benchers appreciate that slot within First Minister's question time, will you give an assurance that time will continue to be set aside during First Minister's question time to allow back benchers to raise important constituency matters?

The Deputy Presiding Officer (Murray Tosh): The member will appreciate that I am not in a position to give any response about what happened this morning. The position that the Presiding Officer has announced in the past still stands. As the member has had the opportunity to make her point this afternoon, I hope that we can leave the matter there for the moment.

Question Time

SCOTTISH EXECUTIVE

Environment and Rural Development

Environmental Court

14:01

1. Nora Radcliffe (Gordon) (LD): To ask the Scottish Executive what the implications for the environment are of an environmental court. (S2O-1781)

The Deputy Minister for Environment and Rural Development (Allan Wilson): We are considering whether the creation of an environmental court would improve the protection of the environment.

Nora Radcliffe: Those considerations are likely to lead the Executive to believe that an environmental court would play quite an important role, particularly in enforcing planning conditions that are designed to protect the environment. Will the minister indicate when he intends to consult on the detailed implementation of that partnership commitment and the likely timeframe thereafter?

Allan Wilson: I wish that I could provide more detail. As the member will know, we are considering a range of options on the environmental court and will, as they say, make an announcement in due course. The complex inter-portfolio nature of the matter means that all possible approaches must be assessed in the light of all the different factors, and such careful consideration takes time. It is better that we get it right when we make the announcement rather than rush things and get it wrong.

Angling (Research Findings)

2. Alex Johnstone (North East Scotland) (Con): To ask the Scottish Executive how it will build upon the findings of its research study, "The Economic Impact of Game and Coarse Angling in Scotland". (S2O-1690)

The Deputy Minister for Environment and Rural Development (Allan Wilson): Having received the report, we will now have a period of reflection to allow all those with an interest in game and coarse angling in Scotland to consider the findings. I will speak to a forum of interested groups and individuals on 23 June at the Birnam Institute in Dunkeld, where the next steps will be discussed.

Alex Johnstone: I thank the minister for that detailed reply. Will he acknowledge the excellent

work of fisheries boards and riparian managers in conserving migratory fish stocks and bolstering fish populations in Scotland's rivers, as has been demonstrated in the Tweed and other rivers in the east this year? Will he also guarantee that any forthcoming legislation on the subject will help to support the fisheries boards and independent riparian managers who, without any public financial support, continue to ensure the success of Scotland's angling industry?

Allan Wilson: On the latter point, I am keen to secure and advance the success of the angling industry. As the member will know, the report shows that anglers' annual expenditure in Scotland amounts to around £113 million, which, taking substitution into account, supports around 2,800 full-time equivalent jobs in the sector. From personal experience, I know the contribution that the Tweed makes to that total, as I was able to visit the area last year to discuss these matters. I want the same sort of regime that has been so successful in the Tweed to be rolled out to other parts of Scotland where effectiveness and efficiency are currently much more mixed. We want to maximise the value of the angling industry to Scotland as a whole.

Chardon LL Maize (Cultivation and Use)

3. Mark Ballard (Lothians) (Green): To ask the Scottish Executive whether Chardon LL maize, when grown under the conditions of the farm-scale evaluations, will have value for cultivation and use. (S2O-1795)

The Deputy Minister for Environment and Rural Development (Allan Wilson): The farm-scale evaluations were designed to measure the comparative environmental impact of genetically modified and conventional varieties. National list assessments for value for cultivation and use are based on results from agronomic trials conducted using standard methods and conditions, according to an agreed technical protocol, and require candidate varieties to achieve performance above published standards.

Mark Ballard: I thank the deputy minister for that answer and for that brief incursion into the legal requirements of national seed listing, but does he agree that the VCU tests were carried out several years ago under conditions that would be illegal under the proposed consent? Does he further agree that, on the basis of the existing VCU tests, it is doubtful that that crop can legally be added to the United Kingdom national seed list? Finally, does he agree with me and with the Welsh Assembly Government's Minister for Environment, Planning and Countryside that there should be a free vote before GM maize is added to the national seed list?

Allan Wilson: I am not too sure that the latter point actually reflects the stated opinion of my Welsh counterpart. On the VCU trials, however, candidate varieties are grown in controlled conditions for comparison against existing national list varieties. In addition, the national list requires performance to be above published standards. Chardon LL, as we said in some depth earlier, has met the legal requirement for addition to the UK national list as set out in the national list regulations. In view of the imminent withdrawal of the herbicide used for the conventional variety in the farm-scale evaluations to which Mark Ballard referred, ministers have decided to defer the listing of Chardon LL until such times as the conditions attached to the pre-existing part C consent are amended to place restrictions on the herbicide regime, which may then be applied to the maize so that it complies fully with the regime applied in the farm-scale evaluation.

George Lyon (Argyll and Bute) (LD): Could the minister explain in more detail how he intends to develop and progress the co-existence measures that are crucial before any consent is given to the commercialisation of Chardon LL? Could he also provide some detail of how he intends to work up the measures to deal with compensation and liability to ensure that, if they decide to go down that road, farmers will have proper protection backed by the biotech companies?

Allan Wilson: As George Lyon knows, we intend to consult on the co-existence regime, which would have to be statutorily underpinned in advance of any consent for the growth of Chardon LL maize in Scotland. As it is a spring-grown crop, the very earliest that that might take place—which is of itself unlikely—would be spring 2005, so it is our intention to have consulted on and drawn up a statutory code of practice for a co-existence regime and to have that in place prior to spring 2005. In addition, because we understand the threat to the economics of the agricultural industry in respect of those organic and conventional producers who may be affected by any cross-contamination caused by GM cultivation, it is our stated intention to ensure that the economic compensation regime that we intend to put in place is fully funded by the industry and is not supported by public cash.

Polluted Beaches (Assistance to Local Authorities)

4. Mr David Davidson (North East Scotland) (Con): To ask the Scottish Executive whether it will provide assistance to local authorities to clear beaches polluted by debris brought in by the tide. (S2O-1748)

The Deputy Minister for Environment and Rural Development (Allan Wilson): The local government grant distribution formula, developed over many years and agreed with the Convention of Scottish Local Authorities, takes account of a wide range of factors affecting councils' relative need to spend on services. In 2003-04, £693,000 is being allocated to 14 local authorities for coast protection. That figure rises to £719,000 next year. However, it is for each local authority to decide how best to allocate those resources, based on local needs and priorities.

Mr Davidson: I thank the minister for his unspecific response. He is talking about a budget for coastal protection. Although I know that in Aberdeenshire there are tremendous problems, with bits of cliffs falling off, bankings falling into the sea and so on, that is a different matter to the one that I am raising.

Will the minister seek to support councils such as Aberdeenshire that have tremendous problems near shipping lanes, for example? Aberdeenshire has a huge tourism industry and it is suffering—even the day-trip industry is suffering—from the damage done by debris that is found in public areas.

Allan Wilson: I hesitate to correct the member, but I was referring to overall allocations to local authorities because—as he will know—local authorities are responsible for litter on amenity beaches, as they are for litter on other publicly accessible land; no distinction is drawn between the two. However, local authorities are not responsible for maintaining the entire coastline. I was drawing that distinction in my earlier reply.

The current programme has already enabled fishing boats to remove marine litter through the fishing for litter project, which I believe has been helpful. It has also supported education and awareness programmes and has carried out research into pollution levels and their impact on the seabird and marine life population. That approach is one that we intend to continue in conjunction with Keep Scotland Beautiful and, in a European context, with our partners in other European countries.

Scottish Water (Efficiencies)

5. Paul Martin (Glasgow Springburn) (Lab): To ask the Scottish Executive what action it is taking to encourage Scottish Water to become more efficient. (S2O-1751)

The Deputy Minister for Environment and Rural Development (Allan Wilson): We have tasked Scottish Water, over the current review period of 2002-06, with the delivery of significant efficiencies: more than one third in operating costs and one fifth in capital procurement costs. In his

“Costs and Performance Report 2002-03” on Scottish Water, the water industry commissioner for Scotland has confirmed that, in 2002-03, Scottish Water delivered 10 per cent operating efficiencies and 5 per cent capital procurement efficiencies.

Paul Martin: Does the minister share my concern that my constituents in the Dennistoun area do not appear to have benefited from that efficiency, as they have been waiting for nearly two years for flood prevention measures to be implemented? Will he meet me to discuss the issues with a view to bringing forward capital investment as a matter of urgency?

Allan Wilson: I would be very pleased to meet the member at the earliest opportunity to discuss whatever concerns he may have that relate to his Glasgow Springburn constituency. Development constraints are a problem that affects many constituencies throughout Scotland. We propose to consult on the next investment programme and ask concerned MSPs and others how they wish that investment programme to address the issue of development constraints over the next investment period.

Christine Grahame (South of Scotland) (SNP): I refer the minister to the answer that he gave me yesterday to a parliamentary question, S2W-6845, in which I raised the issue of the swingeing water charges on Stowe Amateur Football Club. I note the provisions of the Water and Sewerage Charges Exemption (Scotland) Regulations 2002; nevertheless, does he recognise that, for example, a £1,000 bill for Coldstream Football Club in the East of Scotland League is way beyond its means? Will he revisit the exemption regulations?

Allan Wilson: I am familiar with the issue, but I am not familiar with the specific circumstances of the football clubs to which the member referred. I would be happy to have a look at the matter.

When the opportunity arose following the failure of the water industry commissioner and the water industry to agree on the charging regime, we introduced a new small business charging regime that takes account of low users of water. It might well be that that gives the business in question some scope.

Recycled Materials (Markets)

6. Sarah Boyack (Edinburgh Central) (Lab): To ask the Scottish Executive what progress has been made in developing markets for recycled materials. (S2O-1743)

The Deputy Minister for Environment and Rural Development (Allan Wilson): We have made considerable progress and are working with a number of environmental organisations to

increase the size of the market in recycled products in Scotland. We have been particularly successful in respect of compost and glass.

Sarah Boyack: I thank the minister for his reply and particularly commend the work that is being done by the waste and resources action programme. I am sure that he will know that WRAP has recently been working on developing market information for organisations so that people can collect and sell recyclables with up-to-date information via the web.

Will the minister take this opportunity to encourage organisations such as local authorities throughout Scotland to take part in a pilot study and to help further to develop recycling markets in Scotland? Will he encourage them to use their own procurement policies to help to promote a long-term and stable market for recycled goods such as glass?

Allan Wilson: Yes. As I have already said, in Scotland there are good markets for a number of materials, such as glass and high-quality compost. We will continue to work with WRAP and Remade Scotland to develop those markets further. We are currently preparing a market development plan to focus on what needs to be done in the future, and to ensure that WRAP, Remade Scotland and the enterprise networks continue to work well together so that they can maximise the economic value of that bottom-line product.

Brian Adam (Aberdeen North) (SNP): I am sure that the minister is aware that one of the most problematic issues has been the financial viability of recycling. To what extent is that dependent on the voluntary sector and social businesses, such as Aye-Can in Dyce in my constituency? Are there any plans to expand those market support provisions?

Allan Wilson: I believe, as does the Executive collectively, that the community sector makes a vital contribution to recycling as a whole. As we develop our recycling and reuse strategy over the period of the national waste plan, it is inevitable that there will be bigger players in the recycling market. That market will grow, and there will be increased businesses opportunities for recycled products. However, that will not negate the contribution that community recycling can make to the smaller-scale recycling market in individual communities. That is why we support community recycling, and will continue to do so, while we invest heavily in large-scale recycling and reuse facilities.

Shellfish (Polluted Beaches)

7. Jackie Baillie (Dumbarton) (Lab): To ask the Scottish Executive how it will raise awareness of any problems associated with collecting shellfish from polluted beaches. (S2O-1715)

The Deputy Minister for Environment and Rural Development (Allan Wilson): I am advised by the Food Standards Agency that when it becomes aware of potential public health problems associated with the collection of shellfish, action to raise awareness of potential risks is co-ordinated via the appropriate local authority. In recognised, classified shellfish harvesting areas, that is in the form of a temporary prohibition order, which may be supported by a press release. In addition, and in areas that are not classified but which may be subject to gathering by the general public—which may occur in Jackie Baillie's constituency—warning notices are erected in the affected area.

Jackie Baillie: I thank the minister for that comprehensive response.

In my constituency there is an unclassified area where there appears to be volume collection of shellfish, most notably on the coastline at Helensburgh, where the beaches are polluted. I would be pleased if the minister would investigate the matter and advise specifically what powers are available to the Scottish Environment Protection Agency, the local authority or the Executive to end the volume collection of shellfish and to protect our food supply from contaminated shellfish.

Allan Wilson: I will be happy to do that. I will expand on the process, for the benefit of Jackie Baillie. SEPA is responsible for monitoring the shellfish waters directive, which is concerned with the environmental conditions that are required to protect shellfish populations or stocks. If a major pollution event was recorded by SEPA at a site that was known to contain a threat, it would report its findings to the FSA and the Scottish centre for infection and environmental health. Subsequently, any closure or other control measure in respect of the contaminated area would be the responsibility of those agencies, working together with the local authority.

Phil Gallie (South of Scotland) (Con): Is the minister aware of the report by the House of Commons Environment, Food and Rural Affairs Committee that suggests that the conclusions of the FSA on shellfish contain many inaccuracies? If he is aware of that report, will he say whether it has any implications for the statutory instruments on scallops that are in force?

Allan Wilson: I understand that the FSA is responsible for the public health controls on commercial harvesting and the collection of shellfish, including scallops, for human consumption. As I said to Jackie Baillie, the FSA acts in liaison with the relevant local authorities. Where there is evidence of contaminants in the environment and in sampled shellfish, including scallops, and where they exceed statutory levels and present a threat to human health, the FSA will

take action to withdraw such products from the food chain.

Aucheninnes Landfill Site

8. Alex Fergusson (Galloway and Upper Nithsdale) (Con): To ask the Scottish Executive what consideration has been given to the impact of the extended development of Aucheninnes landfill site near Dalbeattie on the biodiversity of the immediate area. (S2O-1749)

The Deputy Minister for Environment and Rural Development (Allan Wilson): The Scottish ministers gave careful consideration to the planning application for the Aucheninnes landfill site before taking the decision that there were insufficient grounds to justify intervention in Dumfries and Galloway Council's handling of the case. In reaching that decision, ministers took account of advice from Scottish Natural Heritage on the proposal's ecological aspects. The decision on the planning consent was the responsibility of the local authority. In addition to the planning application, it is a requirement of the Landfill (Scotland) Regulations 2003 that the location of a landfill must take into consideration the protection of natural heritage in the area. That factor must be considered by the Scottish Environment Protection Agency before the necessary permit is issued.

Alex Fergusson: In the minister's reply to Chris Ballance's question on the issue last week, and again today, he referred to SNH's advice as highly significant in the Scottish Executive's decision-making process. Given that the Executive ignored the advice of SNH on the Robin rigg offshore wind farm development, will the minister counter what is clearly a politically motivated policy of selectivity and review the part of Dumfries and Galloway Council's waste plan that affects Aucheninnes moss, in the light of the fact that a significant number of recognised experts increasingly question the bog's environmental status?

Allan Wilson: As Alex Fergusson knows, the fundamental responsibility for dealing with planning applications and general planning matters rests with the planning authority, which in this case is Dumfries and Galloway Council. The Scottish ministers seek to intervene in the planning process in only the most exceptional circumstances. I have explained today and last week that ministers took account of the facts that Aucheninnes is an existing landfill site; that it forms part of the area waste plan for Dumfries and Galloway; and that it will continue to be regulated throughout by the independent Scottish Environment Protection Agency. There is no question of political interference or judgment skewing that process.

Health and Community Care

Health Inequalities

1. Maureen Macmillan (Highlands and Islands) (Lab): To ask the Scottish Executive what action it is taking to reduce inequalities in health. (S2O-1736)

The Minister for Health and Community Care (Malcolm Chisholm): Continuing action to improve health and reduce inequalities is at the heart of the partnership agreement. With our partners in local authorities, the voluntary sector and the national health service, we are determined to make a difference to the unacceptable health gap between the most and least affluent in our country. That is why I am delighted to announce that we will be investing £1 million a year to develop the Glasgow centre for population health. That partnership agreement commitment will bring new insights and focus to work on tackling social and health inequalities.

Maureen Macmillan: I am sure that the minister is aware of the challenges that face the delivery of equality of health in rural areas. Is he aware of the concerns of kidney patients in the Lochaber area, who at present travel up to three times a week for dialysis to Inverness and who fear that Highland NHS Board will reluctantly decide not to fund the capital cost of a dialysis unit at the Belford hospital this year? Is he further aware that one of the reasons given for the uncertainty on the issue is that insufficient money has been allocated to the board for the implementation of the new general medical services and consultants' contracts? Will he examine that funding and, if necessary, increase it to ensure that projects such as the badly needed dialysis unit at the Belford hospital in Fort William have a better chance of being implemented?

Malcolm Chisholm: The health inequalities agenda has a service dimension and a health improvement dimension. My initial answer focused on the latter dimension, on which I am sure there will be further questions for Tom McCabe and me in a moment.

Maureen Macmillan raises a specific service issue about NHS Highland. I was pleased to see the dialysis unit at Wick hospital last year. NHS Highland has tried to get more such facilities into local communities, although I am not aware of the decision that may have been made today. NHS Highland has received an increase in funding of almost 9 per cent this year and will receive an increase of between 8 per cent and 9 per cent next year. The board is receiving major new resources, although it clearly still has to make difficult decisions within that.

Health Inequalities

2. Dennis Canavan (Falkirk West) (Ind): To ask the Scottish Executive what measures it is taking to address the health inequalities shown in the recent statistical survey conducted by NHS Health Scotland. (S2O-1688)

The Deputy Minister for Health and Community Care (Mr Tom McCabe): We are doing a great deal. Recognising the link between poverty and ill health is at the heart of the partnership agreement, and all departments of the Executive, not just the Health Department, are determined to make a difference to the unacceptable health gap between the most and least affluent communities in Scotland. That is why there is a range of activity under way across Scotland on seven special programmes, focusing on: physical activity; healthy eating; smoking; alcohol; mental health and well-being; health and homelessness; and sexual health. In addition, Malcolm Chisholm has today announced our support for the development of the Glasgow centre for population health. However, we should recognise that the overall message from the constituency health and well-being profiles is positive. Life expectancy in Scotland is going up, with fewer deaths from cancer, stroke and heart disease. We are making progress but we need to do more to reduce inequalities and we are totally committed to doing so.

Dennis Canavan: As the survey simply reinforces previous evidence about the correlation between poverty and poor health, will the Scottish Executive give more priority to the eradication of poverty and to ending the national scandal whereby male life expectancy in Scotland is the second lowest in western Europe?

Will the minister co-operate with the ministers with responsibility for education and sport in the organisation of a much higher-profile nationwide campaign to encourage people to adopt healthier eating and drinking habits with more physical exercise, including providing sports opportunities for all?

Mr McCabe: There are a number of points to be considered in response to that question. First, it is important to say that life expectancy among men in Scotland has risen by 2.4 years over the period concerned. It is also important to say that the figures that were announced just a few weeks ago are based on data that were accumulated in 2001 and that a great deal has been done by the Scottish Executive since.

Members will see, over the next few weeks, the launch of a national campaign in the media linking physical activity with diet and encouraging people to make serious lifestyle choices with regard to their diet and the amount of physical activity that they take.

It is important to stress again that much has happened since the figures were accumulated. In 1997, 19 per cent of children were in workless households; in 2003, that figure was 16 per cent. In 1997, one in three children lived in absolute poverty; in 2003, that figure was one in six. We have allocated more money for child care and have allocated money to create 30,000 modern apprenticeships, which will remove the spectre of unemployment and give people economic choices.

Mr Duncan McNeil (Greenock and Inverclyde) (Lab): In communities such as mine that suffer from poor public health, many older people with respiratory problems are dependent on oxygen therapy dispensed through large, non-portable cylinders that restrict their mobility and reduce their quality of life. The Deputy Minister for Health and Community Care originally said that portable cylinders would be available on prescription by the end of last summer. In October, however, he said that that would happen in April. With that month only a matter of days away, can he confirm at long last that that implementation date will be met?

Mr McCabe: I am happy to confirm that no information has been given to me to suggest anything other than the implementation of the date alluded to by Duncan McNeil. Movement on this extremely important issue has taken some time because of the safety issues concerning the storage of the cylinders in community pharmacies and in patients' homes. In addition to the issue of portable cylinders, other important work is going on with regard to constrictors that would conserve the amount of oxygen used and make the equipment far more user friendly.

Mr Stewart Maxwell (West of Scotland) (SNP): The Executive announced that consultation on smoking would take place in the summer. One of the reasons for that consultation was to find out public opinion on the issue. In light of the recent statistical survey that showed that smoking and passive smoking are among the most prominent factors affecting health in Scotland and the BBC's survey, which was published yesterday, that showed that 77 per cent of people in Scotland support a ban on smoking in public places, does the minister agree that the public have already made up their minds and made their opinions clear? Does he further agree that it is time that the Scottish Executive came off the fence and backed the view held by more than three quarters of the Scottish population by supporting legislation to ban smoking in public places?

Mr McCabe: Members will be aware that we have the greatest respect for the BBC, but it would be inappropriate to allow it to make public policy. It is important for us to be informed by the work that the BBC does. I was heartened to see the outcome of the survey with regard not only to

smoking in public places but to the fact that people throughout the United Kingdom endorse the actions that have been taken by the coalition Executive on free personal and nursing care.

The consultation on smoking that will take place later this year is an important plank in the Executive's health improvement and promotion work. We want to ensure that when people are asked to respond to that consultation, they can do so in an informed way. That is why we will engage in a high-profile public information campaign between now and June, to provide as much information as possible to the Scottish public about the damage that smoking does. That will allow people to respond in a way that is as informed as possible.

Dental Services

3. Stewart Stevenson (Banff and Buchan) (SNP): To ask the Scottish Executive what its objectives are for national health service dental services in 2004-05. (S2O-1811)

The Deputy Minister for Health and Community Care (Mr Tom McCabe): The Executive is keen to ensure the provision of NHS general dental services for all those who wish to use them in Scotland. On 20 November 2003, I announced a wide-ranging consultation on modernising NHS dental services and responses have been sought by 2 April 2004. Thereafter, we will analyse the responses and provide our views on the way forward.

Stewart Stevenson: I note the end date of the consultation and that £4.5 million was announced three days ago for supporting access to dental services—unfortunately, of course, that means ramps and things like that, rather than the provision of services.

Does the minister recall that the draft budget for 2004-05 had 14 health objectives? Thirteen of them are clearly not on dental services, but number 6 states that access will be given to

"a GP, nurse or other healthcare professional within 48 hours"

from next month. However, I am told by NHS Grampian that that does not apply to dental health services. I ask the minister whether it is not time for us to stop the jaw-jaw on dental health services and allow patients across Scotland to gnaw-gnaw?

Mr McCabe: I know that Mr Stevenson is a member who likes to get his facts and figures right, so it is unfortunate that I will have to correct him on this occasion. We made available £3 million for practice improvements and £1.5 million for the general dental practice allowance, which is focused on training in dental practices.

I do not think that the profession would want an end to what Mr Stevenson calls "the jaw-jaw". I

attended four of the consultation meetings and a focus group meeting in Glasgow, and tomorrow I will travel to Wick to talk to dentists from some of the most remote communities in Scotland. So far, I have received a warm welcome from dentists, who welcome the opportunity to express their views and the fact that there has been ministerial involvement, where possible, in the consultation. It is important that the people who decide the way forward for NHS dentistry include not just politicians but the professionals and the general public. We have tried to ensure that that is the case throughout the consultation.

Human Tissue (Legislative Plans)

4. Mr David Davidson (North East Scotland) (Con): To ask the Scottish Executive whether it has any plans to introduce legislation similar to the Human Tissue Bill in Westminster. (S2O-1739)

The Minister for Health and Community Care (Malcolm Chisholm): We expect to introduce legislation on human tissue when a suitable opportunity becomes available.

Mr Davidson: I would like to push the minister a bit further, because the matter is of growing concern in Scotland; there have been a number of campaigns about it during the past two or three years. People are concerned about the permission system and about occasional alleged abuses, when permission has not been given. When does the minister suggest would be an appropriate date, and what will he do to ensure that we have enough organ donations to carry out transplants and research and development?

Malcolm Chisholm: The Human Tissue Bill at Westminster covers two areas: organ retention and organ donation. We issued a consultation paper on organ donation recently, and we issued a consultation paper on hospital post mortem examinations some months ago. The fact that we have issued those consultation documents indicates that we take seriously the matter of legislation on the subject.

David Davidson asked specifically about organ donation. The Scottish transplant group did a major report on the subject that involved a large number of clinicians and other stakeholders. It came to the view that the expressed wishes of the deceased should be the key issue. That is why, when I launched a major national publicity campaign on organ donation a few weeks ago, I mentioned three messages that we must get across to people. If people want to donate their organs in the event of their death, they should carry a donor card, they should put their name on the register and—crucially—they should tell their nearest and dearest so that they know their wishes, should the moment arise.

General Practitioner and Consultant Contracts

5. Christine May (Central Fife) (Lab): To ask the Scottish Executive how it will ensure that the new contracts for general practitioners and consultants deliver benefits for the quality and provision of health care. (S2O-1728)

The Minister for Health and Community Care (Malcolm Chisholm): The consultant contract job-planning process allows managers, for the first time, to examine critically and to timetable transparently all a consultant's activities, and to agree with consultants how their working commitments and practices should be managed in a way that best contributes to improved patient care. The new general medical services contract has a quality and outcomes framework that will incentivise GPs and their staff to maximise the volume and quality of services to patients. Payments will be made for achievement against a series of clinical, practice-management and patient-experience indicators.

Christine May: The minister will be as aware as I am of the anomalies and areas for work in the recent statistical survey. What steps will he take to ensure that the new contracts provide for those who do not use the health service as often as is needed to meet health improvement targets—such as young men—to be encouraged to seek and use help and advice on attaining better health?

Malcolm Chisholm: The contracts, particularly the GMS contract, will be helpful in that because one of their major effects will be delivery of more services within primary care. A series of other initiatives will contribute to the objectives that Christine May supports in her question. We recently announced a significant sum of money—£4 million—for pilots for well-man clinics, which is an important way of improving access to the client group to which Christine May referred. I was pleased to see an excellent example of that in Camelon a few months ago. We also have the changing children's services fund and the walk the talk initiative, which focuses specifically on teenage health. Those initiatives will complement the boost that the new GMS contract will give.

Dr Jean Turner (Strathkelvin and Bearsden) (Ind): Is the minister aware—as I have been made aware—that responding to the new doctors contract will put Greater Glasgow NHS Board an estimated £70 million in debt? Is he also aware that the casualty ward at Stobhill hospital may not be allowed to be kept open because it will not be able to pay for consultants' rotation? Stobhill has managed to get junior doctors on rotation to keep the casualty ward open, but it needs consultants to be on rotation to keep the hospital and casualty ward alive.

Malcolm Chisholm: Greater Glasgow NHS Board has had a generous uplift. We distributed

over £5 million extra to Glasgow and an equivalent amount, in accordance with the Arbutnott formula, to other NHS boards yesterday.

I was pleased to speak to some people from Stobhill this morning. The issue for the casualty ward at Stobhill is not finances. When I spoke recently to the chief executive of North Glasgow University Hospitals NHS Trust, he told me of his determination to keep that casualty ward open for longer than had been intended and that the Royal College of Surgeons and the Royal College of General Practitioners will visit there next week.

Accreditation is the key issue. There is obviously a problem with recruitment of consultants; the chief executive is hopeful that consultants will be recruited soon. However, there is in the meantime consultant cover from other hospitals in Glasgow. The key issue is to do with the training of junior doctors, on which the views of the royal colleges will be crucial next week.

Mr Jamie McGrigor (Highlands and Islands) (Con): Is the minister aware of the concerns of the community of Applecross in Wester Ross about the future provision of out-of-hours health cover? Is he aware that the high road to the area is often blocked by snow and that it is therefore vital that out-of-hours cover remain in the area?

Malcolm Chisholm: A great deal of work is being done on out-of-hours services and the other aspects of the GMS contract through various national working groups. I know that out-of-hours cover is the aspect that gives concern to various people, but a lot of money is going into it and a lot of initiatives are under way to redesign services and to ensure that the whole health care team has a role. I spoke recently to the chairman of Highland NHS Board about that; I know that that board has plans to provide GPs appropriately in all parts of the Highlands. I understand Jamie McGrigor's concerns, but I believe that Highland NHS Board is addressing them adequately.

Under-age Drinking (Highlands)

6. John Farquhar Munro (Ross, Skye and Inverness West) (LD): To ask the Scottish Executive what plans it has to address the health implications of under-age drinking in the Highlands. (S2O-1731)

The Deputy Minister for Health and Community Care (Mr Tom McCabe): Highland drug and alcohol action team's three-year local action plan, which was published in March 2003, identifies a wide range of preventive, educational and other measures to address harmful drinking by children and young people. To support the implementation of that local action plan, the Executive announced the allocation to Highland

NHS Board of £374,000 of new specific funding for the next two financial years.

John Farquhar Munro: I am sure that the minister is aware of the findings of the NHS survey that was published recently, which showed a disturbing level of alcohol abuse among young people in the Highlands. Does he agree that the root of the problem is often a lack of suitable alternative activities for young people? Will he ensure that the Executive takes into account the issues that face rural authorities in providing appropriate diversionary activities to reduce the number of young people who abuse alcohol?

Mr McCabe: We recognise fully the need for a range of measures to tackle this serious problem among young people. Diversionary activities are an important part of that. The action plan that has been published for the Highlands contains several measures, including a programme of preventive work using media campaigns, distribution of the recently launched parental guides and development of a discussion pack for use with teenage girls, which is—given some of the statistics—an important aspect. As a critical complement to those measures and other diversionary initiatives, the appointment of a clinical nurse specialist in drug and alcohol misuse among young people is proposed.

General Questions

District Courts (West of Scotland)

1. Miss Annabel Goldie (West of Scotland) (Con): To ask the Scottish Executive how many criminal cases were processed by district courts in the west of Scotland in each of the last three years, broken down by parliamentary constituency. (S2O-1771)

The Minister for Justice (Cathy Jamieson): As the question asks for detailed figures, I will write to the member with a table showing the information that is available and I will place a copy of that letter in the Scottish Parliament information centre.

I can say that the overall trend shows a decline in the number of complaints that were initiated in district courts in the west of Scotland, from 6,780 cases in 2000-01 to 5,618 in 2002-03.

Miss Goldie: I am unaccustomed to receiving unqualified comfort from the minister, but I regard that as half comfort. Does the minister agree that—as we approach this afternoon's debate and enter an important consultation period for summary justice—precisely such information would be extremely helpful to everybody who wants to proceed with the debate? Is she prepared to produce such information for the rest of Scotland, if doing so is within her competence?

Cathy Jamieson: I am always pleased to try to provide factual information when people request it. I will ensure that the letter that I have promised Miss Goldie is issued this afternoon. I must, however, attach a caveat on the way the information is collected. The district court figures are collected on the basis of district court areas, which do not correspond directly with parliamentary constituencies. However, I am happy to make available the general information.

Aberdeen City Council (Meetings)

2. Brian Adam (Aberdeen North) (SNP): To ask the Scottish Executive when it last met Aberdeen City Council, whether the council's budget was discussed and what the outcome of the meeting was. (S2O-1686)

The Deputy Minister for Finance and Public Services (Tavish Scott): I met Aberdeen City Council on 18 February 2004, when the council advised me of its funding concerns. I asked the council to write to the Executive to detail its concerns and we received a written submission yesterday, which is being considered.

Brian Adam: Is the minister aware of Aberdeen City Council's funding gap, in respect of children's services in social work, between the £8.9 million of grant-aided expenditure and the £19.4 million of actual expenditure? Is he aware that some of those costs are outwith the council's control because it must use high-cost external services? Does he plan to increase local authority funding for child protection services to reflect actual costs?

Tavish Scott: Given his former life, Mr Adam is acutely aware of how the GAE system operates. He will be reassured to know that the submission that we received yesterday was on the point that he makes about children's services. He will also be interested to know that Executive officials and Aberdeen City Council officials will meet next week to discuss that matter and to consider issues such as the £2 million that has been allocated from the changing children's services fund over and above the council's grant settlement, and the £20.6 million above-inflation increase that the council received in 2003-04. The issues that must be addressed are serious, which is why officials will get down to them next week.

Secure Accommodation

3. Karen Gillon (Clydesdale) (Lab): To ask the Scottish Executive what progress is being made on increasing the number of secure accommodation places. (S2O-1774)

The Minister for Justice (Cathy Jamieson): Work is under way on five secure redevelopments, which will provide 29 additional places.

Karen Gillon: The minister will appreciate that members are genuinely concerned that under-16s continue to be held in prison. I therefore welcome the progress that has been made. Has there been any review of those who are currently in secure accommodation places in order to ensure that they are appropriately placed and to determine whether there are more appropriate places in which they could be held, with appropriate support?

Cathy Jamieson: The issue that Karen Gillon raises works two ways. Of course I am keen to ensure that any young person under the age of 16 is not held inappropriately in a young offenders institution. That is why I have asked for further research to be done to consider instances in which unruly certificates have been used to hold young people in those institutions. I have continued to monitor closely the situation of young people in secure accommodation who have been sentenced and who will at some stage move into young offenders institutions or, indeed, adult prisons.

Christine Grahame (South of Scotland) (SNP): I remind the minister that the previous session's Justice 1 Committee recommended that the distinction between secure units in the remit of social work and secure units in the remit of justice was not helpful and that funding for both classes—if I may call them that—of secure unit should be streamed through the justice budget. Has there been any progress on that unanimous recommendation?

Cathy Jamieson: I remind the member of what was probably said to her at the time. There are not two classes of secure accommodation. There are provisions that are primarily child care provisions; they continue to be so. Of course some young people are sent to such accommodation for their care and protection, and there are young people who have been sentenced. The current redevelopments will aim to ensure that there will be the best quality programmes to address the needs of all young people in secure accommodation. That is what is important, rather than focusing solely on which budget line the money should sit in.

Margaret Mitchell (Central Scotland) (Con): Will the minister confirm and assure me that electronic tagging is not being introduced to deal with the inadequate number of secure accommodation places that are currently available for under-16s, especially in the light of the fact that it is now 18 months since the Executive first announced its intention to provide the additional places?

Cathy Jamieson: I am sure that Margaret Mitchell would want to be assured that the new places that will be provided will meet the needs of the young people for whom we require to provide those places. In the discussions that have taken

place on electronic tagging of under-16s, she will be aware that it has been made clear that tagging will be used when young people are a danger to themselves or to others in their communities. Those are the same criteria that are used in respect of secure accommodation.

The Deputy Presiding Officer (Murray Tosh): Question 4 has been withdrawn.

Craft Industries (Highlands and Islands)

5. Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): To ask the Scottish Executive what support it will give to the maintenance and development of skilled craft industries in the Highlands and Islands. (S2O-1766)

The Deputy Minister for Enterprise and Lifelong Learning (Lewis Macdonald): Highlands and Islands Enterprise and its local enterprise companies support the development of skilled craft industries and other manufacturing in the Highlands and Islands. A range of assistance is available including advice, training and support for capital investment to improve productivity and efficiency.

Mr Stone: It will come as absolutely no surprise to the minister that I asked the question as a result of the situation of Caithness Glass Ltd. There may be a rescue package, but it appears that it does not include employees in Caithness, although there are skills there. Tomorrow, I will meet representatives of the work force. I cannot second guess what will come out of the meeting, but will the minister assure me that I have his personal support and that of the Scottish Executive for whatever we can put together in trying to ensure some kind of a future for those important people?

Lewis Macdonald: I am aware of the situation of Caithness Glass and of the meeting that Jamie Stone will attend. I have spoken to the GMB, which represents staff in the Wick and Perth outlets of Caithness Glass, and I am aware of the discussions that the member alluded to regarding possible outcomes that will maintain at least part of the company in being.

We are keen to ensure that the high skill levels that a number of members of staff in Caithness possess are maintained in the local economy. Next week, Jim Wallace will meet Caithness and Sutherland Enterprise and Scottish Enterprise Tayside to discuss the various options that are available. I can confirm today that Caithness and Sutherland Enterprise has undertaken to carry out a feasibility study on plans to maintain a glass-making presence in Wick, regardless of the outcome of the discussions at Caithness Glass.

Mr Jamie McGrigor (Highlands and Islands) (Con): In view of the increasing age of workers in

the Harris tweed industry, will the Executive provide training initiatives to ensure that the skills of that indigenous industry are not lost?

Lewis Macdonald: The Harris tweed industry has worked closely with Western Isles Enterprise and Highlands and Islands Enterprise on skills, among other issues. Highlands and Islands Enterprise is focused on the importance of that industry and I expect that to continue.

Ms Rosemary Byrne (South of Scotland) (SSP): If the Scottish Executive is considering the support that it might give to skilled craft industries in the Highlands and Islands, which is welcome, does the minister agree that the predicament of workers in Ayrshire Metal Products in Irvine should receive urgent attention from the Executive because they are currently in dispute with management who have refused to—

The Deputy Presiding Officer: That question is not relevant to the lead question, so it is unreasonable to proceed.

Association of Scottish Prisoners

6. Patrick Harvie (Glasgow) (Green): To ask the Scottish Executive whether it would support the creation of an association of Scottish prisoners. (S2O-1794)

The Minister for Justice (Cathy Jamieson): No.

Patrick Harvie: Will the minister expand on that answer when she answers my supplementary question? Does she agree that if practical problems could be overcome, such an association could be of benefit? Does she also agree that it would give to prisoners a voice that would be expressed democratically rather than—in extreme cases—through rooftop protests, and that it would encourage prisoners to engage with authority constructively and as members of society?

Cathy Jamieson: I am tempted to answer “No,” and “No,” but I will respond. I am not sure whether Patrick Harvie is suggesting that the Executive should grant collective bargaining rights to the offenders who have damaged our communities. That is not a priority for the Executive’s justice programme.

Mr Duncan McNeil (Greenock and Inverclyde) (Lab): If the minister were to have considered the idea for a couple of minutes, she might have thought that such an organisation could have been called the confederation of nefarious scoundrels, or CONS for short. Thankfully, she is not prepared to do that. Will she give Parliament the absolute assurance that she will not under any circumstances allow the transportation of murderers or drug dealers to trades union meetings of prisoners?

Cathy Jamieson: I made that very clear in my previous answer.

Lord James Douglas-Hamilton (Lothians) (Con): Does the minister accept that prisons should be run by prison officers and not by prisoners?

Cathy Jamieson: Yes.

Modern Apprentices

7. Alex Neil (Central Scotland) (SNP): To ask the Scottish Executive what its plans are for the modern apprenticeship scheme. (S2O-1721)

The Deputy Minister for Enterprise and Lifelong Learning (Lewis Macdonald): We will increase the number of modern apprentices in training to 30,000 a year by 2006, as outlined in the partnership agreement. We published research on modern apprenticeship completion rates yesterday and outlined how, with our delivery partners, we will further strengthen the programme by focusing on the quality of outputs as well as on the numbers in training.

Alex Neil: In the latest available figures, the completion rate is running at approximately 52 per cent. Does the Executive have a target for the completion rate and what is it? What plans are in place to increase the completion rate from 52 per cent?

Lewis Macdonald: We do not have a completion rate target at present, but we are talking to the enterprise networks about putting one in place. The research that was published yesterday highlighted several areas in which we can address the issue. It is important to say that although Alex Neil is quite right about the figure of 52 per cent for modern apprenticeship completions, many of those who leave their apprenticeships before they have completed them do so in order to go into further or higher education or into full-time employment of another kind. The modern apprenticeship is designed to provide transferable skills. Of course we want the highest possible completion rates, but there are other issues to be considered.

We want to set a target and we are discussing that with the enterprise networks. We want to shift the focus so that it is on the quality of the outputs as well as on the number of completions, important though that is.

Marilyn Livingstone (Kirkcaldy) (Lab): My question relates to people who drop out of modern apprenticeships or who cannot enter them without pre-vocational training. What steps are being taken to allow people to have pre-vocational training that would allow them to progress to modern apprenticeships?

Lewis Macdonald: Marilyn Livingstone raises two issues. First, many of those who withdraw from modern apprenticeship programmes do so to pursue other forms of learning. We want to find out why others drop out and do not complete programmes, so we have asked the enterprise networks and the modern apprenticeship implementation group to consider that and to do more work—on the back of the research that was published yesterday—to get to the bottom of the matter so that we can address it.

The second issue is about people who want to enter apprenticeships and need necessary pre-apprenticeship vocational skills. We are working with the sector skills councils and the enterprise networks to re-engineer the current skillseekers programme—the pre-apprenticeship programme—to find ways of improving delivery, content and people's access to it. We are running one or two pilots to establish how quickly that can be done.

Elaine Smith (Coatbridge and Chryston) (Lab): What success has there been in broadening the scope of the apprenticeship scheme? In particular, I mean improvement of uptake of the scheme by young women. To what extent are young women being attracted to apprenticeships in what might be called the less traditionally female sectors, such as the construction industry?

Lewis Macdonald: The proportion of women in modern apprenticeships is increasing. It is beginning to increase in sectors such as construction, automotive skills and other less traditionally female occupations. Clearly, there is a long way to go. It is very encouraging that the sector skills council for the construction industry has set as one of its key objectives the attraction of more women into the craft and technical aspects of the industry. We are keen to encourage the council to do that. There is a majority of women in certain construction trades, such as painting and decorating, in one or two countries in the European Union. There is no reason why we cannot increase the proportion of women in those trades. Glasgow and all the other cities in Scotland require more skilled craftspeople in construction. Clearly, having more women join the industry would help us to achieve that end.

Murdo Fraser (Mid Scotland and Fife) (Con): In the main, training in modern apprenticeships is delivered by further education colleges, but the schemes are administered by Scottish Enterprise. Would not it make more sense—and save money—if the administration of, and responsibility for, apprenticeships were passed down directly to the colleges, and Scottish Enterprise were removed altogether from the scheme?

Lewis Macdonald: I am surprised to hear Murdo Fraser suggest that. We include the

enterprise networks in the design and management of apprenticeships precisely because of their understanding of the industrial sectors for which we are training people. All of us who believe that business should influence the training of apprentices, and that such training should meet the needs of the real economy, want to see a continued link between the enterprise networks, the private sector and further education colleges in the delivery of apprenticeship training.

Des McNulty (Clydebank and Milngavie) (Lab): The dearth of large employers and the predominance of smaller companies in Dunbartonshire seems to act as a barrier to modern apprenticeships in the area that I represent, largely because smaller companies are reluctant to commit themselves to employees for periods that they cannot foresee, but also because of the bureaucracy—filling in forms and so on—that is associated with the scheme. Is there a way in which organisations such as further education colleges or the Scottish Enterprise companies could remove some of the burden of bureaucracy from companies that are entering the apprenticeship scheme? Alternatively, could companies themselves enter into contracts with apprentices, so that they are not exposed in the way that I have described? That could serve to expand the number of apprenticeships that are available.

Lewis Macdonald: The number of modern apprenticeships in the small business sector, as elsewhere, is on the increase, which is encouraging. However, I acknowledge the points that Des McNulty makes and I encourage him to encourage businesses in his constituency to make connections with the sector skills councils for their industries. By those means, as well as through the enterprise networks, employers can influence the shape of apprenticeships and can input their views on the issues that the member highlighted. We support anything that can be done to reduce bureaucracy and enable smaller firms to take advantage of the modern apprenticeship scheme.

The Deputy Presiding Officer: We started late because of the point of order, so I will allow question 8 from Christine Grahame.

Rural Schools (Support)

8. Christine Grahame (South of Scotland) (SNP): To ask the Scottish Executive what measures it is taking to support rural schools. (S2O-1704)

The Deputy Minister for Education and Young People (Euan Robson): All our policies for schools are directed towards ensuring that all children, including children in rural areas, benefit from education provision of the highest quality.

Christine Grahame: Will the minister explain why the proposed code of guidance on school closures from the Convention of Scottish Local Authorities was postponed by the Executive until after publication of its “Building our Future: Scotland’s School Estate” review in February 2003 and why it is still postponed, so that there is no updated guidance to authorities, such as Scottish Borders Council, that are in sore need of it?

Euan Robson: That appears to be a matter for COSLA.

Christine Grahame: It is not—the Executive postponed it.

Rhona Brankin (Midlothian) (Lab): The minister will be aware of Midlothian Council’s plans to upgrade its school estate. Many of its proposals for new schools and modernisation are to be welcomed. However, the minister will also be aware of the grave concerns of the parents of children in rural schools that are threatened with closure. Does he accept that a 28-day consultation period is very short and that local authorities need to be aware of Scottish Executive policies on sustainable rural communities? Will he meet me to discuss the possible updating of the legislation?

Euan Robson: I will be happy to meet the member. We have no current plans to change the rules to which she refers. However, we might in due course issue guidelines to clarify those rules for local authorities.

Summary Justice

The Deputy Presiding Officer (Trish Godman): The next item of business is a debate on motion S2M-1090, in the name of Cathy Jamieson, on reforming the role of non-jury courts, and one amendment to that motion.

15:02

The Minister for Justice (Cathy Jamieson): I am pleased to open the debate on protecting communities and reforming the role of non-jury courts. As members are aware, last week I launched a four-month open consultation on the report of the review of summary justice. As a vital part of the consultation, the Parliament has the opportunity to debate the important issues and challenges that are raised in that report.

I am grateful to Sheriff Principal John McInnes and his committee for a report that sends a clear message, to both the professionals and the politicians, that justice in our range of non-jury courts is not working effectively or efficiently. I am taking great care to listen to that message, because when our courts are not working properly, the effects are felt in our homes, in our streets and in our workplaces. That is why the motion today is about protecting communities.

The review emphasises that the criminal justice system should be run for the benefit of users. That means all those who have to engage with the system, including the victims and the witnesses. It also means the communities that the system serves. I strongly agree with that. The consultation is about how we deliver a public justice service that protects communities and punishes criminals, but gives a second chance to those who would benefit from it. The service must be designed around the needs of the law-abiding majority of ordinary, hard-working people who care about the communities that they live in and not organised for the convenience of the law-breaking few who could not care less about their community.

Miss Annabel Goldie (West of Scotland) (Con): I was interested in the minister’s assessment that the system is not working well. I was intrigued by the public opinion research that was procured by Sheriff Principal McInnes, because it showed that, on the whole, there was a favourable response to the administration of summary justice. What is the basis of the minister’s assessment?

Cathy Jamieson: I will develop the matter in more detail, but, as an initial response to that point, I would say that, although people feel that they have had a reasonably good deal from the system overall, it seems from the detail of some of

the problems that people raise that, because of delays, justice is hardly summary in many instances. I am glad to see that Bill Aitken agrees with me—even if it is the only time that he agrees with me in the debate. Let us move on.

I want to kick-start the debate by asking a couple of key questions, and I would like us all to do so for the duration of the consultation exercise. First, how can we best deal with less serious, yet often persistent, offenders in a way that addresses their deeds and needs fairly? Secondly, how can we do that in a way that convinces the community from which the offender comes that justice is being done and is being seen to be done?

Part of the answer lies in a part of the report to which Annabel Goldie referred, on speedier justice. In relation to less serious offences, we need to move towards a system that delivers the shortest possible gap between offence and penalty. That is better for the community against which the offender has caused damage. Local people can see the link between an offence and the effective action that is taken by the authorities to deal with it. It is also better for the offender, because it makes a clear and direct link between the offence and the penalty, and it should make the offender less likely to reoffend. Speed is one way in which the courts can help to stop a life of crime in its tracks.

Effort is wasted in a slow and inefficient system, so change will benefit those who work within it. Front-line professionals, particularly the police, need to be freed up from unnecessary bureaucracy to use their skills to protect communities.

Rhona Brankin (Midlothian) (Lab): The minister is aware that there is a lack of transcripts in the summary justice system. I fully support the minister's intention to speed up the system. Given that information technology might be getting introduced into the system, will the minister consider the possibility of introducing a system of transcribed summary justice trials in the future?

Cathy Jamieson: The member and I have had some correspondence on that matter, and she is aware that I remain to be convinced that that would enable the process to be speedier, which is what we want. Rhona Brankin has raised particular issues with me, and I will happily speak to her about them separately from the debate.

Although we can learn lessons from achievements in other systems in relation to speedy disposals, we must accept responsibility for designing and delivering a system that is tailored to the Scottish context and which meets distinctively Scottish needs. That might sometimes involve tough and controversial decisions. The McInnes report has not shirked from highlighting

the important issues, and neither will the Executive.

There are too many detailed recommendations in the report for me to cover in the short time that is available to me, but I want members to reflect on a number of key recommendations and issues. I will touch on five main themes.

First, I want to consider early and effective intervention. The report recommends a wider range of police or fiscal penalties, which can be offered as an alternative to prosecution. It considers that enforcement of those penalties should be greatly strengthened. There would be a greater emphasis on direct compensation to victims through a new fiscal compensation order. First offenders could be headed off with police or fiscal penalties before they got a criminal record, while the courts could focus on dealing swiftly with more serious and persistent offenders.

Let me be clear that those measures are not about soft options or hard options. I see that Bill Aitken is sitting back in his chair, with a sigh—he knows what I am going to say. Rather, they are about smart options. The emphasis must be placed on effective action. Our approach to those proposals, as it is to all the proposals in the report, is that we need to be clear what will work. That does not just mean what works for the system, but, above all, what will offer the best protection for our communities—and that is about protection from crime. Particularly here in Scotland, that means protection from crime that is caused by persistent reoffenders.

The second main theme is reducing reoffending. As members know, I launched a national debate and consultation on how we can work more effectively across the area of criminal justice to reduce reoffending and protect our communities. I am clear about the fact that the work on reoffending and the consultation on summary justice are fundamentally linked. The great majority of sentences of six months or less—those that give little time for rehabilitation—are, of course, passed by the summary courts. That is why we will look at the results of both consultations together to develop an integrated strategy to deal with less serious offenders.

The third theme is about improving the court service for victims and witnesses. Sheriff Principal McInnes stressed the importance of

“simple but effective processes which ... take proper account of the needs of victims and witnesses.”

I very much endorse that approach. Indeed, we have already placed victims and witnesses at the heart of our programme of justice reforms.

The same commitment underpins the Vulnerable Witnesses (Scotland) Bill. As we all know, that bill

means that our courts will become fairer for victims and fairer for witnesses. At the same time, the bill will uphold the right to a fair trial for the accused.

The report that we are considering offers us a chance to make things better still for all victims and witnesses. Speed is at the heart of the change required, but we also need to make the processes more certain, in order to remove as much of the stress from victims and witnesses as possible.

The fourth theme is how our courts relate to the communities that they serve. The report recommends a wholly professional judiciary in the summary courts, on the ground that that would better fit with the rest of the committee's recommendations. People will be aware that two members of the committee dissented and argued for the retention of lay justice.

I will not announce here today the Executive's intentions in relation to lay justice—I am confident that Annabel Goldie, perhaps uncharacteristically, will support me on that. We need to consider very carefully the results of consultation before finalising the way ahead. To Mr Matheson and others who are prone to putting out a press release or two, I say that waiting for the results of consultation is not about hiding from a decision. On the contrary, it is about facing up to the real and difficult challenges that lie ahead, for politicians as well as for the professionals who run the system.

At present, the justice service can appear remote and its workings can appear unclear. We need to engage ordinary people in our communities in the delivery of local justice. The Executive has put the empowerment of communities at the heart of its programme. Antisocial behaviour legislation comes from detailed consultation with communities around Scotland on the changes that they want to see.

I welcome the report that was published earlier this week by HM inspectorate of constabulary for Scotland, which proposed a more active role for the public in shaping local police services and priorities. However, the McInnes report signals the need for a single, accountable criminal justice system—not just a collection of partners with their own agendas and targets. Such a system is sometimes confusing to deal with. The report proposes a system with agreed aims, shared between the partners and, very importantly, shared with the public—a system that will take responsibility for the delivery of swifter and fairer justice, but which will also be clear where each agency's contribution fits in.

The report recommends structural change within the system, which the committee considers will make for a simpler and more accountable system.

It recommends, for example, that the administration of the summary courts should be unified within the Scottish Court Service. That recommendation would mean that, on this scenario, local authorities would no longer run the district courts.

We will listen carefully to the views that we receive on that recommendation and, indeed, on all the others. However, commitment to more effective joint working does not need to await structural change. It is already happening at both national and local level. Nationally, partner agencies are beginning to agree protocols for joint working. Sometimes that joint working is on unglamorous, but nonetheless important, work such as witness citation and police reporting. Locally, initiatives are beginning to unblock some of the logjams in the system. There is increased commitment to simplification and quality improvement where it counts, at local level. I recognise those efforts and I applaud them, but I want to see still more.

The fifth and final theme that I want to leave with members is effective operation of the summary courts. The McInnes report argues for a much more rigorous approach to fines enforcement, with escalating sanctions administered by a single, specialist delivery organisation. Imprisonment for fine default would be abolished, although it might remain the ultimate sanction if a supervised attendance order, for example, was breached.

We need to have a smarter approach to the enforcement of financial penalties for those who can afford to pay. In itself, the abolition of prison for fine default has gained significant support from parties around the chamber. We need to think more flexibly about being able to put a fine on an offender's time. If we consider some of those issues, we can achieve a more visible benefit to a community that has suffered from offending. The result will be a win-win situation: effective enforcement and visible justice.

Much of the report deals with technical recommendations on court procedure, which are designed to ensure that cases are better prepared earlier and reach court more quickly. Some of those recommendations are controversial, which is why it is important that we have a consultation process. There are important issues that demand serious consideration.

I want to achieve a public justice service that is seen by ordinary, hard-working people to be on their side. I want a system in which lay people feel that their voice is heard. The Parliament stands at the centre of the most radical reform of our criminal justice system in a generation. There will be change, not just in one part of the system but in every part of the system. Reform and improvement of non-jury courts represents an

important part of that. Today's debate is an important part of the process, and I am confident that we will use this opportunity to help to shape summary justice for the future.

I move,

That the Parliament considers the continuing modernisation of the criminal justice system to be an important priority; notes the progress made to date to improve the delivery of a fair, efficient and accessible service for victims, witnesses and the accused; welcomes the recent report by Sheriff Principal McInnes into the operation of summary justice, and encourages everyone who wishes to do so to participate in the consultation on its recommendations.

15:16

Michael Matheson (Central Scotland) (SNP):

Reform of our summary justice system is essential to ensure that we have a system that is fair to the victims and the accused; effective in deterring, punishing and helping to rehabilitate; and efficient in its use of time and resources. The report makes a significant contribution to ensuring that we have such a system.

On behalf of the Scottish National Party, I express my thanks to Sheriff Principal McInnes and those who served on his committee for a wide-ranging and thorough report. There are many detailed proposals in the report, many of which I am sure will be debated during the consultation exercise and any legislation that flows from that, but I want to pick up on two of the major and controversial recommendations in the report. I will focus on the proposal to remove district courts from the control of local authorities and the proposal to move to an entirely professional judiciary.

The report illustrates the varying standards between different local authority areas on the level of support that they give to their district courts, from the level of management and support to the very fabric of the building in which the district court sits. I recognise the concerns that have been expressed by the Convention of Scottish Local Authorities, which are contained in the report, that removing district courts from local authority control will result in loss of local control over the process. However, local authority administration of courts is an unnecessary distraction for local authorities, which they could do without. The unification of the summary criminal court system, administered by the Scottish Court Service, will take the courts out of the local authority budget and provide clearer lines of accountability. I therefore welcome the report's proposal in that regard.

However, I have serious reservations about the proposal for the introduction of summary sheriffs to replace lay justices. In principle, I believe that lay justices continue to have a role to play in our

summary criminal justice system. Lay justices play an important role. Lay justice is a powerful expression of community involvement in our justice system. Several key arguments in favour of retaining the role of lay justices were submitted to the committee in its consideration of that matter. Those arguments were: the importance of the community link and the community awareness that justices of the peace bring to the process; the fact that lay members of the bench provide a worthwhile role in the community that they serve; the capacity of non-professionals to reach a balanced judgment on their peers; and the fact that lay justices are volunteers, who are less vulnerable to becoming case-hardened. All those arguments are valid, but if we are to retain lay justices in the present system, changes will have to be made. I will return to that point later.

Given the severity of the problems that have been identified in our summary justice system, it is questionable whether abolishing the role of lay justices would address those problems effectively. Sheriff Principal McInnes's committee gathered evidence on 13 major problems in the system, ranging from the time that is taken for the police to report cases to the procurator fiscal to the time that is taken for cases to be started in court to the time that is taken for cases to reach a conclusion in court. The evidence demonstrates clearly that the system is struggling to cope with the demands that are placed upon it.

The information in the report and the evidence that the committee gathered do not suggest that there is a groundswell of public opinion in favour of getting rid of lay justices. On the contrary, the committee's evidence demonstrates that people are not dissatisfied with the current role of judges in the summary process. The committee's survey of public opinion, to which Annabel Goldie referred, found that some 60 per cent of respondents believed that lay justices should continue to have a role; only 26 per cent of respondents preferred a wholly professional system.

If lay justices are to continue to play their role in the justice system, there is a clear need to change the present way in which the system operates. As the report highlighted, we must provide greater consistency of support and management to justices in performing their role; ensure that the recruitment process is more inclusive, so that it more accurately reflects the make-up of modern society; and provide more detailed training and support to justices of the peace. At the same time, we need to examine the fabric of the estate within which the system operates. If those issues were addressed adequately, I believe that lay involvement in our justice system could continue.

In considering the report, members should keep in mind the changes that will take place in our

High Court system as a result of the Criminal Procedure (Amendment) (Scotland) Bill, which will result in some 20 per cent of High Court cases being pushed down into the sheriff courts. When that change is combined with the introduction of the work that will come up from the district courts, there is a danger that excessive pressures will be placed on our sheriff courts and that they will not be able to cope with the demands.

Fine enforcement and collection are highlighted in the report. I welcome the recommendation that a single organisation, rather than individual courts, should be responsible for the collection of fines. In particular, I welcome the recommendation that greater consideration must be given to the possibility of introducing a unit fine system. I have suggested several times in the chamber that such a system would operate more fairly and more equitably. Given that the recommendation has now come from an independent committee rather than just from me, I suggest that a unit fine system would be a smart approach to tackling the present system's problems.

Although the report that the Scottish Executive commissioned has been some two years in the making, we are still none the wiser about what the Executive's views are or what changes it would like to see. We need reports that detail the problems and provide us with possible solutions, but we also need leadership in driving forward reforms. Such leadership has been lacking from the Executive. Whatever the Executive eventually gets round to doing to address the problems, its reforms must impart confidence to everyone: victims, witnesses, accused persons, court users and, above all, the communities that the system serves.

I move amendment S2M-1090.1, to leave out from "considers" to end and insert:

"supports the need to have a fair, effective and efficient summary criminal justice system; welcomes the recent report by Sheriff Principal McInnes; acknowledges the note of dissent within the report, and believes that future changes to the summary justice system must impart confidence to everyone: victims, witnesses, accused persons, court users and, above all, the communities they serve."

15:24

Miss Annabel Goldie (West of Scotland)
(Con): I declare an interest as an enrolled solicitor in Scotland.

I welcome the opportunity to contribute to the debate. At the outset, let me say that I am not inimical to Sheriff Principal McInnes's report, which is a helpful contribution to the continuing debate on our criminal justice system.

On the substantive content of the report, however, I feel rather as I used to feel about

school dinners—I liked the mince and gravy, but was less certain about the cabbage, and I was very keen on the jelly but remained to be convinced about the tapioca. That demonstrates my ambivalence towards the report, because, for example, it is Conservative party policy to deal with fine defaulting by more efficient collection of outstanding fines rather than by resorting to custodial sanction; I have spoken about that in the chamber. Equally, it is our policy to modernise our courts to meet the needs of society as it is structured today and to introduce weekend and evening sittings to reduce the current backlog; my colleague Bill Aitken has spoken about that. I am delighted that the McInnes report endorses our thoughts on those issues.

There is compelling common sense about a mandatory discount in sentence following an early guilty plea; about relaxing rules of evidence when introducing closed circuit television or other recorded evidence; and about taking a much more pragmatic approach to social inquiry reports. Those are all positive suggestions and, on their own, they would facilitate the improvement of summary criminal justice.

The minister alluded to what we mean by summary criminal justice, and I think that that is an important point for us all to bear in mind. Summary justice is meant to deliver swift and local justice within a procedural framework that is simpler than that attaching to more complex and serious criminal cases. That is why I would be strongly influenced by public opinion on its delivery; we have already referred to that in this debate. Public perception is important and perhaps it should be instructive, because what it may suggest is that there is nothing wrong with the role of the summary courts, but that we ought perhaps to reform the function and administrative operation of those courts.

I say that for two reasons. First, there may well be merit in reviewing how district courts operate. Perhaps there is a need to examine consistency of sentencing, and that is brought out in the McInnes report. Perhaps it would be desirable to bring those courts under the Scottish Courts Administration; I can see attraction in that. Perhaps there is an overdue need to allow district courts to impose drug treatment and testing orders. Most drug-dependent offenders appear before the district courts, not the sheriff courts. At the moment, only when an individual graduates to the sheriff court after committing more serious offences is their drug problem assessed under the criminal justice system. There are certainly innovations, changes and improvements that can now be brought to the operation of the district courts.

My second reason for thinking that we need to look at function and administrative operation rather

than at role is the reason that Michael Matheson referred to by asking about the practical effect of merging the district court case load into the sheriff court. We know that the consequences of the Bonomy review, which will be implemented under the Criminal Procedure (Amendment) (Scotland) Bill, will increase that case load. Estimates vary, but there is no doubt that there will be a significant increase to sheriff-and-jury work.

If we look at that increase against a current sheriff summary case load that has shown a pattern of increase over 2000, 2001 and 2002, and if we also study the similar pattern of increase for the stipendiary magistrate courts, we see that there is a pressure point. That pressure point will certainly be brought to bear in the sheriff court system if there is amalgamation.

Cathy Jamieson: Does Annabel Goldie accept that the point that is made in Sheriff Principal McInnes's report is that part of the process is about taking out of the court system some of the cases that could be dealt with effectively by other means? Does she therefore support the introduction of a greater use of fiscal fines, for example?

Miss Goldie: There is attraction in that proposal. Indeed, to be fair to the Executive, the Antisocial Behaviour etc (Scotland) Bill incorporates some of those measures. I would be much more minded to see how the measures work in practice to quantify whether there is a reduction in the burden of casework going to our criminal courts; I certainly would not want to judge that in advance.

If we take the increasing pattern to which I referred, and add to that the district court work load throughout the rest of Scotland, it is quite clear that there will be pressure on sheriff court infrastructure, buildings and personnel. It seems to me that, before any change to the structure and role of non-jury courts is contemplated, some searching questions must be asked and the answers must be procured.

Unlike their counterparts down south, members of the Scottish Executive should not be caught up in a storm of change propelled only by the gale-force influence of reforming zeal. To be fair, I do not think that they want to be. If deficiencies exist in the current system, they should be identified and answers should be found.

What are the deficiencies? Can they be addressed under the existing structure? Is dispensing summary justice with more than 700 full lay justices a more cost-effective provision of justice than incorporating the system into the sheriff court? Does anyone know what it currently costs to administer lay justice throughout Scotland? Is it intended that the district courts

would be shut? Would the public have to attend sheriff courts? Is that level of local justice acceptable to the public? Can our sheriff court infrastructure cope? When one of the most important groups in our society, young people, is dealt with by what is, in essence, a lay system, why is such a system inappropriate for minor summary crime? Does there exist, or is it proposed to procure, a property survey of sheriff and district court buildings to ascertain their condition and quantify current or latent repair obligations?

I do not know the answers to those questions, but I know that no structural change in the role of our summary courts should proceed without first the answers being obtained.

Although I welcome many aspects of the report and I urge that the positive aspects be implemented, I also urge the greatest caution before we storm ahead with wholesale change without compelling evidence that the change is justified.

15:31

Margaret Smith (Edinburgh West) (LD): On behalf of the Liberal Democrats, I thank Sheriff Principal McInnes and his committee for their very thorough report. However, as the report runs to almost 300 pages, we can only skim over the surface of much of it today.

To some extent, I have a feeling of déjà vu, because the Justice 1 Committee has spent considerable time—perhaps I have spent less time than others, as I have had a few weeks off—considering the consequences of the Bonomy report. Many of the key issues that both reports addressed are common to the solemn and summary justice systems and include the need for cases to reach court more quickly; the need for cases to be prepared earlier; the need for better communication between defence and prosecution; the need for earlier pleas; and the need to make trials more efficient, particularly for witnesses and victims. We all agree that those are aims that we want to achieve.

As Michael Matheson said, the current system is patchy across the country. Public confidence in it is also patchy. The McInnes report reminds us that 72 per cent of people who were surveyed stated that they were not at all confident that the current system deters reoffending. Obviously, that is a crucial issue for the Executive.

Changes need to be implemented to make the current system better, but the big question is whether we can address the problems within the existing system or whether we need the full-scale reform that McInnes proposes. We all agree that we need a system that delivers the shortest

possible gap between the offence and the outcome of a trial or other decision. People want effective and quick justice and they want to see in their own communities what that means in practice—I welcome the comments that the minister made following her recent visit to New York.

People also want consistent justice. We know, anecdotally, that there is a lack of confidence in justices of the peace on that issue, which, if we retain the current system, we need to address through training and recruitment. People want a reduction in reoffending.

As I said, the question is whether all the issues can be dealt with in the existing system or whether we need to abolish district courts and do some of the other controversial things that McInnes has suggested. Some of the report's recommendations are controversial, as is reflected in the fact that the report is a majority committee report. For that reason, if for no other, I welcome the Scottish Executive's consultation. We must listen carefully to the views that we receive.

There will be a period of change and flux in any event. As colleagues have said, 20 per cent of High Court business will be shifted into sheriff courts in the coming few years. Is it sensible to get rid of district courts at the same time? The jury is out on a number of those issues. However, we acknowledge that moving to a unified system has its attractions, certainly in terms of potential efficiency and greater accountability.

A number of us have concerns about abolishing lay justices. One of the problems lies in losing the expertise of hundreds of people who have voluntarily given of their time and who have, over the years, built up experience. We should not just say, "Professionals good, lay people bad." I do not have to stand up and declare an interest as a lawyer to speak in this debate. I am a lay member of the Justice 1 Committee, in exactly the same way as I was a lay member of the Health and Community Care Committee, which I convened for four years—I was not a doctor, a nurse or a therapist. Most of us bring our expertise to the subject matters before us without having had any professional involvement in them before we came to the Parliament, so we should not discount the involvement of lay members.

At a time when the sheriff court system is about to undergo a great deal of change and face an increased work load, I take on board the comments of the minister and Sheriff McInnes that we can do a lot to reduce the work load resulting from minor offences. However, we should wait to see whether those measures work before we make further changes to the system. It might be worth considering whether the changes should be phased in. How will we physically replace 700 lay

JPs? How will we train and recruit summary sheriffs? There will be a certain amount of upheaval.

At a time when, as the minister said, we are trying to connect the justice system even more to the public, should we be taking the lay justice element out by abolishing district courts? I appreciate that there are more questions than answers, but in relation to community participation and knowledge, the response from the public in the McInnes report shows that people have faith in JPs. A lot of work can be done on the composition of the bench, to which the report also alludes.

We welcome many of the recommendations, such as the increased use of alternatives to prosecution. The recommendations on fines will be universally welcomed, because currently thousands of people are in prison who should not be there. We await the responses to the consultation with great interest. I thank Sheriff Principal McInnes for a considerable piece of work.

15:37

Pauline McNeill (Glasgow Kelvin) (Lab): The long-awaited report by Sheriff Principal McInnes is a weighty document, but it is a brilliant piece of work. It is hard to keep up with all the recommendations. I admit that I did not get to the end of the report, but I can see clearly that there is an awful lot for debate. I believe that our summary justice system needs to be modernised, as 96 per cent of our criminal court business takes place in the district and sheriff courts. There is a lot to consider, but I urge the Executive not to introduce all the changes in one go, if it decides to proceed with them. Let us have time to think about some of the changes.

As Annabel Goldie highlighted, summary justice has been hampered by the lack of sentencing options in the district court. I recently wrote to the minister on a problem in which I am interested—women offenders who are charged with prostitution and who come before the district court. The lack of available options has meant that those women have ended up in a cycle of offending from which they could have escaped if they had gone to the sheriff court, which has a bigger range of available sentences, including drug treatment and testing orders.

Not that long ago, the District Courts Association told the justice committees that there are so many time bars in relation to speeding offences that one's friends might as well be advised not to bother responding to a fixed-penalty notice. Yes, we breathed in when we heard that, but it is on the record. It is clear that there is a lot to fix. I do not doubt that we should use this opportunity to reform summary justice in the district courts in particular.

I support the proposal for a unified summary court system under the Scottish Court Service, which has expertise in running the higher courts. I can see only benefits in unifying the system. I also support the recommendations on improving sentencing options and alternatives in the criminal justice system, which is one of the report's most comprehensive contributions to the debate. I agree that speed should take priority over other factors, including the establishment of specialist courts. The public rightfully demand that measure. The non-reporting options and the potential introduction of police warnings, fixed-penalty notices and fiscal fines are worthy suggestions, which we should take time to consider.

The Parliament must consider legislating to improve public confidence in the appropriateness of sentences. The report states:

"Persistent offenders, many of them under 21, may have multiple summary prosecutions outstanding at any one time. It is not uncommon for there to be 10 or more current cases involving the same person."

If there are outstanding cases in other courts, cases are often adjourned to await the outcome of at least one of those cases. Continual adjournment has undesirable consequences, which are exacerbated in such circumstances. We should change the law to ensure that procurators fiscal can bring cases together and ensure that the sentencing on conviction reflects the number of offences.

The report contains many other opportunities for the Parliament to legislate, but it also has its controversial aspects. Undoubtedly, the most controversial issue is the proposed removal of lay justices and the introduction of summary sheriffs. The minister was right to be cautious about that. We should allow the consultation in the coming four months to give us an idea of what others think about the suggestion. There is no guarantee that consistency will prevail if we abolish lay justices, given that inconsistencies already exist in other aspects of the court system.

We need a speedier and more efficient system with more sophisticated procedures and a wider range of options. The guiding principle in considering the way forward should be to find the best way of achieving better-quality justice. I agree that early pleas should result in sentence discounting, but only at the earliest stage. We must be careful about discounting short sentences. I agree that we should remove the incentives in the system to plead not guilty, which are a consequence of the legal aid system. I also agree about the need to disclose previous convictions in certain instances. However, I do not agree that we should try a person in their absence. The Parliament has made its view clear on that matter. The problems with trying a person in their absence have been pointed out.

We should have a careful revision of the report, which is an excellent and complex piece of work that gives us a lot to work with in modernising the system. I genuinely believe that, if we get the system right, the public will have much greater confidence in summary justice. I look forward to the debate that is ahead.

15:43

Mr Kenny MacAskill (Lothians) (SNP): Like Annabel Goldie, I declare that I am a member of the Law Society of Scotland, albeit a non-practising one.

I, too, welcome the report from Sheriff Principal McInnes and his committee. We need to recognise that we are in the 21st century by making changes and moving forward. We must consider the difference between perception and reality. Perception is often as important as reality—there is a perception about aloofness which, in many instances, is borne out by the facts and a perception that the guilty go free—but the reality in many instances is that our system works well, although it needs to be amended, improved and built on. That, rather than knocking down and reconstructing the system, is what Sheriff Principal McInnes seeks to do.

Although we are dealing with summary justice and not solemn matters, that does not mean that we are not talking about serious offences. Even low-level crime that is committed over a period of time can have serious effects on individuals and communities. Given that we are dealing with summary justice, we must strike the right balance between individual rights and state responsibilities, between access to justice and affordable justice and between local input and national criteria and standards. To be fair, I should add that Sheriff Principal McInnes has tried to do that.

Obviously, the major point of discussion has been the question of lay justices and summary sheriffs. To some extent, I am agnostic on the matter. The issue has to be discussed and debated, as is evident by the fact that a minority report was published expressing a different opinion. There are views each way and I can see advantages and disadvantages.

I do not know why we should necessarily take a one-size-fits-all approach. There must be a possibility of leaving systems open and flexible. After all, we still have stipendiary magistrates in Glasgow—if they ever existed anywhere else, they performed only a minor role. One approach could be taken in rural areas and another could be taken in urban areas, for example. Urban areas have access to the qualified pool of summary sheriffs, as they have been described, but that is not the case in rural areas such as Dornoch, where summary sheriffs would not be easily obtainable.

Balancing that is the fact that, in many urban areas, people have less desire to make an input because of the size of the community, whereas, in a rural area, there is a desire to get involved, because cases take on greater significance. Therefore, my only plea is that we should not take a one-size-fits-all approach and that we should leave open the possibility for areas to take different routes if they express a desire to do so. I believe that, if that happened, there would likely be a difference between urban and rural areas because of the availability of local sheriffs in urban areas and because of the desire for local input in rural areas. We should accept that.

Many of the recommendations in the report do not require consolidated legislation or new legislation. They are—to avoid legalese—no-brainers. We do not have to go back to the beginning, because the changes that the report recommends are ones that the public and the professions have been calling for.

There should be movement on fixed-penalty notices. Although we need to penalise people, we do not necessarily have to do so in the same way as we have been doing. We can decriminalise some things and still have the same effect. Let us press on with that. I doubt whether police officers need to continue submitting standardised reports to the procurator fiscal, given that we are in the 21st century and have access to modern technology such as mobile phones. Such changes do not require the same legislative process as more complex changes. The consensus that I believe exists in the Parliament would enable the Executive to drive on and make the necessary changes in order to deal with the more substantive matters in other ways.

Those other matters will require discussion. Presumably, legislation will be required to deal with the new appeals procedure, but that, too, seems to be a no-brainer to some extent. We recognise that we have to maximise the usefulness of our highly paid and qualified judges and allow certain matters to be dealt with in different ways. The only point that I will make in that regard is that, if we ask a silly question, we get a silly answer; therefore, if we ask for a social inquiry report in a murder case, we should not be surprised if we get a silly response. For goodness' sake, in such instances, we should lighten up and recognise that, if a social inquiry report that we have asked for clearly cannot be implemented, we should not blame the social worker but change the system. I believe that we should agree to park the matters that we can all agree on and debate the other issues in greater detail.

15:49

Margaret Mitchell (Central Scotland) (Con):
Sheriff Principal McInnes's report on the provision

of summary justice in Scotland's sheriff and district courts includes a review of the structures and procedures in the courts. The report outlines a set of guiding principles, against which the committee proposals were tested—fairness to victims, witnesses and the accused; effectiveness in terms of deterrence and the provision of a system that is simple and consistent; and efficiency in the use of time and resources. Moreover, the committee recognised the need for quick delivery in the justice system. Crucially, its clear view was that the summary justice system of the future should be user centred rather than service driven.

The committee tackled the structure first, with the recommendation to unify the summary court system under the central administration of the Scottish Court Service, funded by the Scottish Executive. That creates the opportunity to plan for and invest in infrastructure, information technology and training on a consistent basis throughout Scotland. That is sensible in terms of providing a quality service to court users that is simple and effective, with sufficient flexibility to permit responsiveness to change when required.

The proposal for the creation of coterminous boundaries is equally sensible. At present, Scotland's commission areas—the local authority areas in which district courts are run and managed—differ markedly because of the local authorities' different interpretations of their statutory duty to provide sensible and sufficient premises and facilities for the district court. The alignment of boundaries should ensure that existing sheriffdoms and commission areas will be coterminous with police and procurator fiscal operating areas and with local authority boundaries. That is to be welcomed.

The benefits of the proposals on judges in summary courts are less obvious. I preface my comments with a declaration of interests, as I am a justice of the peace in the south Lanarkshire commission area. The report recommends a move to a system that employs only professional, qualified judges, to be known as summary sheriffs. There is a distinct absence of concrete evidence to substantiate the assumption that replacing lay justices with a professional judiciary will improve the delivery of justice. However, other proposals that relate to procedures involving the courts, police and prosecution will go a considerable way towards achieving that aim.

The recommendation to appoint a single agency to collect court fines will save court time, as will the recommendation to vary court hours to allow courts to sit in the evenings and at weekends. Both that and the recommendation that fine defaulters should have their fines deducted from benefits or have their wages arrested are measures that the Conservatives have

consistently advocated to ensure that justice is delivered more speedily and to prevent delays.

The creation of a single agency for fine collection will save police time, as will the recommendations for the greater use of non-reporting options and fixed-penalty notices for non-traffic offences. Those proposals, together with the recommendation that the police have the option to submit abbreviated court reports where that is appropriate, are important and will undoubtedly reduce the amount of time that the police spend on administrative duties. The proposals will free up resources for on-the-beat policing.

The recommendation that

"alternatives to prosecution should be made more widely available ... to enable the courts to focus on"

speeding up the

"handling of serious crimes ... while giving police and procurators fiscal ... powers ... to respond quickly and appropriately to minor offences"

is generally welcomed. The proposal to lead CCTV evidence or other recorded evidence without the requirement for a witness to speak to it is sensible, as is the recommendation to pilot the co-location of police officers in Crown Office and Procurator Fiscal Service offices.

Particularly welcome is the recommendation to remove the mandatory requirement to obtain a new social inquiry report prior to sentence if the report has been produced in the past three months or if the court is satisfied, having regard to the sentence that is likely to be imposed, that a new report would serve no useful purpose. Social inquiry reports are expensive and time consuming to compile and as a result they delay justice unnecessarily.

In conclusion, the report is very much to be welcomed, although there are three areas that require further scrutiny: the proposal to abolish lay justices, the recommendation of trial in absence and the crucial requirement for discussion between the prosecution and the defence at an early stage, together with early disclosure of the Crown's case to encourage the tender of a guilty plea at the earliest opportunity. The early-disclosure culture that is advocated in the reform of High Court proceedings must permeate through to summary justice—which accounts for 96 per cent of criminal cases that are prosecuted—if the objective to deliver a more efficient and effective summary justice system is to be realised.

15:54

Mike Pringle (Edinburgh South) (LD): Sheriff Principal McInnes must be congratulated on his long and detailed report into our summary justice

system. Like Pauline McNeill, I am sorry that I did not get to the end of his report.

As has been said, 96 per cent of criminal court business relates to summary justice, so it is crucial that the system should work effectively. The delays in the system are well known, although they are not all due to the system. When he launched his report, Sheriff Principal McInnes said:

"The emphasis is on simple but effective processes which will retain and, I hope, enhance the confidence of the public and take proper account of the needs of victims and witnesses."

I will return to that quotation at the end of my speech.

The report recommends a considerable expansion of the use of alternatives to prosecution—for example, the introduction of recorded police warnings, greater use by the police of fixed-penalty notices and a wider range of fiscal fines. I am all in favour of any suggestion that keeps people out of prison, so I welcome the recommendation that we abolish the use of prison as a penalty for fine defaulters.

Other recommendations aim to provide for more efficient handling of cases that do not require prosecution. Perhaps the most beneficial result of that would be the saving of witness time. If trials were more efficient, only those witnesses whose evidence is in contention and therefore requires to be heard would need to attend.

I will spend most of the time that I have available on the role of the justice of the peace in the summary justice system. I should declare an interest, as I was a justice of the peace while I was a local councillor, which allows me to give an informed view of the subject. I accept that it is a good idea for the district courts system to come under the Justice Department—indeed, that was suggested in the Liberal Democrats' manifesto in 1999. However, it is interesting to note that the one recommendation that produced a dissenting voice was on the abolition of district courts, about which Sheriff Lockhart and Helen Murray JP said:

"we feel strongly that the decision on the future of lay justice should be made on the grounds of principle rather than of expediency, tidiness or personal preference."

They went on to say:

"The case for the abolition of lay justice is not rooted in research or objective analysis of the performance of Scottish district courts."

I want the summary justice system as a whole to work better for victims, witnesses and the accused. Locally recruited, properly trained justices can play a proper role in that. There is no reason why, with better training and confidence to challenge delays in the system, lay justices cannot help but improve our court system.

Lay justices, of which there are more than 700 in Scotland, carry on a long tradition of locally based voluntary service. The service that they provide is similar to that involving the people who sit on children's panels. However, we are not talking about getting rid of those people; in our justice reforms, we want only to improve and strengthen children's panels. I believe that the current summary justice system's shortcomings cannot be overcome by the abolition of justices in the district court. Many of the cases with which they deal are minor and I believe that it is not the best use of resources to have a fully trained sheriff sitting on minor traffic and other offences.

The retention of voluntary justices can save the criminal court system a significant amount of money, which could be better spent on restorative sentences that aim to keep minor offenders out of prison. That is crucial, as most people accept that short-term sentences are no good for anybody. There is an argument that the legal advisers to district courts add to the cost, even if the justices are not paid, but those advisers are clerks of the court and would still be there even if we had a full-time judiciary in the district courts.

Sheriff Lockhart and Helen Murray said:

"We see no reason why, with appropriate training, lay justices should not be pro-active and willing to challenge defence and prosecution delays."

I assure the Parliament that justices already challenge the defence and the prosecution, not only on delays, but on other matters. I often did so. There can always be improved training, while revision of the selection processes should allow justices to be even more representative of the communities that they serve.

The great strength of the district court system lies in the lay justices and their depth of knowledge of their communities. Lay justices continue the tradition of voluntary public service. I am entirely in agreement with Michael Matheson: I have no problem with taking the district courts away from the local authorities and administering them with the rest of the justice system. Earlier, I read this quotation from Sheriff McInnes:

"The emphasis is on simple but effective processes".

That is exactly the strength of district courts.

In the four-month consultation period, I hope that the Executive will reflect carefully on the views that I have no doubt will be expressed by many justices of the peace and others. I hope that those views will persuade the Executive that justices of the peace still have a fundamental role to play in the 21st century justice system that the McInnes report aims to produce.

16:00

Bill Butler (Glasgow Anniesland) (Lab): Few would argue that the present functioning of non-jury courts is not in need of reform. The central reason behind establishing the summary justice review committee under Sheriff Principal McInnes in late 2001 was ministers' recognition of the widespread view that the court system had become slow and ineffective and needed radical refashioning.

I welcome much of the report and the minister's decision to launch a four-month consultation on its recommendations. It is fit and proper that the Scottish public should have the opportunity to contribute to the debate about the proposed reforms.

The minister has said that she wants

"to make the most of the opportunity created by this report to sharpen up the way our justice system handles the majority of offenders across Scotland"

and that

"we need to move towards a system that delivers the shortest possible gap between offence and penalty."

That approach is reasonable and correct.

As the Parliament attempts through the Justice 1 Committee's deliberations on the Criminal Procedure (Amendment) (Scotland) Bill to tackle the culture of adjournment in High Court proceedings, we need to be mindful of the other end of our justice system. Summary justice is the lower end of the criminal justice system and accounts for 96 per cent of criminal court business. Summary courts deal with 130,000 cases a year. Summary justice is therefore a vital component in our justice system. Dealing with such cases as expeditiously and appropriately as possible is imperative.

Although many such cases are minor, they affect the quality of life of victims and of communities. Delay in dealing with such cases, as with more serious matters, can corrode the public's confidence in our justice system. If implemented, many of the radical proposals in the report will have a positive effect. For instance, the McInnes committee is not divided on the principle of having a unified summary criminal court system that is funded by the Scottish Executive and administered by the Scottish Court Service. As members have said, summary court management is split between local authorities and the Scottish Court Service. In today's circumstances, that does not make much practical sense. There is no division on that.

I am also pleased by the suggestions of improvements in collecting and enforcing fines. I am sure that most—if not all—members agree that having the police acting as debt collectors wastes

resources hugely. The suggestion that a single public sector organisation should administer fines is welcome and should improve the collection and enforcement of fines.

Other proposals are worthy of support. It will be interesting to see what the Scottish public make of them in the consultation process that is under way. However, one central recommendation is controversial. It relates to the minister's fourth theme, which is on courts relating to communities in the delivery of local justice. I am concerned and have strong reservations about the report's proposal of a fully professional judiciary. The note of dissent that Sheriff Lockhart and Mrs Murray JP produced, which is attached as annex A to the report, raises several serious worries that I hope will give the ministerial team pause for thought.

When Sheriff Lockhart and Mrs Murray say that they see

"the inherent desirability of retaining ... the lay judiciary in dealing with less serious crimes,"

I think that they have a point. When they say that there is an

"absence of concrete evidence that moving to an all professional judiciary will significantly improve the delivery of justice in such cases",

I tend to agree.

Sheriff Lockhart and Mrs Murray lay out their concerns at some length and in more detail in their note of dissent regarding the need for lay justice but, obviously, I do not have enough time to go into that matter today. However, I hope that ministers will reflect on the concerns that they outline before the ministerial team reaches a decision.

Sheriff Lockhart and Mrs Murray make a strong case when they say:

"Lay justice is a powerful expression of community participation in the regulation of society. It seems inconsistent to retain it in the most serious cases—in which completely untrained juries make key decisions on the evidence—but to remove it in the context of summary justice."

Notwithstanding that one major concern and a concern that my colleague Pauline McNeill raised about trial in absence, I am happy to support the motion, as it clearly expresses the need for the long-awaited modernisation of non-jury courts so that they can work more quickly and efficiently for the benefit of victims, witnesses and the people whom we all seek to represent in our communities. I commend the motion to members.

16:06

Colin Fox (Lothians) (SSP): I welcome the opportunity to participate in the debate. Other members have given observations on the sheriff

court. When I have attended sheriff courts over the years, my abiding observation has been that one social class, which is represented by the sheriffs and lawyers, will be at the front of the court, and another social class, which is represented by defendants, victims and those in the public gallery, will be at the back of the court. I notice that the McInnes report has very little to say about that.

I read the McInnes report with interest. At the time, I was also reading a book by Helena Kennedy that can only be described as an onslaught on new Labour's policy on the law. I recommend that book to the ministers. It is called "Just Law" and is a revelation, perhaps in the same way that "Das Kapital" was a revelation in its time, although it is too early to say. I am sorry that I had not read the book before we had the debate on the Bonomy review because Helena Kennedy dismisses new Labour's party line—which has again been emphasised today by the minister—of increasing the rights of victims and witnesses and giving a perfunctory nod in the direction of a fair trial.

In paragraphs 2.6 to 2.9 of the McInnes report, a theme is repeatedly established. McInnes says that he accepts that

"the offender remains innocent until proved guilty",

but thinks that the system

"has to be fair to victims and witnesses as well as to the accused."

Why is there always a "but" in such debates? I accept that, under the review, we are dealing with minor penalties, some of which will not create a criminal record. Nonetheless, that is also the Labour party's line in respect of Bonomy, antisocial behaviour and vulnerable witnesses. It is purist new Labour.

Cathy Jamieson: Will the member take an intervention?

Colin Fox: I will let the minister in in just a second. I will quote what Helena Kennedy says about remarks such as those of the minister. On page 7 of the book—for people who want to get it—she says:

"rebalancing the system in favour of victims has all the hallmarks of the advertising agency".

She states:

"Maintaining that justice for victims can only be purchased at the expense of the accused is as dishonest as the claim that jurors are the source of miscarriages of justice."

She continues:

"Those who claim that we need a levelling of the playing field between victims and defendants are deluding the public about the role of the state. The state is the real beneficiary when power is shifted."

She also says:

"The criminal justice system is based on the fundamental principle that it is far worse to convict an innocent person than to let a guilty one walk free. It is that fundamental value which is now in jeopardy."

Those remarks are apposite in the week in which the nightmare of TC Campbell and Joe Steele finally ended, but it appears that such a key lesson is still to be learned by the Executive.

Cathy Jamieson: I wonder whether Colin Fox would read out some of those remarks to people in disadvantaged communities whose lives are blighted by crime. I invite him to reflect carefully on the issue of ensuring that there is justice for victims and witnesses and, indeed, on the right to a fair trial for the accused, which the Executive absolutely supports. Does he agree that many members of the public who have been victims think that the scales have tipped too far in favour of offenders rather than in favour of the law-abiding majority in our communities?

Colin Fox: I respond to that by saying that the scales have tipped too far in the other direction in parliamentary debates. The right to a fair trial comes in for considered criticism time and again. The minister knows full well that this is not the first time that such remarks have been made in the chamber.

The McInnes review was ordered because we have a slow, congested system that suffers from prolonged delays and adjournments because of the volume of cases and the length of time taken to dispose of them. Of all the facts in the McInnes report, the one that stuck out the most was that the number of cases in court proceedings has fallen by 60,000 in 10 years, but it is now taking far longer to process them; 25 per cent of cases are still not disposed of after 50 weeks. I accept that there is a problem to be addressed.

Let me be clear. I welcome many of the McInnes report's practical solutions for unclogging the system. I welcome the fact that he is proposing to take tens of thousands of cases out of the criminal justice system altogether: for example, non-payment of road tax and non-possession of a television licence—and I hope that minor drug possession is also in there. There are far too many prosecutions for trivial matters.

I welcome alternatives to prosecution, compensation orders, abbreviated reports to the police, the front loading of defence fees, early summary statements, and consistency of sentencing. What I do not like in the McInnes report is the fact that modernising the system seems to involve abridging defendants' rights. In my opinion, paragraph 2.39 of the report endangers defendants' rights and compromises them by suggesting, "Just plead guilty and stop

messing us around." Encouraging innocent people to plead guilty endangers them and it is not the right way forward for justice in this country.

I agree with some of the points that others have made about trials in the absence of the defendant, although I have no time to elaborate on that. That proposal worries me.

The minister has come here before and made us aware that considerable resources have gone into the Crown Office and Procurator Fiscal Service but, as she knows, there is a great deal of concern that not enough of that has gone to the front-line troops and too much has gone to number crunchers and management gurus.

16:12

Stewart Stevenson (Banff and Buchan) (SNP): It is difficult to do justice to a 280-page report that contains 140 recommendations and a significant note of dissent. I am sure that some good will come from the four-month consultation, even if it is only a resolution of some of the conflict between that note of dissent and the substance of the report. Nonetheless, it is disappointing that the Executive has not felt able to "open the dirty raincoat" and let us see its preliminary thoughts on those parts of the report that it should find relatively easy to accept.

I turn to one or two points that touch on the note of dissent and the core report and ask how the committee could have been misled in certain respects by some of the evidence that it appears to have used. I refer particularly to the English report to Lord Irvine's office "The judiciary in the magistrates' courts", which was published in 2000. Pages 75 and 76 of the McInnes report refer to that report, which came up with several financial suggestions that are, upon examination, incredible. It suggests:

"A lay magistrate costs on average £495 per annum compared to the £90,000 per annum total employment costs of a stipendiary."

I do not find that to be particularly astonishing. Those figures translate into £3.59 per appearance before lay magistrates and £21 per appearance before stipendiary magistrates. It goes on to say:

"When indirect costs ... are brought into the equation, however, the gap between the 2 groups narrows, to £52.10 and £61.78."

A bit of basic arithmetic reveals that that only works if the professional magistrates are paid at the rate of £18,000 per year, which I suspect not to be true. I wonder whether, in that particular instance, the committee is founding some of its arguments on some rather dubious numbers that might have been unwisely selected from a larger report.

Miss Goldie: Will the member give way?

Stewart Stevenson: I wish to develop the point that I am making. I am reading from page 76 of the report, if that is helpful.

The authors of the report go on to include opportunity costs—in other words, the cost to the lay person of giving up the benefit of doing what they might have been doing if they were not in court—and say that, in essence, a lay magistrate costs £9 more per appearance than a stipendiary. Of course, that is not a cost to the criminal justice system. It is a genuine and partial measure of the benefit that the lay magistrate is contributing voluntarily to the system. The committee may have misled itself a little on such issues.

In section 5.20, on page 50, there is a discussion of the management savings that are to be made by centralisation. However, according to standard management theory, increasing centralisation increases management as a proportion of effort. Reasonable criticisms may be made of the savings that might be made there. It is perfectly reasonable to integrate vertically the various parts of the criminal justice system, but to integrate the system across the geography of Scotland and to take away local decision making is not necessarily a good idea.

I say seriously to Colin Fox that he ought to ponder carefully whether when he focuses on a few instances of problems with individuals in the criminal justice system he really represents the views of the people whom I meet on constituency business. Those problems must be set against the considerable need of the victims of crime. In the report there is discussion of diversity among lay magistrates and the system is criticised for not being sufficiently diverse. Magistrates are too old and are not socially mixed. However, lay magistrates are more diverse than sheriffs, which is something.

On the issue of volunteers, I note that Assistant Chief Constable Pat Shearer is trying to have more special constables, who are volunteers, employed across Scotland. That illustrates the fact that there is a place for such people in the legal system.

John McInnes has produced an excellent report, but I hope that it does not make the same contribution to the legal system that a copy of "Huckleberry Finn" from Slade prison library made. Fletcher took it to the prison governor and said, "This is the book you wanted, prison governor." The prison governor asked, "Why?" Fletcher replied, "You wanted a book to prop up your bookcase, and this is the right size." The McInnes report is about the same size as that book—it deserves a better fate than "Huckleberry Finn" in Slade prison.

16:18

Karen Whitefield (Airdrie and Shotts) (Lab):

The review of our justice system is a central plank of the Executive's agenda for this session. My surgeries are regularly visited by people who are affected by crime and antisocial behaviour or who have had a dreadful experience of our justice system. I say to Colin Fox that they will not countenance a system that would rather allow the guilty to walk free than face up to the challenge of reform. That is totally unacceptable to them.

It is incumbent on the Parliament to address those concerns and to make the changes that are needed to create a fairer, more efficient justice system in Scotland. Summary justice may be at the lower end of the system, but it is also the method of dealing with many of the most common problems in our communities. The central theme of the McInnes report is the need to speed up the process of summary justice. In McInnes's words,

"the summary system needs to become more summary".

The committee's report proposes a number of innovative measures for speeding up the summary system—measures that are designed to ensure that cases reach court more quickly and are prepared earlier and that guilty pleas are made at the appropriate time. Any steps to speed up the summary process can only be beneficial in tackling recidivism. Ensuring that there is the shortest possible gap between the offence and the penalty will help to tackle cycles of criminal activity at a very early stage.

One of the most contentious recommendations in the McInnes report is the proposal to create an all-professional judiciary, which would do away with lay justices of the peace. A number of JPs from my constituency have expressed concerns that I share and which have merit. They feel that, because they come from communities that are affected by crime, they are more in touch with the views of local people about the impact of that crime on their communities. They feel that that enables them to use their experiences to ensure that sentencing is more in line with the views of members of the public.

The committee examined the argument that there are concerns in some parts of the country about inconsistency, varying practices and the decline in the number of JPs. However, I highlight the excellent work that is being done by JPs in North Lanarkshire. I assure members that those JPs take their responsibilities seriously. They are required to undertake training regularly so that they can make properly informed decisions about sentencing. I ask the minister to recognise the value of such people and to reflect on the best way to retain their skills and experience.

Although the proposal to create an all-professional judiciary is controversial, there are many positive recommendations in the report. In particular, the measures designed to improve our fines system are to be welcomed. The proposals to streamline the administration of fines by ensuring that they are administered by a single public sector organisation will help to free up valuable police and court time.

I also welcome the proposal to abolish prison as a penalty for fine defaulting. It is important to ensure that that is replaced by further effective sanctions to ensure fine repayment, but I am sure that most people in the chamber agree that prison is no place for someone who has failed to pay their fines and that it is a more appropriate disposal for those people who present a threat to and cause havoc in our communities.

The report proposes the introduction of a new fiscal compensation order, which I welcome. It is essential that the justice system is focused on serving the law-abiding many rather than providing loopholes and delaying mechanisms for the law-breaking few.

I welcome the opportunity to participate in today's debate on the report. Sheriff Principal McInnes is one of the sheriffs who serves at Airdrie sheriff court in my constituency. The report addresses the central issues of summary justice. It provides an excellent tool for further discussion as well as a range of innovative and progressive recommendations.

However, I ask that the minister takes great care in reforming summary justice. We do not want to throw out the baby with the bath water. Many local justices of the peace provide a sterling service to their communities. At a time when the Executive is promoting community participation and empowerment, we should recognise the value of the efforts of JPs on behalf of their communities. We should ensure that, during the consultation period, we listen closely to their views and to all who come into contact with the justice system. I support the motion.

16:24

Patrick Harvie (Glasgow) (Green): I welcome the publication of the McInnes report and commend members of the review committee for their dedication and hard work in producing it. I agree with the committee and the Executive on the need for a modern justice system that is just and fair as well as efficient and effective.

The report makes a number of plausible recommendations to improve the summary justice system, many of which have been accepted by members from all sides of the chamber. The creation of a single, unified summary court

system, managed by the Scottish Court Service, is a welcome step and was agreed to unanimously by the committee because of a belief that it would be conducive to greater consistency, simplicity and long-term efficiency.

I am pleased at the focus on alternatives to prosecution. This is perhaps only a faint hope, but I hope that it will form part of a wholesale move to a system that is less authoritarian, more compassionate to victims and offenders and more focused on restorative objectives. The expansion of mediation services should be a high priority. The greater use of IT in the system, which the Law Society of Scotland has called for, would also be welcome.

As members from all sides of the chamber have acknowledged, the report is not without controversy. I share the concerns about the proposal to abolish the lay justice system. The note of dissent in the report argues that the proposal is not required as part of the unification of the summary court system. It goes further and says:

"Lay justice is a powerful expression of community participation".

It then goes on to say that the

"symbolic effect of lay participation in the criminal justice system ... should not be undervalued",

a point that Michael Matheson discussed.

My only personal experience of the system was as a peace protester: I was fined—funnily enough—for breach of the peace. I might have retained a more generous view of the system had I been charged with defending the peace, but I agree with the concerns that have been expressed. I will support Michael Matheson's amendment for the simple reason that it acknowledges the note of dissent.

I will pick up on a couple of the points that Sheriff Lockhart and Mrs Helen Murray JP made. They are not convinced that the abolition of lay justice will contribute to making a more efficient and speedy system. Rather, they argue that lay justice could be drawn upon more effectively, as a resource that is currently underused. It could take on more business and relieve the pressure on the sheriff court system. That is an important concern, given that Lord Bony's proposals recommend that case work be moved downward through the system to relieve the increasing pressure of work higher up.

Is lay justice not part of the solution to help efficiency and effectiveness, rather than being a hindrance upon it? I hope that respondents to the consultation will address that question on the basis of the evidence and experiences of all who come into contact with the system, not solely the

professionals who earn their livings in court. I ask the Deputy Minister for Justice to address in his closing speech what active steps the Scottish Executive will take to ensure that the McInnes report is consulted upon as widely as possible, especially with JPs, witnesses and offenders.

16:27

Robert Brown (Glasgow) (LD): I begin by declaring my membership of the Law Society of Scotland and my role of consultant with Ross Harper solicitors in Glasgow.

I welcome the McInnes report. It is a very thorough piece of work, which examines and raises many issues. Sheriff McInnes said that some of them would be controversial. Indeed, some of them are. We should concentrate on the objectives of the system. According to Sheriff McInnes, those are to be

“fair to victims and the accused; effective in deterring, punishing and helping to rehabilitate offenders; and efficient in the use of time and resources.”

As a number of members have said, we need to keep the balance between those objectives.

I began my legal career as a procurator fiscal depute in Dumbarton. I then moved on to the defence side before going on to more general legal work. Although that goes back to a rather ancient period, if I can put it that way, I have had some experience of the court system, at least as it existed then. There were huge deficiencies in how things operated, particularly in the district court.

When I last appeared in Glasgow district court, which admittedly is some time ago, one appeared to interview the prisoners in a room adjacent to the cells, where three people were being interviewed by solicitors at the same time. There was no privacy and there were usually no summary complaints available so that people could know precisely what the charges were. There were significant deficiencies in how matters were dealt with. That is important in the context of our discussion about a single estate and a single set of arrangements.

Behind that were a number of issues, one of which was the argument about who paid for the arrangements in the district court. That argument led to a lack of investment in the system over a period of time. That might have changed since I appeared in court, and improvements might have been made, but I suspect that they have not been as great as they ought to have been.

The objective is not just the speedy processing of cases from offence to punishment; there is also the middle bit, which relates to the trial and the dispensing of justice. After all, the main objectives of the courts are to decide whether or not an

accused has committed an offence and, if they have, what sort of punishment should be imposed. We must remember that underlying our justice system is a presumption of innocence.

Many important issues have been raised to do with the single unified court. Like others, I agree with the arrangements for that court. Like others, too, I am concerned about the abolition of lay justices, especially when we are moving 20 per cent of solemn cases from the High Court down to the sheriff court. It would be a retrograde step if we lost the community feel and input of the 700 lay justices in Scotland. The point that there is a parallel with the children's panels was well made.

The reason for the reduction in the number of people going before the district courts bears close examination. It is partly because of a reduction in the total number of cases and partly because of a number of changes in the way that things are done. It is also partly because of policy decisions by the prosecution about which court certain cases should be heard in. For example, Sheriff Principal McInnes made the point—and it is true—that the use of fixed penalties will reduce the need for court cases in the district court and perhaps the sheriff court. The point that has been made about the 60 per cent use of court buildings is not unimportant. However, if someone lives in Huntly or Inverurie, they are an awful long way from the nearest sheriff court, which would be in Aberdeen or Peterhead. The location of court buildings is important for access to justice. That is as true in rural areas as it is in urban areas such as the one that I represent.

There has been talk of case-hardened sheriffs. I remember a case from some years ago. A rather reactionary JP was advised by the clerk of the court that she had no option but to find a person not guilty because of insufficient evidence. Very reluctantly, she said, “I find you not guilty.” Then she added, “But you're admonished.” There might be a lesson there. People become case hardened. It is important to have proper training and proper attitudes—whether at the shrieval bench or at district court level.

It is important to be able to follow cases through. The children's panels are important in that regard because of the training that panel members have. It may well be that we could make better use of JPs in the throughput of justice than we have done in the past.

The speed of court cases is an essential part of justice. It is no use if it takes 12 or 18 months for a case to finish, because of repeated adjournments. However, I do not like the concept of trial in absence, which has echoes of some of the rather unpleasant foreign systems that one reads about from time to time. It is important to encourage early pleas in appropriate cases. The key point is

not the call over at the trial diet; it is the intermediate diet. The minister will be well aware that many attempts have been made to tackle that problem, almost all of them without long-term success. It is important that the intermediate diet is made effective and that people who are guilty and who are going to plead guilty do so at that diet if they can. We have to get rid of the unnecessary cases that go right through the system—the cases in which people plead guilty for the wrong reasons at the last minute.

All those issues bear careful examination. We will have to await the outcome of the consultation, but let us bear in mind the need for balance. This is all about justice, but a speedy disposal of cases is important. Let us get the technical aspects right and let us take the advice of the public and the practitioners on the details of this very excellent report.

I will support the Executive motion.

16:34

Bill Aitken (Glasgow) (Con): Presiding Officer, you will forgive me if I have a certain feeling of déjà vu this afternoon. Here we are discussing fines being deducted from benefits, summary sentencing powers being increased to 12 months and variation in court sitting hours. Under the circumstances, I must surely be forgiven for agreeing with Pauline McNeill that Sheriff Principal McInnes's proposals are a brilliant piece of work, because they simply echo what I was saying in this very chamber less than a year ago.

There have been interesting contributions to the debate and, if I may so, some meritorious ones. A consistent thread has run through all the arguments. There is consensus about speed being of the essence in the summary criminal justice system, providing that fairness safeguards exist.

I want us to go further than is proposed. If there is to be a truly summary justice system, a case should take no longer than four to six months, but that does not happen at present. In stipendiary courts in Glasgow that deal with cases involving the carrying of offensive weapons, such as knives, the trial diet is being set six months ahead of the pleading diet, which is surely unsatisfactory. That being the case, what is likely to come out of the proposals must be welcome.

In her opening remarks, the minister dealt with the question of diversions. She does not want offenders to be criminalised, but she also sensibly said that their conduct must be brought home to them. That is fair enough, but it must also be brought home to them that, when a penalty is imposed, it must be paid. That is not happening, as the minister knows.

Sheriff Principal McInnes sets out in his report exactly the same proposals that I outlined a year ago. I commend the proposals to the minister because they offer a sensible solution that would also allow her to achieve much of what she seeks to achieve. We do not want people to go to prison unnecessarily. At one time, if a court thought that a custodial sentence was appropriate, it would have been imposed. A fine is an alternative to custody in many cases, but sometimes the custody alternative is enacted. We do not want that to happen. Deducting a fine from someone's benefit would prevent them from fine defaulting and going into custody.

I must tell the minister that the supervised attendance orders are simply not a goer—they will not work because the offenders will not turn up. Ultimately, people will just find themselves in much greater difficulty than they are in at present.

Cathy Jamieson: It was too much to expect that we would get through the whole debate with the new, consensual Bill Aitken. What evidence does he have for saying that supervised attendance orders will not work, given that we have just introduced pilot schemes in which those orders are a mandatory alternative to the use of prison for fine default?

Bill Aitken: Many years of dealing with offenders such as the type who will be the subject of the supervised attendance orders have convinced me that they will simply not work. I am more than happy to be proved wrong, but I know that I will not be. That is the essence of my argument.

Annabel Goldie dealt with an important aspect, which is the volume of cases that come to sheriff courts nowadays. Lord Bonomy recommends a 20 per cent transfer of work from the High Court to sheriff courts. In Glasgow at present, there are seven sheriff and jury courts, but that would have to be extended if the work is transferred from the High Court. The existing sheriff court infrastructure could not cope with any extension of work. Something will have to be done to ensure that transferred work can be done. The minister must address that problem and I am confident that she will do so.

Many members raised the question of lay justice. Obviously, I should have declared an interest because I still hold a justice's commission. However, much to the relief of the Glasgow criminal classes, I no longer sit as a justice. Lay justice has a role to play. It has performed admirably for 300 to 400 years. Karen Whitefield was correct when she stated that a lay justice often has a better understanding of what goes on in a community and what disturbs its citizens than a professional judge has. We must reconsider the issue of lay justice, but that does not mean that there must be mutually exclusive systems.

Kenny MacAskill made an interesting point about Glasgow's dual system, which works well. Glasgow district court has eight courts: four stipendiary and four lay ones. Again, perhaps we should consider whether that kind of system can be imported into other areas of Scotland and whether lay justice and professional justice can work in tandem. I leave that as a suggestion.

Mike Pringle: Surely Glasgow has stipendiary magistrates only because of the volume of work there.

Bill Aitken: Yes, but a similar argument could apply to other jurisdictions in cities and in country areas. Of course, stipendiary magistrates have greater sentencing powers than do lay magistrates. For example, stipendiary magistrates can disqualify people from driving and impose sentences of up to six months, or nine months in some cases. The use of stipendiary magistrates might take away some of the work from the sheriff courts in other jurisdictions. I commend that to the Executive.

Seeing Mr Pringle reminds me of two points that he made. He said that any proposals that will keep people out of prison will receive his support and that short-term sentences are no good for anyone. Changing his wording slightly, I would support any proposals that will stop people committing crime. Although short-term prison sentences might not do too much good to the accused persons, they do a lot of good to those whose lives they have frequently made a misery.

We have had a useful debate around a number of ideas this afternoon. It has been encouraging to see that the Minister for Justice does not have a closed mind but is willing to consult in a frank and open manner. That is to be commended.

Summary justice is important. Unfortunately, there is a clear career process in criminality, given that those who go through the summary criminal system quite frequently eventually end up in the solemn courts. If the justice system at summary level can be improved by being made short, snappy and effective, we might stop that process of graduation to the greater benefit of society.

We shall support the Executive motion. Although we find nothing particularly objectionable in the SNP amendment, we cannot quite understand why it was lodged, so we will probably not take a view on it.

16:41

Mr Stewart Maxwell (West of Scotland) (SNP): Like other members before me, I welcome the bulk of the proposals in the McInnes report. I also praise the work of Sheriff McInnes and his team in preparing and producing a thorough piece of work.

As has been mentioned, the report is quite large, so although I have taken some time to go through it over the past week, I am sure that I have missed many of the main points.

The main thing to come out of today's debate is the genuine feeling of most members that it is time that we modernised the summary justice system, brought the district courts into the 21st century and moved forward by improving the system so that victims are at the forefront of all that we seek to achieve. Colin Fox obviously felt slightly differently about that. I am sorry that he took that view, because it seems to me that the victims of crime should always be at the front of our minds when we are trying to produce a system of justice for our country. Apart from him, members were generally unified in their approach to making the system work and in accepting that Sheriff McInnes and his team have produced a good report, most of the aspects of which most of us can support.

The report's most contentious proposal is the abolition of lay justices, which was mentioned by many members, including Michael Matheson, Margaret Smith, Margaret Mitchell, Mike Pringle and Bill Butler. It is important that we spend time thinking about the matter. As Bill Aitken and others said, lay justices have been in existence for between 300 and 400 years and they have done a marvellous job. The deep links that lay justices have to their communities are extremely important. That is highlighted in the note of dissent at annex A of the report. We should be very careful about losing people who are rooted in their communities. It is important that people who deal with the summary justice end of the system have that community link. I am certainly concerned about their abolition.

In the note of dissent, Sheriff Brian Lockhart and Mrs Helen Murray state:

"the onus is on those recommending the abolition of lay justice to demonstrate that it is intrinsically undesirable and unworkable".

If there is one criticism of the McInnes report, it is that it has not demonstrated that that is the case. The evidence from the speeches that members from all sides of the chamber have made is that many people feel uneasy about the proposed change.

I have no declaration of interest to make, as I am not a former JP. I have no connection to the Scottish Court Service or the legal profession, but I am also uneasy with the loss of a system that has been in operation for 400 years and which clearly has an intrinsic worth and is rooted in the communities that it serves.

The dissenters pose a number of questions that need to be answered. They ask:

"Is lay involvement in the dispensing of summary justice desirable in principle?"

I think that it is. They also ask:

"Is it possible and cost effective to improve the delivery of lay justice to fit in with a new unified system and to safeguard and enhance its credibility?"

Yes, I think that that is also the case. The dissenters go on to say:

"Only if Ministers conclude that the answer to both these questions is 'no' ... should they decide that the correct way ahead is to move to a fully professional summary justice system."

As I have said, I think that the answer to those questions is yes, not no, so I believe that we must think seriously before we make such a major change to our justice system.

Many members, including Michael Matheson, Annabel Goldie and Mike Pringle, also mentioned the change to remove district courts from local authority control and transfer them to the Scottish Court Service. That is something that we could support. There is good reason for that to happen and it makes sense to unify the courts under a single system, so I certainly do not have any objections in principle to that change. However, as the note of dissent mentions, that change in itself would not lead automatically to the loss of lay justices.

A number of members raised the transfer of business from the High Court to the sheriff court. It is intended that 20 per cent of the business of the High Court will transfer to the sheriff courts. When that happens, the sheriff courts will have a lot to deal with, particularly in Glasgow. I have grave concerns that, if we transfer material up the way at the same time, we will overload the centre. SNP members are concerned that we must be careful not to make a complete mess of the lower end of the justice scale. As many members have said, 96 per cent of cases are summary cases and it is extremely important that we do not cram everything together and end up with a real mess. In trying to solve a problem at the High Court end and at the district court end, we could make a mess of the whole system.

Colin Fox stated that at the front of the sheriff court and the back of the sheriff court are two different classes of people. That may be the case in many instances, but the same cannot necessarily be said of district courts. The distinction that he observes is less marked in district courts, where evidence from 2001-02 shows that, of the 60 justices appointed, 40 per cent were female. That figure is heartening and I hope that it will rise even further. No statistics are available on whether those who sit on the bench are fully representative of the communities in which they serve. That was a criticism of the district court in the McInnes report, but the note of dissent clearly states that there are no statistics for that aspect of the situation. Therefore, it is

unreasonable to suggest that, because it might be true in the sheriff courts, it is also true in the district courts.

Members asked a lot of questions about structural change, but they did not give many answers. It is extremely important that all those questions are asked, but it is more important that we have some answers. That is why I am curious why the Executive has taken the line that it has taken by going straight to a consultation on Sheriff McInnes's proposals. The Bonomy report was followed by a white paper giving the Executive's views, which was followed by a consultation and then by a bill. Why, in this case, have we gone straight from the McInnes report to consultation, rather than the Executive giving us its views in a white paper?

Cathy Jamieson: Does Stewart Maxwell accept that there is a logical process of consulting, having a debate, producing a white paper and then moving to legislation, as appropriate, but that—as some members on the SNP benches, including Kenny MacAskill, pointed out ably this afternoon—there are also things that we can take forward now, and that it is right and proper that we have a debate in the chamber today and that we consult the people who will be affected by any changes?

Mr Maxwell: I am not objecting to the debate, nor am I objecting to the consultation; I am just curious about why the Executive has done things differently from how it handled the Bonomy proposals.

There are an awful lot of points in the McInnes report on which we can agree and there are many good recommendations that cover a whole list of areas such as the unification of summary courts under the Scottish Court Service, police warnings, alternatives to prosecution and—as Pauline McNeill said—multiple cases against an accused. We can unite behind a lot of what is in the report, but Michael Matheson's amendment is important because it makes the point about the dissent that is registered in annex A. That is extremely important as it is one of the most important parts of the report. Therefore, I support the amendment in Michael Matheson's name.

16:50

The Deputy Minister for Justice (Hugh Henry): The debate has been remarkable in a number of respects. It has been remarkable partly because of the consistency of views but also because of the extremely bold attempt by Bill Aitken to rename the McInnes report the "Aitken report"; it is a long time since we have seen such effrontery carried out in such a modest manner, but our Bill is never one to hide his talents.

I will help the members who said that they did not manage to reach the end of report. I will read

out the last couple of sentences for their convenience. It states:

"A number of outcomes may result in subsequent prosecutions or referrals to other agencies, for example if a condition such as payment of a fixed penalty is not complied with. For simplicity, these pathways are not shown in the diagram."

There is no need for Mike Pringle to worry himself tonight.

I accept the point that Bill Aitken made about the SNP's amendment. We do not have any great difficulty with what the SNP says in the amendment, although we cannot really understand the point of it. However, we do not understand why in a debate such as this the SNP would want to delete a reference to considering

"the continuing modernisation of the criminal justice system to be an important priority".

If the SNP does not consider modernisation of the criminal justice system to be a priority, I wonder what the rest of its amendment is about. Had it not been for that, we would have been happy to endorse much of what else was said by the SNP.

I will re-emphasise some of the points that have been made by Cathy Jamieson and a number of members during the debate. We recognise that summary justice is a vital component of our justice system. It deals with 96 per cent of all criminal cases that go before the courts, but we also recognise that many of those cases are minor and could be dealt with more effectively. However, it is also right to say—as a number of members, including Kenny MacAskill, mentioned—that although they may be minor cases, they have a real impact on the quality of life of victims and communities. For their sakes, we need to get it right.

We are talking about a comprehensive review of the criminal justice system. McInnes suggested many radical proposals and, deliberately, we have said that we want to listen. As Cathy Jamieson said, McInnes is different from Bonomy because there are aspects that we can move on without necessarily introducing legislation. Therefore, we want to hear people's views; it is right that we listen to what people have to say.

We recognise that there is a minority report on lay justices, which I will come back to. That is another voice that must be listened to on the issue and we will give it due consideration.

However, I wonder about a point that was made by Michael Matheson, and by Stewart Maxwell in his closing speech. We were criticised for not saying ahead of the consultation what we want. However, if we said ahead of the consultation what we intend to do, they would criticise us for that. It appears to me that they would criticise us irrespective of what we said. There was an unfortunate note in the debate.

Most members commented on lay justices. Valid points were made about the sterling contribution—I want to put this on the record—that is made by lay justices throughout the country. They have, over the years, shown remarkable commitment to the justice system and have put in many hours of effort on behalf of their communities. However, we want to reflect on what the McInnes report said about improving the system—we will listen to what has been said.

Patrick Harvie asked whether we will consult lay justices. We will consult and we will consult more than just the lay justices and JPs. We want all those who are involved in the system to express their views. We want local authorities to express their views and—beyond that—we want the people who are directly affected, such as victims and witnesses, to express their views. We will ensure that consultation is wide; copies of the report will be sent to all the district courts. There will be a direct mail shot of the report to all the JPs who made representations throughout the McInnes process. There will be thorough consultation.

There was a remarkable speech this afternoon from the SNP benches. It was an exceptionally constructive and balanced speech and although I could not quite see who made it, it sounded like Kenny MacAskill; however, I am not sure. He made some valid points; we have an open mind on his suggestion that we should consider taking different approaches in different parts of the country. That point was echoed by Bill Aitken, and it is worth considering, although I do not know what the conclusion will be. Kenny MacAskill made a number of constructive suggestions.

Colin Fox complained that resources in the Crown Office are not going to the front line, but that is just not true. Since March 2002, we have recruited more than 60 lawyers, nearly all of them to the front line. We have set up a civil recovery and criminal confiscation unit, which, although it is in the front line, may not be—*[Interruption.]*

The Deputy Presiding Officer (Murray Tosh): Order. I am reluctant to interrupt the minister, but I have been trying to control the level of conversation by gestures and signals, which are clearly not working. Could we listen to the rest of the speech, please?

Hugh Henry: I am grateful for your support, Presiding Officer.

Staffing levels in the Crown Office are up 15 per cent and much of that increase will be used to create a more robust structure in local areas, for example by providing better management support for procurators fiscal in the front line. We are moving and we are investing.

Stewart Stevenson raised questions about costs, but some of his points were not directly relevant. The report acknowledges that research that was carried out by Professor Rod Morgan in England and Wales is not directly relevant to Scotland. It illustrates that the salaries of judges are not necessarily the most significant cost elements. Stewart Stevenson suggested that there would still have to be clerks even in the sheriff courts. The difference is that clerks to the sheriffs would not necessarily be legally qualified. Summary sheriffs would also not necessarily require legally qualified clerks, so there are some differences. I acknowledge that that is not the most significant issue, but I want to put the matter in the proper context.

Karen Whitefield made a point about speeding up the system—as did many others—and talked about the contribution made by the lay justices in her area. I echo the view that they make a valuable contribution. Pauline McNeill also referred to them when she talked about speed and Bill Butler talked about their contribution to lay justice. I think it was Pauline McNeill who said that we are right to be cautious and that there would be no guarantee of consistency if we abolished lay justices. However, the debate has enabled us to share across the chamber and across the political parties the view that change is necessary and that McInnes has made a valuable contribution to the debate. If together we can engage in dialogue with people throughout the country, we can come up with a system that is more robust, more effective and more efficient than the one that is currently in place.

All members who spoke acknowledged that the justice system fails people in many cases and for various reasons. The report is part of a bigger package of modernisation on which we have embarked. We are already well advanced with our work on the Bonomy proposals on the reform of the High Court and the report is another vital component in the changes to the system. I hope that today's consensus and enthusiasm will be taken back out into communities so that we have a wide ranging and deep-rooted dialogue that will enable us to make, whether through legislation or—as Kenny MacAskill suggested—through the powers that are currently at our disposal, changes that will be effective, quick and of lasting benefit.

Business Motion

17:01

The Presiding Officer (Mr George Reid): The next item of business is consideration of business motion S2M-1084, in the name of Patricia Ferguson, on behalf of the Parliamentary Bureau, setting out a timetable for legislation.

Motion moved,

That the Parliament agrees that the Justice 2 Committee report to the Justice 1 Committee by 16 April 2004 on the draft Sexual Offences Act 2003 (Travel Notification Requirements) (Scotland) Regulations 2004; and by 26 April 2004 on the draft Community Right to Buy (Definition of Excluded Land) (Scotland) Order 2004.—[Patricia Ferguson.]

Motion agreed to.

Decision Time

17:01

The Presiding Officer (Mr George Reid):

There may be eight questions to be put as a result of today's business. I remind members that, in relation to this morning's debate on zero waste, if amendment S2M-1089.4, in the name of Lewis Macdonald, is agreed to, amendment S2M-1089.2, in the name of Alex Johnstone, falls.

The first question is, that amendment S2M-1089.4, in the name of Lewis Macdonald, which seeks to amend motion S2M-1089, in the name of Shiona Baird, on zero waste, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 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)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 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)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)

McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tosh, Murray (West of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 MacDonald, Margo (Lothians) (Ind)
 Martin, Campbell (West of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)

Scott, Eleanor (Highlands and Islands) (Green)
 Sheridan, Tommy (Glasgow) (SSP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

The Presiding Officer: The result of the division is: For 79, Against 40, Abstentions 0.

Amendment agreed to.

The Presiding Officer: The second question is, that amendment S2M-1089.3, in the name of Richard Lochhead, which seeks to amend motion S2M-1089, in the name of Shiona Baird, on zero waste, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Kane, Rosie (Glasgow) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 MacDonald, Margo (Lothians) (Ind)
 Martin, Campbell (West of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Sheridan, Tommy (Glasgow) (SSP)
 Stevenson, Stewart (Banff and Buchan) (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)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 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)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 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)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tosh, Murray (West of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)

Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Presiding Officer: The result of the division is: For 39, Against 80, Abstentions 0.

Amendment disagreed to.

The Presiding Officer: Amendment S2M-1089.2, in the name of Alex Johnstone, falls. Therefore, the third question is, that motion S2M-1089, in the name of Shiona Baird, on zero waste, as amended, be agreed to.

Motion, as amended, agreed to.

Resolved,

That the Parliament welcomes the recent increase in recycling and composting; notes paragraph 7.3.3 of the National Waste Plan 2003 which states that zero waste “provides a platform for challenging our current systems and radically reducing waste beyond even the best current levels of achievement” and the aim in the National Waste Plan to stop growth in the amount of municipal waste produced by 2010; further notes the work being carried out by the Waste and Resources Action Programme, Envirowise, the Scottish Environment Protection Agency and others to minimise business and household waste; recognises the Scottish Executive’s commitment to increasing packaging recovery targets from 59% to 70% by 2008, and calls on the Executive to continue its work to prevent and minimise waste, to increase recycling and to divert waste from landfill.

The Presiding Officer: The fourth question is, that amendment S2M-1091.1, in the name of Allan Wilson, which seeks to amend motion S2M-1091, in the name of Mark Ruskell, on genetically modified crops, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

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)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 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)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (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)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 MacDonald, Margo (Lothians) (Ind)
 Martin, Campbell (West of Scotland) (SNP)

Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Sheridan, Tommy (Glasgow) (SSP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

ABSTENTIONS

Munro, John Farquhar (Ross, Skye and Inverness West) (LD)

The Presiding Officer: The result of the division is: For 61, Against 57, Abstentions 1.

Amendment agreed to.

The Presiding Officer: The fifth question is, that motion S2M-1091, in the name of Mark Ruskell, on GM crops, as amended, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

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)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 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)

Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (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)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)

McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Sheridan, Tommy (Glasgow) (SSP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

ABSTENTIONS

MacDonald, Margo (Lothians) (Ind)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)

The Presiding Officer: The result of the division is: For 61, Against 56, Abstentions 2.

Motion, as amended, agreed to.

Resolved,

That the Parliament acknowledges that at present there is little support for commercialisation of GM crops; further acknowledges the European and UK legislative framework for GM; notes the legal advice provided by the parliamentary solicitor to the Transport and the Environment Committee and the European and External Relations Committee that the Scottish Executive is not permitted by EU law to impose a blanket ban on, or blanket approval for, GM crops; understands that decisions are required on a case by case basis; welcomes the Executive's decision to reject the commercial growing of spring GM oil seed rape and beet; notes that the Executive does not have scientific evidence nor the powers to ban the cultivation of GM maize; supports the Executive's decision to seek amendment to the EU approval for Chardon LL maize to restrict its cultivation; supports the Executive's decision not to agree seed listing for Chardon LL unless and until such EU changes are made; welcomes the Executive's commitment to consult on coexistence measures that will protect farmers who wish to grow conventional or organic crops, give consumers the choice not to consume GM foods, and introduce compensation and liability measures; supports the Executive's initiative with the farming industry to ensure consumer confidence and consumer choice in Scottish produce, and welcomes the continuing commitment in the Partnership Agreement to apply the precautionary principle.

The Presiding Officer: The sixth question is, that amendment S2M-1090.1, in the name of Michael Matheson, which seeks to amend motion S2M-1090, in the name of Cathy Jamieson, on protecting communities and reforming the role of non-jury courts, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Kane, Rosie (Glasgow) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Sheridan, Tommy (Glasgow) (SSP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

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)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 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)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)

Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (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)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 MacDonald, Margo (Lothians) (Ind)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Tosh, Murray (West of Scotland) (Con)

The Presiding Officer: The result of the division is: For 38, Against 62, Abstentions 18.

Amendment disagreed to.

The Presiding Officer: The final question is, that motion S2M-1090, in the name of Cathy Jamieson, on protecting communities and reforming the role of non-jury courts, be agreed to.

Motion agreed to.

That the Parliament considers the continuing modernisation of the criminal justice system to be an important priority; notes the progress made to date to improve the delivery of a fair, efficient and accessible service for victims, witnesses and the accused; welcomes the recent report by Sheriff Principal McInnes into the

operation of summary justice, and encourages everyone who wishes to do so to participate in the consultation on its recommendations.

School Closures (Borders)

The Deputy Presiding Officer (Trish Godman): The final item of business today is a members' business debate on motion S2M-1003, in the name of Christine Grahame, on a crisis for Borders schools.

Motion debated,

That the Parliament notes with concern the proposed closure of the following Borders schools: Cranshaws, Teviothead, Eccles/Leitholm, Hutton, Robertson, Ednam, Channelkirk, Newlands, Oxnam, Glen Douglas, Heriot and Fountainhall; further notes that Scottish Borders Council in its consultation document *Management Review of the School Estate in the Scottish Borders*, in particular the chart describing the factors that may be considered when making decisions on the schools' long-term viability, did not include the "importance of the local school to the community" which had been included in the first stage evaluation; reminds the Scottish Executive of its commitment in *A Partnership for a Better Scotland* to "continued reform so that our public services are designed and delivered around the needs of individuals and the community within which they live" and also its commitment in *Building our Future Scotland's School Estate* to place "the child at the centre, meeting the needs of the individual" and "the school at the heart of the community, meeting the needs of the communities"; believes that the proposed closures, against the expressed wishes of many communities, are driven by the requirements of proposed PPP/PFI school building programmes, and therefore believes that the Executive should adhere to its aforesaid commitments and reject rural school closure proposals which, if they proceed, will permanently damage fragile communities.

17:10

Christine Grahame (South of Scotland) (SNP): In the gallery today are representatives from several Borders schools that are threatened with closure. Members may have been passed leaflets on their way in at decision time, and the roll call of schools is given on those leaflets. Only one of them—Ednam Primary School—has had a reprieve. I would like to speak about all the schools, but as time is tight I will refer in particular to two schools that cover the spectrum: Newlands Primary School, whose current roll is 80 plus—Ednam's roll, by the way, is only 60—and Robertson Primary School, which has 18 pupils.

The extensive and professional document that has been prepared by parents of children at Newlands Primary School shows that 77 per cent of parents voted against closure of the school. Its test results are way above the national average in mathematics, reading and writing. It has an optimum school roll and operates at between 80 and 90 per cent capacity. Its board concedes that the school needs new facilities, such as a bigger gym, a new classroom and a disabled toilet, but it argues rightly that a relatively modest long-term investment—compared with the cost of constructing a new amalgamated school—would

allow the school to continue to deliver high-quality local education and remain

"at the heart of the community".

That quotation comes from the Executive's document "Building our future: Scotland's school estate".

Scottish Borders Council, which is an independent and Conservative coalition, included in its management review of 2003 a list of factors to be considered when deciding on a school's long-term viability. All criteria were valued equally, but it is interesting that the original document included "importance of the local school to the community" as a factor, because that does not appear in the management review.

I visited Robertson Primary School, which is four miles from Hawick, earlier this week. It has a school roll of 18 pupils from primary 1 to primary 5. In their latter two years, pupils attend Drumlanrig St Cuthbert's Primary School—that has been the practice for the past 40 years and parents are content with it. In 1999, the school roll had fallen to six, but it is now 18 and there are children in the valley who will soon go to the school. Indeed, there are three children who will travel from as far afield as Qatar in the middle east. An e-mail from a lady there said:

"Dear Mrs Grahame,

We have a young family of three children, ages 8, 6 and 16 months. We currently live in Qatar in the Middle East, but plan to return to the area (my husband is from Langholm, near Hawick) in the not too distant future. We plan to live at ... Robertson ... where we intend to run a business from home."

She also said that she is

"not idealising a rural village school because it is small and quaint."

She has been thorough; she has visited the school and has examined it for the qualities that we often recognise as being special and good in small rural schools. She said:

"I was impressed by the work that I saw, the behaviour of the pupils and the general atmosphere of enthusiasm that prevailed in what was clearly a cosy and secure environment. My eldest ... children also saw the school classroom and are now looking forward to going to the local school and meeting their future playmates there ... Robertson is such a vibrant and living community, we should fight to save the centre of that community, its school."

All parents of children at the school are opposed to its closure; some are here tonight. The quality of education in all its roundness—not just academic results—is high. Children socialise, they grow in confidence and they help each other. Bullying and teacher stress are unknown; how many schools with grand buildings can say that?

Some children already travel six miles to school. If they are transferred to Hawick, the day for a five-

year-old will start at 8 am and end after 4 pm, which will give the young children a 40-hour working week. Like the parents of children at Newlands Primary School, the parents of the children at Robertson school are adamant that the building's space can be increased and that the school that the children are to be transferred to is in no better condition than their current school. Worse still, this is the third time in 12 years that the school has been under threat. Why should parents have to keep battling for a school that is successful?

The background to how these Borders schools have found themselves on death row deserves close examination. In September 2003, the Executive published its consultation paper "Building our future: Scotland's school estate". It was that document that compelled local authorities throughout Scotland to produce a picture of their local school estate. Scottish Borders Council, like other councils, did so. However, I submit that the closures in the Borders are additionally related to the council's need to raise funds to add to its public-private partnership/private finance initiative building programme, in which there is a funding gap. To sell off the estate of the schools that are on death row would raise £500,000.

What does "Building our future" actually say? It says:

"The school is a core part of the physical community and should play a role in building strong, confident communities and a safer environment, and contribute to an improved quality of life for the community."

It also talks about

"the school at the heart of the community".

That is what the cry is about.

What is the guidance to local authorities on proposed school closures? I will not be able to develop that subject too far, but the legal position is set out in sections of the Education (Scotland) Act 1980. In 2000, the then Education, Culture and Sport Committee considered rural school closures and asked the Convention of Scottish Local Authorities to produce a code of practice, which I mentioned at question time today. In 2001, COSLA referred that code to the Executive, asking for a review of the legislation on proposed school closures, and on 12 March 2003, the Executive indicated that it would consider guidance in the light of the school estate strategy, which was published in 2003, and to which I have referred.

I will correct the minister's answer to me at question time today when he said that the Executive had not caused the delay. In February 2003, the review of school buildings was put on the agenda and COSLA had still not produced the guidance. A letter of 12 March 2003 makes it clear that the Scottish Executive Education Department

"met the officials from COSLA ... who had been leading on the work on the draft Code of Practice on school rationalisation on 19 December 2002."

The Education Department then decided that it would not do anything until the consultation had been produced.

Why has the guidance simply drifted when it is most needed? Why has the role of schools that are at the heart of their communities apparently been set aside, and why are buildings more important than 100 per cent parent and staff support for a successful school? Will the minister intervene beyond the strict regulations about referral to ministers, which we know is already provided for, if communities demonstrate their unwavering commitment to their local school? Will he note the agreed presumption in England against the closure of rural schools?

To revive our rural communities, we must retain our rural schools at the heart of the community. It is as simple as that.

The Deputy Presiding Officer: Before I open up the debate, I remind members that the title of the motion is "Crisis for Borders Schools". However, I am aware that, in her motion, Christine Grahame has noted the documents "A Partnership for a Better Scotland" and "Building our future: Scotland's school estate". Although the motion is about Borders schools, I will be lenient, but I ask members to remember what I am saying to them.

Christine Grahame: On a point of order, Presiding Officer. The motion says at the end that the Parliament

"therefore believes that the Executive should adhere to its aforesaid commitments and reject rural school closure proposals",

which is fairly general.

The Deputy Presiding Officer: That is why I pointed out that the motion is fairly general, although the title refers to Borders schools.

17:18

Mr John Home Robertson (East Lothian) (Lab): I agree with Christine Grahame about few things, but I agree with her that the future of rural primary schools throughout Scotland is extremely important, and I hope that the Executive will treat the issue with the seriousness that it deserves. I am sure that the minister will, and I approach the subject with due respect to Euan Robson and Jeremy Purvis as constituency members for the Borders. I happen to live in the Borders and to be the MSP for a neighbouring constituency. Moreover, many years ago, I was the MP for Berwick and East Lothian, but I suspect that that has disappeared into the mists of antiquity.

I still have a potential, peripheral constituency interest in Cranshaws Primary School, which is

one of the schools that is on the list in the motion, because in the past, a number of children from the hill farms in the Lammermuir area of East Lothian went to that school. However, I have established that all the children from that area now travel to the excellent village school in Gifford, Yester Primary School, so that point is not entirely relevant at this stage.

I observe from long experience that the Borders has a long and sad history of village school closures, which is in marked contrast to the experience in my constituency of East Lothian. In the 25 years that I have represented the county of East Lothian, we have lost only one village school, at Whitekirk, and that happened when Brian Meek was in charge of Lothian Regional Council. That was one of many mistakes that that administration made.

Whitekirk's neighbouring schools—East Linton, West Barns and Law Primary Schools—are now bursting at the seams. I have heard education officials in East Lothian say that they wish that they could have Whitekirk Primary School back. The Borders can learn a lesson from that. Responsible local authorities make it their business to sustain communities. East Lothian Council has done that not only by supporting local schools but by helping to provide affordable housing and business opportunities in rural communities.

As a Borders resident and the father of two sons who had the benefit of excellent primary education at Hutton Primary School, which is on the list of schools that we are discussing, I deplore the fact that Scottish Borders Council takes a completely different line from that taken by East Lothian Council—it appears to seek actively to run down remote communities and to close village schools.

Hutton Primary School has been blighted for years by Scottish Borders Council's failure to fulfil an undertaking to perform essential upgrading works to comply with a report by Her Majesty's Inspectorate of Education. The council reneged on an undertaking to do that work two years ago and it is unsurprising that staff and parents have been demoralised by the shabby conduct of the council's education department. Having deliberately blighted the school, the council has now put it on the closure hit list.

I am thankful that my children had the benefit of high-quality primary education in their local community school. I am alarmed by the council's threat to put short-term economies before the long-term interests of children and of rural communities. The unnecessary bussing of young children to distant primary schools is not a good idea. I sincerely hope that Scottish Borders Council takes a grip of the officials who are driving the reckless and destructive policy. I urge the

Scottish Executive to intervene if necessary to protect quality education in all parts of rural Scotland.

17:22

David Mundell (South of Scotland) (Con): I have a sense of déjà vu, as I represent the whole of the South of Scotland region, and we in Dumfries and Galloway have been here. Three years ago, the Dumfries and Galloway Council administration proposed the closure of more than 40 schools as part of its review, and the Executive seems to have learned nothing since then.

I welcome Christine Grahame's debate and her speech, which was generally non-political. If her contribution remains that way, I will continue to support her calls.

The Executive has learned nothing because the guidance on rural school closures that was called for and which the Education, Culture and Sport Committee discussed has not been produced. In England, there is a presumption against closing rural schools and a rural schools fund that targets money to cover the extra costs that rural schools necessarily incur—costs will always be higher because, sometimes, half a person rather than a full person is needed to do the job. If we took such an approach, which I concede that the UK Labour Government has developed, we would not be in the present situation.

We need to send a clear message that we support rural education and that we consider it pivotal to rural communities. There is no point in complaining that rural communities do not have enough children or young people, and then closing schools. That is extremely short-sighted and reveals a lack of vision for rural Scotland at council level. Of course, the councils' position is that the Executive is driving them to act on the number of schools in the school estate.

The picture in Dumfries and Galloway has been turned around by determined campaigns by parents and communities, such as those that we now see in the Borders. I say to all the parents and communities represented here tonight that the fight is worth taking on because it can be won. When it comes to the bit, councillors of any persuasion do not like voting for school closures. Councillors in Dumfries and Galloway who supported school closures found themselves not being councillors after last May's elections.

It would be helpful to make clear the position—which is also my position—of my Conservative colleagues on Scottish Borders Council. They clearly believe that no school should close unless closure has the support of parents and the community. On the consultation proposals that have been put forward by Scottish Borders

Council, it is already clear in most cases that if the closure of a school does not attract the support of parents and their communities, Conservative councillors on Scottish Borders Council will not support it. I commend them for taking that line, which is also the line that I take. Parents and communities must be put at the heart of the decision-making process and a clear message must be sent out from the Parliament, and particularly from the Executive, that rural education is valued and will be sustained.

17:26

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): I am passionate about the schooling provision in the area in which I live and that I represent. I went to a small rural school and members of my family teach in a small rural school in the Borders.

I am as concerned about the review as any other resident in the area, but I also recognise that powers over schooling are vested in the local authority. It has already been said that local councillors must engage in the debate with parents. I have made scores of representations on behalf of concerned parents and have had meetings with the director of education and officers on the issue. I have also spoken to individual parents, councillors and prospective parents in the relevant areas.

This is not a party issue. Scottish Borders Council is controlled by Conservative and independent councillors and schools in my constituency that are on the list are represented by Conservative and independent councillors.

Local authorities throughout Scotland have had to address the issue of the location of schools and the provision of education in both rural and urban areas. Angus Council, which is controlled by the Scottish National Party, has closed four schools since 1996 and another closure is proposed this year. The SNP representatives on Aberdeen City Council have voted twice for a school closure. I repeat that the issue is not about party policy. Some people recognise that cherished schools cannot continue because of dramatically falling school rolls. However, as John Home Robertson rightly stated, the role of local authorities is to work hard to keep rural communities vibrant.

Before I speak about the schools in my constituency that are listed in the motion, I want to say that it is vital that we have a proper debate and address the difficult issue of demographic change. Trends in service levels from 1960 have been given in a Government report on the quality of rural services in Scotland. The report shows a decline in the 30 years between 1960 and 1990 in the number of shops, sub-post offices, primary

schools, doctors' surgeries, banks, pubs and hotels in rural areas. It is correct to say that local communities are strongly connected to primary schools, but one closure does not necessarily follow the other.

I recently met students from Earlston High School, who attend the school from across a wide part of my constituency that stretches from Lauder to Newstead and to Duns, which is in my colleague Euan Robson's constituency. I asked the 50 or so sixth-form pupils, who are about to leave for university, how many of them would return to the Borders: two out of the 50 said that they would. David Mundell was right. Local communities must survive by having young people who will start families in those areas.

There is an increase in the number of people moving into many parts of my constituency from outside the area, which is to be welcomed. When they add to the vibrancy of the community, that benefits all of us, and they benefit from above-average—in fact, excellent—attainment levels in school.

Of course the schools review should address the estate. The proposed multimillion-pound investment in the Borders school estate is badly needed. I have spoken to hundreds of parents who have for years demanded improvements in schools, whether it is schools in West Linton or Earlston that are bulging at the seams.

Small schools are important to the community that they serve and the aim must be to retain high-quality education in rural areas. I pay tribute to the parents who have put together alternative plans and proposals for Newlands Primary School, Channelkirk Primary School, Heriot Primary School and Fountainhall Primary School. Those plans should be considered in detail, in good faith and in a timely way. I have consistently stressed that to the council. There must be flexibility in the process to accommodate debates on the availability of public transport for pupils and the undesirability of longer travelling distances for young pupils, which is an issue that has already beset Fountainhall and other schools. Many of the areas have the prospect of housing developments that will affect their demography, and the process must be flexible so that such issues can be taken into account, too. However, there is uncertainty in Lauder, for example, about the development of any proposed new school.

The debate is important for the local authority and for parents, who must engage with one another. Decisions should be made not just on educational grounds but with the active participation of parents and prospective parents. That is what the council must do.

17:31

Ms Rosemary Byrne (South of Scotland) (SSP): I thank Christine Grahame for lodging the motion and securing tonight's debate. I believe that no school should close unless it does so on sound educational grounds. I see no sound educational grounds for the proposed school closures in the Borders.

Scottish Borders Council's recent track record on education funding is at the heart of the situation. Rural schools in the Borders are in badly maintained buildings and the funding has not gone in to keep them up to standard. That is a major part of the problem that faces the communities affected by the proposed closures and it should not be an issue.

Eleven of the 12 schools that are under threat do not reach the school of the future standards and most are considerably below those standards. That is a disgraceful situation. It can be blamed only on incompetence, and that is not a reason for closing schools.

Because of the geographic spread of people in Scotland's rural areas, it has always been necessary to provide small rural schools. Traditionally, those schools have been focal points for communities, because they are at the heart of their areas and provide a much needed link in the communities that they serve. How are we to regenerate rural communities if there is no local school to attract people? If there is no school in a village, people will think twice about moving there. They do not want their children to have to travel for miles, adding hours on to their days. If we want to regenerate an area, there has to be a good local school for people to use. That is a simple and sensible approach.

A decent consultation process with communities is required. It should not be constrained by the requirements of proposed PPP or PFI schemes and should not rely on big business dictating the size, location and ownership of our schools. Some of the schools are small and some have no nursery provision. However, having had the privilege of teaching in a rural school in Ayrshire, I know that there are many benefits to be gained, such as a positive ethos, a sense of community and small class sizes. That is of great value.

Most of the proposals will require ministers' approval on the ground of distance. However, in the case of Newlands, Heriot and Fountainhall schools, it will be because they have more than 80 per cent occupancy. There is no reason for those three schools to close other than Scottish Borders Council's poor track record on maintenance. As for the other schools, all fall outwith the 8km distance—5 miles for those who are like me and have not managed to transfer to the metric

system—thus requiring primary school pupils to travel more than 5 miles back and forward every day.

Christine Grahame outlined the success of several of the schools and the parental campaign that is fighting the closures. I hope that Scottish Borders Council will reconsider, and I ask the minister to intervene.

17:34

Fiona Hyslop (Lothians) (SNP): I congratulate Christine Grahame on bringing the issue to the chamber. The motion addresses the closures that the Borders schools we heard about are facing. It also opens up the wider issue of education and rural school closures.

I am pleased to see Karen Gillon in the chamber because some of my speech will reflect on what happened in the previous session and the commitments that the Education, Culture and Sport Committee raised about guidelines for rural school closures—I can see her nodding.

When I was first contacted by Midlothian schools that are facing closure, I wanted to find out about the context and previous policy on the issue. We know that, in Midlothian, Howgate Primary School, Temple Primary School, Borthwick Primary School, Cousland Primary School and Cranston Primary School face closure. School closures are happening not just in the Borders and Midlothian, but throughout Scotland—and they are happening this year.

Rosemary Byrne made the point that closures are closely tied to the buildings and estates review and the second-phase PPPs, and we must address that issue. Some of the school closures that were discussed before were in authorities that had falling school rolls. That issue needs to be addressed, but it is separate from the closure of some schools, especially in Midlothian and parts of the Borders, in which occupancy is above 80 per cent. Our approach to education policy and social inclusion is very important.

I quote the report of the minister's colleague, Jamie Stone, on rural school closures, which was the result of a petition that came to the Parliament in May 2001. The issue has not arisen recently—it has a history. With reference to Moray Council, the report states:

"Moray considers that the Scottish Executive's Social Inclusion agenda is closely focussed in the Central Belt."

I appeal to the minister—if the Parliament is to pursue social inclusion, it must embrace rural issues and schools.

I want to address the minister's responsibility for school closures. I hope that we will not hear him say that the issue is the responsibility of local

authorities only. When I was contacted by the Midlothian schools campaign group, I sought to find out about the last stage that the petition reached. The Education, Culture and Sport Committee asked COSLA to produce guidelines. As the minister will know, on 12 March 2003 the Scottish Executive Education Department wrote to the committee on the subject of school closures and rationalisation. It said:

"COSLA decided to abandon its work on a Code of Practice and wrote to the Executive on 9 October 2001".

The Executive went on to say:

"The outcome was an agreement that it would be sensible to await the publication of the school estate strategy"—

which has led to the second-phase PPPs that we have heard are leading to the closure and rationalisation of many schools—

"and then to meet again to discuss further the issue of school rationalisation after authorities had had time to consider the document".

What has happened since then?

What is the educational value of closing schools? In March 1998, Brian Wilson said that there had to be proportionate advantage and that no school should close on financial grounds alone.

What about composite classes? There has been a big increase in the number of composite classes because the Executive has cut class sizes from 32 to 30 pupils. No research has been done on that. One argument for school closures that is being used in Midlothian, in particular, is that single-stream schools are not as good as double-stream schools. Where is the research base for that assertion? It was not there for the commitment that was made on composite class sizes.

We must ensure that decisions are based on the needs of communities and on good educational foundations and arguments. Those are lacking in this case. I say passionately that we must address the issue now, as school closures are happening in this financial year. We cannot allow the problem to go for three years without being addressed and without guidelines being issued that stand up for communities, as happened in the previous session.

I congratulate Christine Grahame on securing the debate and ask all members to gather behind her on the issue of rural school closures, so that we can address it here and now in the Parliament.

17:39

Chris Ballance (South of Scotland) (Green): The Scottish Green Party has made a clear manifesto commitment. It states:

"Primary schools in small or remote communities will be kept open whenever the community so wished."

I am delighted that Christine Grahame has lodged her motion and congratulate her on securing today's debate. I am even more delighted that the motion has received such warm support, especially from John Home Robertson of the Labour Party and David Mundell of the Conservatives. By building a consensus that school closures against the will of the community must be opposed, we can move forward on the issue.

I have responded to Newlands Primary School, which produced an excellent and compelling document on the school closure and the responses from parents to it. The benefits of small schools are clear and have been outlined—the security for a child of being in a smaller school, the sense of identity with the community that comes from the fact that children learn in the same community in which they live and the absence of bullying are all strong advantages of small schools. Community participation in schools can be encouraged in small schools and we will lose that as communities become more remote from their schools.

There are alternatives to closure. Schools could form confederations to share specialist facilities and to broaden the range of educational opportunities. Such confederations could also extend to teachers. Co-head teachership has been tried successfully and it should be examined in the Borders. Sharing sports facilities is another consideration.

There are probably cases in which the local community accepts the need for closure. In a recent report in *The Scotsman*, the chairman of Teviothead school board said:

"We are certainly not happy about the likely closure of our school, but the falling roll means we will eventually run out of pupils."

Where it is absolutely necessary for a school to be closed, it is most important that the community should support the decision for the closure to go ahead. However, that will always be the exception rather than the rule.

The other matter that we should highlight is transport. For every school closure, we create the potential for an extra four car journeys a day—which is 20 car journeys a week for every pupil—and for an increase in the number of school bus journeys for children who now have only one little journey to and fro. We are also liable for headlines such as the one that appeared in the excellent *Border Telegraph* on 23 March, which read "First bus overtime ban leaves pupils stranded". That is a taste of things to come if we go ahead with school closures.

A clear message to the minister comes out of the debate. We realise that he cannot say, "I will

say no to every school closure that is proposed," but I ask the minister to say that, when and if requests for school closures come to him from the Borders, he will take on board as a priority the views of the parents involved.

The Deputy Presiding Officer: I am minded to accept a motion under rule 8.14.3 of standing orders to extend the debate by 10 minutes to allow all members to take part.

Motion moved,

That, under Rule 8.14.3, the debate be extended by 10 minutes.—[Christine Grahame.]

Motion agreed to.

17:43

Rhona Brankin (Midlothian) (Lab): I realise that the debate is about the Borders school closures, but the motion raises other issues and I thank the Presiding Officer for allowing members who represent other areas to speak.

Members will be aware of the strength of feeling of parents in my constituency about the proposed school closures in Midlothian. Midlothian Council's main proposals are to be welcomed—the building of well-equipped primary schools and the much-needed refurbishment of other primary schools. Those schools are in urgent need.

However, the proposals to close small rural primary schools have been met with unanimous opposition from parents. I have said that I have grave concerns about the proposed closures and whether the existing legislation to protect rural schools is adequate. The Education Act 1980 and the Education Act 1981 provide for only 28 days of consultation. In the case of Midlothian, only slightly more than 28 days was allowed—in fact, it was only 28 days for some parents. For proposals as far reaching as these, 28 days is a totally inadequate period for consultation. Although I recognise that Midlothian Council is operating under the legislation, I argue strongly that the legislation is inadequate.

I am not against rural schools closing per se, although my own daughters went to a very successful 25-pupil rural school, which is still open. There are situations where the population changes and small schools are no longer viable. I do not think that anyone would argue in favour of keeping every single rural school open, whatever the circumstances. However, where rural schools are viable—where school rolls are rising, as in Midlothian, where attainment levels are good, and where the buildings are in an acceptable condition, albeit with some work being required—I believe that rural schools should be supported. That is in line with our policy on sustainable rural communities, and I would add that the population

in Midlothian is set to rise considerably over the next years.

There is no evidence that rural schools have lower attainment levels than other schools. In fact, the Executive's national statistics publication "Social Focus on Urban Rural Scotland 2003" states:

"on average attainment in ... rural primary schools is higher than in schools across other parts of Scotland."

Let us scotch the myth: there are good schools in towns and there are good schools in rural areas as well, but the

"average attainment in ... rural primary schools is higher".

Brian Wilson, when he was responsible for education, said:

"No school should close on financial grounds alone. There must also be a credible educational justification for closure. I am now inviting education authorities to apply a test of proportionate advantage to any proposed closure of a rural primary school."

I ask the minister whether that "test of proportionate advantage" is still being applied to primary schools. Will he consider updating the existing legislation to ensure that there is adequate protection for successful, viable rural primary schools, which are at the heart of their communities?

17:47

Lord James Douglas-Hamilton (Lothians) (Con): I welcome Rhona Brankin's support for rural schools in sustainable communities.

It is important that the minister addresses the fact that there is no guidance in Scotland in this area. In stark contrast, there is very clear guidance south of the border, which states:

"There should ... be a presumption against the closure of rural schools."

It goes on to state firmly:

"The transport implications of rural school closures should also be carefully considered, including the welfare of the children, the recurrent cost to the LEA of transporting pupils to school further away, the effects on road traffic congestion, and the environmental costs of pupils travelling further to schools."

It adds:

"The overall effect on the community of closure of the village school should also be taken into account."

Not only is there no such guidance in Scotland, the difference between Scotland and south of the border is stark. South of the border, only three rural schools have closed per year on average since 1998. In Scotland, 38 rural schools have closed. I can only assume that the refusal of the Executive to come forward with clear guidance, stating a presumption against the closure of rural

schools, is because it is content for a far larger number of rural schools to be closed in Scotland than elsewhere in Britain.

It is not just a matter of guidance; there are also matters of funding. South of the border, the small schools support fund was set up and about £60 million was allocated to it in November 2000. There is no small schools fund in Scotland. The First Minister claimed that Scotland had a similar fund, called the excellence fund. The fund has been subject to a recent review, and the key outcomes of that review did not include any mention of rural schools.

Not only that, there is no code of practice. The Parliament's committees are not to blame for that. The Education, Culture and Sport Committee recommended that a code of practice on rural school closures be developed with COSLA. That recommendation was made in June 2000, so it is disappointing that it still has not been fully acted on.

David Mundell said that no school should close unless the closure has the support of parents and the community. We strongly support the presumption against closures. The Administration should send out that message. Doing so would fit with everything that has been said by members of all parties tonight; we cannot understand why it has not been done. If necessary, we would like an amendment to the Standards in Scotland's Schools etc Act 2000.

The key point has been made clearly by Christine Grahame, whom I warmly congratulate on tonight's motion for debate. Local schools are of fundamental importance. Our job is to protect and enhance the future of the communities concerned. We must stress the importance of the local school within the community.

17:50

Robin Harper (Lothians) (Green): I congratulate Christine Grahame on bringing an important issue to the chamber. I am with Rhona Brankin and Fiona Hyslop in respect of the concerns that they voiced about Temple, Borthwick, Cousland, Howgate and Cranston primary schools in Midlothian, which also face closure.

I was lucky enough to be brought up in Orkney. A survey in the 1960s found that Orkney, where 80 per cent of the children were educated in small primary schools—some of which were one-teacher schools—provided a greater proportion of professors to the world than any other region of Scotland.

I have had the honour of visiting several small primary schools, including Lauder Primary School

and Blackness Primary School. They have superb atmospheres and provide a wonderful education. I am sure that all the other primary schools that have been mentioned this evening provide the same.

As far as I can see, there could be no proportionate advantage to the children in those schools in closure of the schools, with the children being sent to bigger schools. We would be taking those children out of their communities. First the post offices go, then the shops go, then the pubs go, then the hotels close. Their schools closing is the death knell for small communities in Scotland.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I thank Robin Harper—or is it Professor Harper?—for giving way. Does he agree that part of the problem for many of our rural communities is the high cost of living and, in particular, the high cost of fuel, which is the highest in the western world? Do the Greens support the reduction in the excessive cost of fuel and the high tax on road fuel—

Robin Harper: We have been through this before. We should tax fuel to make people use it as efficiently as possible. However, there is a very strong case for a reduction in the disproportionately high charges for petrol in rural areas; Fergus Ewing knows perfectly well that I support that.

Jeremy Purvis: Will the member take an intervention?

Robin Harper: May I please return to the subject of the debate?

Jeremy Purvis: Mr Harper mentioned Howgate, which is in my constituency.

Robin Harper: I will take an intervention on that subject.

Jeremy Purvis: I accept entirely what Mr Harper has been saying and I appreciate his giving way to me in his limited time. Howgate is in my constituency, but the majority of pupils who live in Howgate do not go to primary school in Howgate. Serious considerations arise there. I hope that Mr Harper supports the cross-party view that, in the longer term, alternative models for the running of schools in rural communities could be examined by Midlothian Council.

Robin Harper: I would be completely behind new ideas that would ensure that developments in rural areas were appropriate. I want, however, to return to my subject and the subject that everybody else has been trying to speak about—the general problem of closure of rural primary schools in Scotland. We have heard excellent speeches from everybody in the debate so far.

The problem is not simply an education problem; it is a problem for the Environment and Rural Development Committee as well. If we have a rural affairs policy, that committee should—for goodness' sake—be involved in discussing the issue. If we take the schools away, we will not attract people who have young children. Do we want a rural economy in which the small towns and villages are inhabited by no one but well-heeled retired people and DINKYs? DINKY stands for double income, no kids yet. John Home Robertson should not take my comment personally.

Mr Home Robertson: I have two children.

Robin Harper: Congratulations.

I plead with the Executive to put out now at least one piece of guidance to all councils that states that there is a presumption against the closure of rural schools and that the Executive will call in such proposals every time they are made.

17:55

Karen Gillon (Clydesdale) (Lab): I congratulate Christine Grahame on securing the debate. I had not intended to speak, given that I have no locus in the Borders area. However, I was brought up and educated in Jedburgh and I was convener of the Education, Culture and Sport Committee, so I hope that my colleagues Euan Robson and Jeremy Purvis will indulge me on this occasion.

My first point is that the local school is at the heart of a community. I am a member of the Environment and Rural Development Committee and I represent a constituency that has a large rural component. I have seen at first hand how schools in rural areas are at the heart of community life. A school is far more than a building. It is often the focus for community activity and community life—it brings people together and enables them to interact socially. If a school is taken away, its building is also taken away as a facility. If people in a community do not engage with one another, the community will, in the long term, die. The issue is not just about schools; it is about how schools are at the heart of their communities and how everything else that goes on around a school is a component of what the school does. We must consider what else schools bring to their local communities.

Fergus Ewing: That was a stunning insight.

Karen Gillon: I thank Fergus Ewing for that. At least I have contributed to the debate.

My second point is on guidance. I would be abdicating my responsibility if I was not critical of the Convention of Scottish Local Authorities and the Executive for the role that they have played in the past four years. The closures process has

been underpinned by delay and dithering by both, but primarily by COSLA, which was asked by the Education, Culture and Sport Committee to consider rural school closures four years ago. The issue did not come as any great revelation to COSLA, because at the time schools in Argyll and Bute were facing closure, which was the subject of a petition. Schools in Moray were also facing closure.

The Education, Culture and Sport Committee undertook a review and produced what I believe was a balanced report, which said that far more robust guidelines should be in place in Scotland. For a reason that is not apparent to me, COSLA has abdicated its responsibility. It did not produce a framework or guidance. The Executive, which took on the mantle in March 2003, has similarly failed, because it has had a year in which to produce guidance. Producing that guidance will be difficult, but there is a blueprint—it is good to see the nationalists accepting that what happens in England and Wales can sometimes be right.

I, too, believe that there should be a presumption against the closure of rural schools, although there will be occasions when schools need to close. I do not know the detail of all the schools to which the motion refers, because they are not in my area. I know only two particularly well: Oxnam Primary School, which I understand has a roll of four; and Glen Douglas Primary School, which has a roll of 18. Those two schools are close to the area where I was brought up and both have played an important part in their communities. Local people must play an important role in deciding whether those schools are viable in the long term.

Housing development must also be taken into account. We need to consider whether new people are coming into an area and whether they are bringing families with them. We must consider the long term rather than the short term. The Executive must produce guidance urgently, because the Borders will not be the only area in which school closures are proposed. The local authority in my area has decided not to consider closing rural schools, but who knows what will happen down the line? Unless there is clear guidance and criteria to which every council in Scotland works, people will feel that they are not being dealt with properly. I appeal to the Executive and to the minister to stop mucking about and to get the guidance produced, so that people in Scotland can know what to expect and what we are working to.

18:00

The Deputy Minister for Education and Young People (Euan Robson): This has been a helpful debate and I have listened with interest to members' contributions.

I have some reservations about the framing of the motion. It is perhaps a bit emotive to talk about a crisis in Borders schools when the percentage of the overall school population that is affected is not very big. However, let me make it absolutely clear that that in no way minimises the importance of the issue for the schools that are mentioned in the review. Obviously, the issue is of crucial importance to parents and to the education of the children concerned.

As members will know, ministers do not express views on specific proposals, primarily because the consultation process is a matter for the council and, secondly, because some proposals might require ministerial consent if the council remains minded to proceed with its proposals after detailed consideration of the representations received during the consultation.

Let me briefly reconfirm what I said in an earlier debate, which I think was on Holy Trinity Episcopal Primary School in Stirling. Ministerial consent is required if the school that is proposed for closure is more than 80 per cent full. In the case of a primary school, ministerial consent is required if the distance between the school proposed for closure and the alternative school is 5 miles—like Rosemary Byrne, I am more familiar with miles than kilometres—and, in the case of a secondary school, if the alternative school is 10 miles away. The exact requirements are laid out in the Education (Publication and Consultation Etc) (Scotland) Regulations 1981, which are referred to in the briefing that the Scottish Parliament information centre produced for tonight's debate.

Fiona Hyslop: The minister cites the current legislation, but he has heard calls for an urgent review of the guidance. Given that he has mentioned the requirement that a school should have an 80 per cent occupancy rate, I should mention the fact that there is dispute about what the capacity of specific schools is. That is particularly the case in Midlothian, where school rolls were limited by teacher numbers, which were prescribed by the local authority. I believe that the 80 per cent rule is somewhat arbitrary and I hope that ministers will be flexible in considering how it should be implemented.

Euan Robson: Fiona Hyslop makes an important point. It is for the local education authority to determine the capacity of a school and therefore the percentage of it that is occupied. That is the current situation.

Let me deal with the guidance and guidelines issue. I understood Lord James Douglas-Hamilton to say that there was no extant guidance but, as the SPICe briefing says, circulars were issued in 1981 and 1988. I accept what Karen Gillon said, but it is clear that the Executive did not postpone the production of guidelines. However, in response

to Rhona Brankin's question earlier this afternoon, I have undertaken to consider with her whether guidance should be reissued.

Beyond that, the statutory position is clear. Parliament has established that the responsibility for the delivery of education services at a local level lies with local authorities, which must be mindful that they are publicly accountable to the local electorate. Authorities are under a statutory duty to secure adequate and efficient provision of school education in their area. That duty is inspectable by Her Majesty's Inspectorate of Education. HMIE inspects not only schools but the education authorities—indeed, authorities could be criticised if they failed in their duty to keep under review their estate and their estate provision.

Such reviews are important not only because buildings age over time, but because the present context is one of population decline. In round terms, Scotland's schools will have about 75,000 fewer children per annum in 10 years' time. I have with me the General Register Office for Scotland's projections for five to 14-year-olds. In all authorities, there is not one plus sign; there are only minuses. Indeed, in West Lothian, the projection is -1 per cent in 2008, -5.2 per cent in 2013 and -7.6 per cent in 2018. In the Scottish Borders, the projection is -6.4 per cent in 2008, -12.1 per cent in 2013 and -18.7 per cent in 2018.

Christine Grahame: Does the minister agree that, in the context of a falling population, if the school is closed, people with families will simply not move into the area? We are looking at the prospect of the Borders railway line opening up the Borders to help to change the demographics and to bring families back in. As Jeremy Purvis mentioned, young people do not come back after they have been at university because there is nothing for them. We need the schools to build on.

Euan Robson: I agree with what Christine Grahame is saying, but what I am trying to tell members is that, across the piece, there is a declining school population, of which local authorities must be mindful. In some local authority areas, there is a growing population in some districts and a declining population in others. In that context, local authorities need to be able to adjust their pattern of school provision, including when they need to replace or refurbish schools. As I said, local authorities are under a duty to ensure that they have permanent regard to those matters, which they should keep under constant review.

Time is short, but I would like to refer to a number of the schools that are mentioned in the motion, some of which I know very well. I have heard what has been said and I have spoken to many people in local communities about a number of schools in my constituency. Chris Ballance referred to Teviothead and I think that it is fair

enough for me to say that the chairman, whose remarks we heard, is Basil Gray. It is my understanding that, in relation to Oxnam Primary School, the decision has been taken, sadly and reluctantly, that the school roll is falling to a point at which there will eventually be no pupils. I may not have such a long parliamentary memory as John Home Robertson has, but I understood that the only primary school to close recently in the Scottish Borders was Traquair Primary School, where in fact there were no pupils. Perhaps, further back in time, there were others. I think that Foulden Primary School closed some time before that.

I agree with members that one of the primary considerations has to be alternative transport arrangements. It is simply not good enough to consider that they exist without clear evidence that they do. One issue that was raised at Teviothead was the adequacy of bus services to an alternative school. In some rural communities, we must take into account whether there are alternative bus services to schools where there is additional capacity.

I turn now to three other schools in my constituency. Ednam Primary School, as one member mentioned, is not now to be considered for closure—the recommendation for the director of education will be that that closure should not take place. Further discussions are taking place about two of the classes in Ednam Primary School and about the use of the village hall.

Christine Grahame: Will Euan Robson give way?

Euan Robson: I am sorry, but I have quite a lot of my speech to complete and the light is already flashing.

The two other schools are Hutton Primary School and Robertson Primary School. I have visited Robertson on several occasions and was there two or three days before Christine Grahame was. There are alternative proposals that I would urge the community to make. I was discussing an interesting proposal to create a new facility incorporating the village hall. Village halls in the Borders have had considerable advantage from New Opportunities Fund grants and that might be considered at Hutton.

I believe, and the Executive believes, that consultation with parents is essential and that it should be comprehensive. There is a statutory requirement for authorities to consult parents and the school boards of the affected schools. That should ensure that there is a full opportunity for all issues surrounding a closure to be aired and debated locally.

I will make two final points, if I may, Presiding Officer, as this has been a long debate and I have

taken several interventions. First, I welcome what David Mundell said about the Conservative councillors on Scottish Borders Council. Secondly, I point out that the rural schools fund is for administrative support and collaborative work with other schools. There is a broad equivalent in Scotland—the national priorities action fund.

I do not think that we should prejudge the outcome of the consultation process in the Scottish Borders. It is nowhere near complete. The first decisions will not be taken until 13 May, when parents will have an opportunity to present their case to councillors directly. It is for the local authority to consider, in a measured way, the representations that it receives before it reaches a decision. Ministers cannot presume to comment before that process has taken place and before a reference has been made to them. I expect Scottish Borders Council, like all other councils, to proceed with the consultation process in a sensible way. I say to Rhona Brankin that the consultation period should be no less than 28 days. It would be helpful if councils paid due regard to that.

Meeting closed at 18:11.

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