

# **MEETING OF THE PARLIAMENT**

Thursday 29 April 2004

Session 2

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## Scottish Parliament

Thursday 29 April 2004

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

### European Union Constitution

**The Presiding Officer (Mr George Reid):** Good morning. The first item of business is a debate on motion S2M-1218, in the name of Nicola Sturgeon, on the European Union constitution, and four amendments to the motion.

09:30

**Nicola Sturgeon (Glasgow) (SNP):** I come to the debate, as do my colleagues, from a passionately pro-Europe point of view. I believe in and support the European Union, which has been a powerful force for good over the past half century. It has brought peace and relative prosperity to its members, which is why countries that 10 short years ago had tanks on their streets are now queueing up to join it.

The European Union is the most successful democratic confederation in history. I want to see Scotland play a full and active part in Europe. I do not want to see Scotland sitting on the sidelines, hoping—usually in vain—that someone else will speak up for us. I want to see Scotland right in there, at the heart of decision making, punching above our weight like Ireland, co-operating and compromising, but—when we need to—fighting our corner and defending our crucial national interests.

After all, that is the very essence of independence in Europe. It is what Ireland, France, Germany, Belgium, Spain, Portugal, Denmark and all other member states in the European Union take for granted. It is what Poland, Latvia, Lithuania, Malta and all the other countries that will proudly take their seats at the top table on Saturday want so desperately. It is what all of us should be demanding for Scotland: normality, equality and independence in Europe.

**Irene Oldfather (Cunninghame South) (Lab):** Does the member accept that, in the interest of reaching agreement on the treaty, Spain and Poland gave way on their national interests?

**Nicola Sturgeon:** That is because Poland, Spain and every other independent member state got the concessions that they needed and wanted to protect their national interests. Unfortunately, Scotland did not even have a seat at the table to argue for our national interests. That is why Scotland needs independence in Europe.

Being pro-Europe does not mean having to accept passively everything that comes out of Brussels. All countries have a duty and a right to stand up for themselves and to draw lines in the sand. That is exactly what Poland, Spain and Germany were doing when they brought the negotiations on the draft constitution to a grinding halt at the end of last year in a fight over voting rights. They were standing up for what they considered to be their national interests.

When the Polish Government said,

“better no constitution than a flawed constitution”,

no one accused it of being anti-Europe. The Polish Government was simply standing up for what it thought was in its national interest. That was also the case when Tony Blair drew red lines through the bits of the constitution that he did not like. He was not being a Eurosceptic when he did that; he was simply standing up for the national interest as he saw it.

So, when the Scottish National Party says that it cannot and will not support a constitution that sells out our fishing industry, that does not make us anti-Europe; it means that we will not sign up to something that is fundamentally anti-Scotland. The clause in the constitution that stipulates that the EU shall have exclusive competence over the conservation of marine biological resources under the common fisheries policy is anti-Scotland. Even Jack McConnell thought so before he was called to heel by his masters in London. We have to remember that last May he said that he had written to the United Kingdom Government asking it to oppose that clause in the constitution. Later he said that he had made a mistake and that there was no need to get worked up about it because the constitution simply reflected the status quo.

Even if Jack McConnell is right, he should be ashamed of himself. How can any self-respecting First Minister of Scotland defend the status quo on fishing when the status quo, in the form of the common fisheries policy, has brought the fishing industry in Scotland to its knees?

**Irene Oldfather:** Will the member take an intervention?

**Nicola Sturgeon:** Not just now.

The situation is worse than that. The draft constitution does not just reflect the status quo. I agree that the EU has total control over fishing, as it has had for the past 30 years, but it does so only under secondary law. If such control were to be put into the constitution, it would be entrenched in primary legislation, which would make it impossible to change. It would set the position in stone, which would amount to our handing control over fishing to Brussels in perpetuity. That would be the death knell for the industry in Scotland.

That is why it would be anti-Scotland to do so.

**George Lyon (Argyll and Bute) (LD):** Surely what the member has stated is exactly the same as the position today. The treaty would need to be renegotiated for competence for fisheries to be taken back into the national interest in Scotland and away from the UK. What difference is there between now and the time after the constitution is agreed?

**Nicola Sturgeon:** I suggest that George Lyon should read carefully the terms of the motion that is before the chamber today. It repeats almost word for word the policy that his party passed last August. A bit of principle from the Liberal Democrats would go a long way.

Just as it is not true to say that to enshrine Brussels' control of fishing in the constitution simply reflects the status quo, neither is it true to say that to take it out would simply preserve the status quo. If that control were to be taken out, it would open up a real way forward for fishing in Scotland. It would take the feet from under the CFP itself.

**Irene Oldfather:** Will the member give way?

**Nicola Sturgeon:** Not just now.

The common fisheries policy rests on the EU's exclusive competence over fishing. However, exclusive competence is derived from case law. The constitution is to be the new rulebook for the EU—it will supersede what has gone before it. If it is ratified without any mention of exclusive competence, the case law would be overtaken and the current legal basis of the CFP would fall away. If we were to get the clause out of the constitution, that would strike at the heart of the CFP. Surely that is an opportunity that we should grasp.

**Irene Oldfather:** Will the member give way?

**Nicola Sturgeon:** I will take one more intervention, after which the member can sit down for a while.

**Irene Oldfather:** I appreciate the member taking an intervention. Is she aware that, on 27 March 2001, the European Committee took evidence from the European Commission on the green paper on the common fisheries policy? I wonder whether she agrees with her colleague Mr Alex Salmond, who said at committee:

"The green paper was probably better received than any Commission document on fisheries policy that I can remember. I do not know whether that has been the general view around Europe, but it is my estimation of the reaction in Scotland."—[*Official Report, European Committee*, 27 March 2001; c 1002.]

What has changed between 2001 and today? Can the member explain the difference in the SNP

approach to the common fisheries policy then and to the same common fisheries policy now?

**Nicola Sturgeon:** It would not have been hard for any green paper to be better than anything that had gone before. The few steps closer to destruction that our fishing industry has taken because of the common fisheries policy are what has changed things over the past few months. Perhaps Irene Oldfather should go and talk to a few fishermen before she comes to the chamber to pontificate.

The reality is that it is essential to get rid of the CFP, which is disastrous for Scottish fishing. Only by scrapping the CFP can future fishing agreements be based on national control and regional co-operation with other countries who fish in the same seas.

A few months back, Jack McConnell, in what must have been one of his less waffly and more insightful contributions to the debate, made the startling revelation to the Parliament that fish can swim across borders. Perhaps they can, but they cannot swim to the landlocked countries of the Czech Republic, Hungary or Slovakia, and it would take a pretty fit fish to make it all the way from the North sea to Malta or Cyprus. Those are examples of countries that have no interest in fish conservation in the North sea. They should have no more say over it than Scotland should have over the olive agreements that are entered into between the Mediterranean countries. It is time to replace the common fisheries policy with some basic common sense. We have a once-in-a-lifetime opportunity to do just that, but we must be prepared to grasp that opportunity.

Yesterday, the First Minister said that there is not going to be any deal with the British Government on the issue. Might that be only because he is determined to stand in the way of one? He cannot see beyond his hostility towards the SNP to the interests of the country that he is supposed to lead.

I can just imagine the First Minister on the telephone to Jack Straw yesterday, saying that fishing is important in Scotland and that it was lovely to see the Foreign and Commonwealth Office spokesman concede that in the *Sunday Herald*. However, was he not just a wee bit worried about the tiny hint that something might actually be done for the fishing industry, because in his view what is far more important is not letting the SNP win any concessions? If he were to let that happen, some people might realise that it is the SNP and not Labour that defends Scotland's interests, which would not be in the First Minister's interests now, would it? We thought that it was only the Tories who think that the fishing industry is expendable.

**Murdo Fraser (Mid Scotland and Fife) (Con):** Will Nicola Sturgeon give way?

**Nicola Sturgeon:** Not just now—I have been very generous with interventions.

A First Minister who puts Scotland's interests first would not have been on the phone to Jack Straw, trying to pour cold water on the prospect of securing crucial concessions for one of his country's most vital industries. Instead, he would have recognised and seized the enormous opportunity that has just opened up before him to score a real win for Scotland.

Tony Blair's decision to hold a referendum on the constitution, having spent months telling us that there was no need to do so, might have made him look foolish, weak and on the run, but it presents a huge opportunity for Scotland to get a better deal from the constitution. Blair needs a yes vote—his political life depends on it. He is more likely to get it if he has Scotland on side, and he will have a much better chance of getting Scotland on side if the constitution that we are asked to vote on does not sell out our national interest. Let us not forget the fact that Tony Blair's European partners also want him to secure a yes vote. They will want to concede as much as they possibly can. The conditions could not be any better for Scotland.

Tony Blair will ask for the concession that will throw our fishing industry a lifeline only if we pressure him to do so—if we turn his weakness into our strength. That is what the First Minister should have picked up the phone to do, to press home Scotland's advantage. He should have been focused on getting a better deal for Scotland, not on trying to get one over on the SNP. That is the kind of behaviour that people expect from the general secretary of the Labour Party, not from the First Minister of Scotland.

The Parliament and all of us are under no obligation to dance to Jack McConnell's tune. We have an opportunity to unite today and to tell Tony Blair the price of our support. The Tories should back the motion—and I hope that they do—because it is about time that they made it up to the fishing industry for being the party that signed away control to Brussels in the first place.

**Murdo Fraser:** I have listened with great interest to all that Nicola Sturgeon has had to say about fishing, and I absolutely agree with her principle of calling for the repatriation of control over fishing. She will know that we have supported that for years. However, what other issues around the draft constitution concern the SNP? Is everything else about it acceptable, or are there other red-line issues, about which we have heard nothing from Nicola Sturgeon?

**Nicola Sturgeon:** Being part of Europe is about

compromising, but it is also about standing up for the national interest. If we had a blank sheet of paper, I am sure that we would change some things about the draft constitution. Our red line is fishing; perhaps it is about time that the Tories decided what theirs is and stood up for fishing, instead of signing away—

**Murdo Fraser:** We will tell you.

**Nicola Sturgeon:** We will take no lectures from the party that, under Heath and Thatcher, signed over our fishing industry to the European Community lock, stock and barrel. By supporting the motion, the Tories could start to make things up—a bit—to the fishing industry. That is why the Tories should support our position.

The Liberals should support our motion because, as I said earlier, it repeats almost word for word the policy statement that they passed last year. Let me read that statement to members:

“making the conservation of marine biological resources under the Common Fisheries Policy an exclusive competence of the EU is both undesirable and unworkable”.

It goes on:

“Conference, therefore, calls on all Scottish Liberal Democrat parliamentarians to exert all possible influence on the UK Government to effect appropriate changes”.

Well, here is the chance for those Scottish Liberal Democrat parliamentarians to exert some influence. The question is whether they are going to take that chance or whether, as usual, they will toe the line laid down for them.

Labour should support the motion because it was elected to a position of leadership in this country. When a party is in that position, it has a duty to act in the national interest, not just in its own interest.

In my view, there is no substitute for independence in Europe. There is no substitute for giving Scotland the ability to speak for herself, to fight her own corner and to build the alliances that are necessary in the new, enlarged Europe. Along the way to independence, we must be prepared to seize every single opportunity that presents itself to get us a good deal—a better deal for Scotland—and to advance Scotland's national interest. The draft EU constitution is one such opportunity. The SNP wants to vote yes to the constitution. We generally support the document, and we are proud of the role that Neil MacCormick played in its drafting—he was the only elected representative in Scotland to do so.

Fishing is our red line, and it should be the Parliament's red line. I move,

That the Parliament calls on Her Majesty's Government to negotiate out of the draft EU Constitution the clause stipulating that the European Union shall have exclusive

competence over the conservation of marine biological resources under the common fisheries policy, and ensure that the final draft of the Constitution is not detrimental to Scottish interests.

09:45

**The Minister for Finance and Public Services (Mr Andy Kerr):** There was a lot of hot air and bluster there, I have to say. There was a huge element of dishonesty and of distraction from the real issues that we face in the European debate. Unlike the SNP, I hope to bring some candour to the debate and to set out once again some of the benefits that the European Union offers us. We heard what amounted to a fig leaf for the first 30 seconds of Nicola Sturgeon's speech; we then heard a fairly anti-Europe rant around the particular issues that she seeks to address in the motion.

Let us examine some of the issues that are, I think, much more important. Nicola Sturgeon recognised in that short, fig-leaf statement at the start of her speech the fact that there will shortly be a larger EU market of 500 million people. It will be the biggest single market in the world—a market that Scottish firms will take advantage of, a vital market to Scotland's economic future and a vital market to Scotland's national interest. The enlargement of the EU is a cause for celebration. It poses a fresh challenge to the governance of the European Union, but we are willing to face that challenge—unlike Nicola Sturgeon and her party—and, with our partners in London, we are working to tackle it.

We need to be honest with each other and with the people of Scotland: enlargement means that the European Union must reform how it conducts its business, otherwise decision making will grind to a halt, throwing into doubt the benefits that we have enjoyed from our membership of the EU.

**Nicola Sturgeon:** The question that the minister must answer is why Scotland should be the only country in the whole of the European Union that does not stand up and fight to protect its national interest. Why does he not address that question, instead of waffling in a manner that would make his First Minister proud?

**Mr Kerr:** Being part of the United Kingdom, with the powers that the UK Government has when negotiating in Europe, is much superior to having the powers that Nicola Sturgeon would advocate our having, under which we would have an independent, separatist and minority voice. We would have a small voice at the heart of Europe. I would prefer to be part of a bigger voice at the heart of Europe.

What would those who seek to oppose the treaty put in its place? As I and others have argued,

given the size of the EU following enlargement, we need to reform the current arrangements. Those who would use the treaty process and a referendum to criticise the current framework should offer alternatives. A bland "We would renegotiate" is not realistic when the interests of 25 members are at stake, and it is not sensible to pretend that EU politics is a one-way street. Others have mentioned the fact that various nations have come to agreements. It is about working together, not working in separation, isolation and independence in the way that the SNP advocates. Working together is the reality of working with Europe, not the fantasy that we will hear from the Tory and SNP cohort in the course of the debate.

Some of the benefits to Scotland of EU membership are so great and so fundamental that it is important to restate them. Clearly, the SNP and others take them for granted. Tariff-free trade is vital to growing Scotland's economy. I have already mentioned the 500 million consumers to whom we have access. More than 1,000 companies export from Scotland to the EU each month. In 2003, that trade accounted for 53 per cent of Scottish exports and brought £7 billion into the economy. It is estimated that around 300,000 jobs rely on our membership of the European Union. Those who think that EU membership is irrelevant should explain that to the business community and to the people of Scotland. They should examine the figures. Exports to the countries of the European Union have grown from 35 per cent to 52 per cent since our membership began. That is good for the economy of Scotland, good for business and good for the people of Scotland.

**Phil Gallie (South of Scotland) (Con):** How much of that 52 per cent of exports is to our partners in the rest of the United Kingdom? Will the minister tell us why we need to impose so many new powers in the constitution, given that, as he has said, there was some room for change in the EU's working arrangements?

**Mr Kerr:** First, in the context of an independent Scotland in Europe, the 52 per cent figure is valid. Secondly, many of the myths that Phil Gallie and his party have created around the huge changes that the treaty brings are simply not true.

EU membership means securing consumer value and confidence. EU standards allow Scottish consumers access to a greater variety and quality of products at competitive prices, while ensuring that those products meet uniform standards of product safety and consumer protection. Scottish producers know that member states cannot put up barriers to our exports. Therefore, membership of the EU is good for the economy of Scotland and good for the consumers of Scotland.



The advantage of freedom of movement means that Scots can live, work and travel with ease throughout the European Union, which benefits those who are building their businesses, those who are on holiday and those who are seeking work or are undertaking training or further education in Europe. Therefore, membership of the EU is good for the economy of Scotland and good for the people of Scotland.

In policy areas across the board, our being able to act in concert with our European partners has allowed all the citizens of Europe to benefit from cleaner waters, beaches and air. Just as we are stronger when we tackle pollution together, so is there a clear need for stronger European collaboration and solidarity in tackling the major threats of our time, including crime and terrorism. Member states are now working together through the EU to combat the drugs and arms trades and, following the 9/11 attacks, on measures to co-ordinate anti-terrorist actions. After the outrage of the bombs in Madrid, can there really be any question about the need for such collaboration? Membership of the EU is good for Scottish people and good for their safety.

The new treaty will allow us to tackle crime and terrorism much more effectively. That is why it is good for Scotland and is in Scotland's interests. It is a treaty for security, growth and prosperity. Let me be clear: the consequences of a no vote in the forthcoming referendum would lead us towards the exit point from Europe, placing all those benefits at risk and letting down Scotland and Scotland's national interests.

Let us be clear about what the nationalists are saying: they are saying that they do not want those benefits for Scotland and they have said that they will support the EU treaty and campaign for a yes vote only if we end the common fisheries policy. They are saying that they will be prepared to support a treaty to tackle crime and fight terrorism, improve workers' rights and build trade only if we withdraw from the CFP. They are saying that they are prepared to see Scotland isolated from the rest of the world and from the world's biggest single market by withdrawing from the CFP. The fact is that the CFP provides some protection and guarantees for Scotland and, crucially, that we now have an opportunity to improve it through better regional management and through a greater say in all matters European, which the treaty would give by providing greater powers for devolved Parliaments.

**Richard Lochhead (North East Scotland) (SNP):** The debate is about the draft constitution; we do not have the final document. Will the minister tell us and Scotland what changes his Executive will be arguing for between now and when the final constitution is tabled? Tony Blair's

hand has been strengthened, as he can get concessions from Europe and will have a referendum, which in turn strengthens Scotland's Parliament's influence, so how is the Executive using that new influence to benefit Scotland?

**Mr Kerr:** We are using our influence to secure greater involvement by devolved Parliaments within the European structures in relation to controls and powers, which I will come to later in my speech. The way to achieve a better deal for Scottish fisheries and fishing communities is by working through the UK, not by isolating ourselves and turning our back on that prospect.

The motion has a lot to do with the upcoming election and divisions in the SNP. The Euroscepticism that Nicola Sturgeon's party displayed in relation to independence in Europe is simply outrageous. That was a long time ago, but the anti-Europe position of the SNP is now becoming clear. The SNP has to decide whether it is for or against Europe, whether it will stand up for all Scotland or part of Scotland and whether it is prepared to stay in bed with the Tories and the Trots to campaign against the treaty.

There are areas in which Scotland will need to work with its UK and EU partners to ensure that legislation under the new treaty takes account of Scottish interests and needs. Of course, fisheries are part of that debate. Most important of all, effective and efficient enlargement is vital to all our industries, including manufacturing and, of course, fisheries. Those who are contemplating leaving the European Union are ignoring the compromises that politics sometimes brings and are pretending that they would somehow disappear. They are being dishonest if they say that if the UK were outside the EU, it would have a voice in the negotiations that affect our most basic interests. Those who would have us leave the EU would be selling Scotland down the river, and we would be in a situation in which key Scottish issues would be decided by 24 of our nearest and most important neighbours. Contemplating leaving the EU is the politics of the madhouse. Those who would have us leave the EU would be sacrificing our economy and grandstanding about false principle. They would be selling out Scotland and turning their backs on Scotland's workers, consumers and businesses.

We have been playing an active part in the processes of European reform, which will bring better and closer governance through the new treaty. As we know in this Parliament, devolving power and taking decisions as close to the people as possible result in better legislation for the citizens of Scotland. Our Parliament is closer to the citizens. It is important for everyone that the Commission consults widely before bringing forward the new treaty, and that must include

direct consultation with Parliaments such as ours.

I have outlined the changes that the new treaty will introduce, for which we pressed hard and which we succeeded in getting. Those changes will give Scotland an earlier say in and a greater influence on proposed EU legislation and are in our national interest—the very point that the SNP's MEP Neil MacCormick made in his submission to the convention that drafted the new treaty.

We know that the European Union has delivered peace and political stability for the peoples of Europe. As a result of that unique partnership, Europe has been able to grow its economy, support the creation of wealth and tackle discrimination and disadvantage. The European Union is now the largest single market in the world and has supported economic growth and job creation in Scotland, balancing economic needs with those of the environment. Scotland's place is as part of the enlarged Union, playing a role, growing our economy and ensuring that the people of Scotland benefit. That is Scotland's national interest. We should not stand on the sidelines, outside, ignored, impotent and insignificant. The nationalists would fail our entrepreneurs, our manufacturers and our fishing communities, but most of all they would fail Scotland.

I move amendment S2M-1218.4, to leave out from "negotiate" to end and insert:

"agree a Treaty that, in the context of an enlarging Union, is clearer and simpler than the existing treaties, to bring the European Union closer to the citizens of Europe; notes that the current draft Treaty simply makes explicit the European Community's exclusive competence over marine conservation as set out in the United Kingdom's Treaty of Accession, as part of the Common Fisheries Policy, which both Her Majesty's Government and the Scottish Executive are committed to reform to deliver effective regional management of, and a sustainable future for, Scotland's fishing industry; notes that the text makes reference for the first time to the role of sub-national parliaments and offers enhanced scope for collaboration to tackle international crime and the threat of terrorism, and welcomes the benefits to Scotland of EU membership, including economic prosperity, trade, environmental and consumer protection and citizens' and workers' rights."

09:56

**Phil Gallie (South of Scotland) (Con):** We welcome Tony Blair's U-turn on the referendum, which Scottish Executive members opposed, because it gives us the chance to analyse the constitution in a public forum and, as Andy Kerr suggested, to dispel the myths that surround it.

The first myth, if not barefaced lie, is that the constitution is just tinkering to facilitate enlargement. Proof exists that enlargement was achieved in recent times and in the more distant past without the need for major change.

The second myth—which has been suggested by Mr Blair and repeated by Andy Kerr—is that the UK will be ejected from the EU unless we sign the treaty. That is absolute rubbish, which is proved by the fact that the Spanish and the Poles induced relevant and informative discussion following their original rejection of the draft constitution. We are now moving on to the next stride in the argument.

The third myth is that we Conservatives are anti-Europe and are set on pulling out of the EU. That is not so, but we feel that the powers of the unelected EU commissioners and the movement towards EU statehood have already gone too far. We are saying that we will go no further in abandoning mastery of our own affairs.

The fourth myth is that, in the words of the Italian ambassador who visited the Parliament, the constitution is not the first step to the "birth of a state". European statehood is not a scare tory—*[Interruption.]*—sorry, a scare story that has been invented by us Conservatives. It was the stated objective of EU grandees such as Schröder and Kohl, Giscard d'Estaing and Mitterrand, Prodi and the disgraced Santer and, much to my sorrow, the former Tory Prime Minister Ted Heath. It is a fair political objective for a party to set if, as with the Liberals and the SNP, that is its stated aim, but it must be an open objective and must not be shrouded in disguise, which the Blair Government has attempted to do. European ministers MacShane and Hain, as well as senior Cabinet ministers, tell us continually that there are no European-statehood implications in the constitution, but at least the former EU minister Keith Vaz has been more honest and acknowledges that to be an objective.

Today's debate centres on the SNP motion. I congratulate the SNP on giving Parliament the opportunity to debate the proposed constitution. I will demonstrate that there are aspects of it that would clearly remove powers from this Parliament, which were won so recently by those who campaigned for it. Other aspects would remove sovereign rights of the United Kingdom Government, which would have a profound effect on Scotland. To that end, I offer no apology for referring to some of the most important of those, in my eyes.

The SNP motion appears to aim at its only reservation about the EU constitution, which is about fishing. I am surprised that the SNP did not go further than that, especially in respect of the energy issues that are covered by the draft constitution. The implications for the existing and future development of our oil resources could well be extremely damaging—I refer to article 13 of the draft constitution. Before someone intervenes to advise that that will be only a shared competency for the EU, I make the point that it is just one of the

many additional competencies to be handed over.

**Richard Lochhead:** Will the member give way?

**Phil Gallie:** Very briefly, as I do not have long.

**Richard Lochhead:** Should Scotland be able, as part of the negotiations over the draft constitution, to negotiate the scrapping of the CFP, will the Conservative party change its position and vote for the draft constitution?

**Phil Gallie:** Scotland should be able to negotiate through UK Government ministers: that is the way forward, as Andy Kerr said. That would give us the strength that an isolated voice would not give us. What we want is the right Government at Westminster to put forward the right arguments.

I will pick up on the shared competencies to which I have just referred. Article 11.2 of the draft treaty states that

“the Union and the Member States shall have the power to legislate and adopt legally binding acts ... The Member States shall exercise their competence to the extent that the Union has not”.

In other words, the Union sets the basic rules and regulations. Only if it has missed something will a member state—which previously had full competency—be able to act. I challenge the minister to address that point by demonstrating, using the text of the draft constitution, that that is not the case.

The deal that has been offered by the SNP to Labour reminds me of a similar deal that was struck before the last referendum in Scotland when Labour, the Liberal Democrats and the nationalists campaigned to tell the Scottish people that we were going to get a Parliament building for £40 million. Some of the aims and objectives of the Executive’s amendment bear little relationship to reality in the context of the detail of the draft constitution. Had not the amendment borne no resemblance to the reality of the constitution, perhaps we would have had some sympathy with it. Now is the time to address the points—before the draft constitution is signed, not after. The draft EU constitution and the sovereign rights of all Scots and citizens of the UK are far too important to play knockabout politics with.

I will, having outlined the background to the debate as I see it, and having commented on two important implications of the draft constitution’s acceptance—those for energy and fishing—highlight other aspects that I and my colleagues have grave concerns about.

The appointment of a European president in a role that will, in effect, build up to being a head of state, could well overshadow the role of our Prime Minister and would certainly blanket over any effects of our First Minister. An EU president could, in collusion with an EU foreign minister,

determine UK foreign policy on the hoof—I refer to article 21 of the draft constitution. Article 27 lays down the powers of the EU foreign minister, who will be guided by a qualified majority vote within the Council of Ministers. The UK will, if we go ahead with the constitution, lose its prominent voice in world affairs, which has been built up and retained over centuries. What will be the effect of that on the Commonwealth and on our external relations with China and the USA? Those are the kind of questions that those who argue for the constitution must address positively.

Furthermore, under the draft there can be no separation from the EU position. Article 5.2 of the draft constitution demands “loyal cooperation” and requires member states to

“refrain from any measure which could jeopardise the attainment of the objectives set out in the Constitution.”

That equates to a common voice on foreign affairs. Article 27.2—

**The Minister for Environment and Rural Development (Ross Finnie):** Will the member give way?

**Phil Gallie:** I do not really have time, but I will give way if the Presiding Officer allows it.

**The Presiding Officer:** Yes—I agree to that.

**Ross Finnie:** I am grateful for the fact that Phil Gallie is constantly giving us references to the draft constitution. However, his quotes are rather selective. Article 5 begins:

“The Union shall respect the national identities of the Member States”.

He has quoted only selectively from article 5.2, which follows. Let us start with the basic principles and not be dishonest in this debate.

**Phil Gallie:** The minister is referring to the small condensed version of the European constitution. I suggest that he get hold of the full document and read it. Perhaps he will then be able to answer his own question.

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** He is right, though.

**Phil Gallie:** He is not right; he is absolutely wrong.

On taxation and the economy, article 11.3 states:

“The Union shall have competence to promote and coordinate the economic and employment policies of the Member States.”

Never mind signing up to the euro, we will be obliged to conform with the economic and employment policies of the other member states. The present Commission has the objective of setting EU-wide levels of corporation tax, VAT and

an energy tax. We see the dangers that are inherent in that. We understand that the draft constitution means that European taxes will be imposed on the UK. I feel sure that that is not something that most people in the UK would relish. I could quote article 3.2 and article 16—

**The Presiding Officer:** No, please.

**Phil Gallie:** However, I bow to the Presiding Officer's request. Those are the kind of issues that we must debate in Parliament if we are genuinely to address the European constitution and dispel the myths.

I move amendment S2M-1218.1, to leave out from "calls on" to end and insert:

"recognises that the only way to ensure a sustainable future for the Scottish fishing industry is to restore national and local control of Scottish waters by negotiating withdrawal from the Common Fisheries Policy and calls on Her Majesty's Government to hold the referendum on the EU Constitution following final agreement of its terms to give our people the opportunity to reject this centralising constitution and help to shape a new, flexible Europe of nation states working in partnership."

10:06

**Robin Harper (Lothians) (Green):** I wish that I could congratulate the SNP on proposing this debate on the draft EU constitution. However, although Nicola Sturgeon commenced by saying that she wants Scotland to play a full and active part in Europe, she continued by saying that the SNP wants Scotland to pull out of the common fisheries policy.

The common fisheries policy has not had a glorious history, but we need to reflect briefly on the reasons for that. Over the past two decades, the policy has not worked because the Commission has, based on scientific evidence, produced ideas that have been undermined by politicians who have not wanted to lose the votes of the fishing communities and who have not taken action on the evidence that has been presented to them. Those ideas have been undermined further by backroom bargaining with the Commission to get extra money to support the building of larger or new boats. As a result, over the past 20 years there has been no reduction whatever in fishing effort in the North sea and, until recently, it has crept up year on year. The common fisheries policy should address that and keep total fishing pressure down.

**Richard Lochhead:** I have two questions to ask. First, does Robin Harper acknowledge that not £1 has been given to Scottish skippers, through the common fisheries policy, to build new vessels? The money has gone to other states; that is the problem with the common fisheries policy. Secondly, two months ago, Scotland's most eminent scientists—the Royal Society of

Edinburgh—called for the EU's exclusive competence in marine conservation to be deleted from the draft constitution. Does Robin Harper agree with those eminent fisheries scientists that that exclusive competency should be deleted?

**Robin Harper:** I do not agree; I will continue to argue that it is a political decision, not a scientific decision, that we are making. We act on the evidence that scientists present to us on the state of the stocks in the North sea, which is why we need a common fisheries policy.

Let us not forget that the cuts have always fallen short of the requirements of scientific advice. The SNP would do well to recognise that there is an old CFP and a new CFP. A core aim of the reformed CFP is to improve stakeholder participation in formulation and implementation of policy. If SNP members really cared about fishing communities, they would seek to engage positively in that process instead of their advocating a free-for-all and turning their backs when fisheries, and communities that are dependent on them, crash because of over-exploitation. We need to care for our fisheries and our fishing communities. We must, however, recognise that the Europe-wide fishing industry is currently too big and too efficient for the fisheries on which it depends.

I turn now to the draft constitution. European ministers have deemed advice such as this to be politically unacceptable, but it remains an unpalatable if unavoidable truth that we cannot continue to exploit the ocean at the rate that we have been doing. We have become too good at fishing, but we are not good enough at managing fisheries.

The SNP does not seem to be well up on the concept of management, as opposed to exploitation, of fisheries. Let us follow the SNP line for a moment: the seas are teeming with tartan fish and, out of spite, the EU is ganging up on Scotland to deprive us of our birthright. We therefore ignore the repeated consensus in the Scottish Parliament and ask Westminster to negotiate a deal on our behalf so that the EU cedes exclusive competence. We will ignore for the time being the concessions that will be made on Scotland's behalf in order to secure that deal. That means that under the terms of the new constitution, fisheries management would be in the hands of the regional advisory councils, which comprise 66 per cent fishing industry representatives. I congratulate the SNP; the fishing industry would then be completely unregulated except to the extent to which it would choose to regulate itself.

**Phil Gallie:** Will the member take an intervention?

**Robin Harper:** I suspect that Ross Finnie would

be quite glad not to have to continue to go through all-night haggling sessions in Brussels with other ministers.

**Phil Gallie:** As the member is now looking through his notes, will he give way?

**Robin Harper:** I have just found the right page.

"It seems to me that what is important is to put more fish into the sea and to keep as much as possible of our fishing community—and its dedicated men who provide that wonderful food for us all—in business. To abide by the CFP is one of the UK's obligations under the treaty that established the European Community, and, if the CFP did not exist, it would have to be invented."—[*Official Report, European and External Relations Committee, 7 January 2004; c 331.*]

That is a quotation from the UK Minister for Europe, and I subscribe to those thoughts. The SNP would do well to recognise that there is an old CFP and a new one.

Turning to the EU constitution, there is much to be supported in the current draft treaty, including the charter of fundamental rights, the increasing power of the democratic Parliament relative to the unelected Commission, and increasing transparency in the Council. However, I and my party have major concerns about areas such as the common foreign and security policy, commitments to support nuclear power, the removal of veto powers over privatisation of public services, and rights for asylum seekers and non-EU citizens. Given that we now have the beginnings of a sensible fisheries policy, I urge the Executive and the UK Government to negotiate on some of those issues, rather than waste negotiating effort and political collateral on promoting the ceding of exclusive competence over fisheries conservation.

I move amendment S2M-1218.3, to leave out from "calls on" to end and insert:

"recognises that management of fisheries, as a shared resource in the seas around Europe, transcends national boundaries; condemns the long history of Common Fisheries Policy management driven by political rather than scientific considerations; recognises that such political management has led to the current plight of fish stocks and fishing communities; agrees that the newly-reformed Common Fisheries Policy offers a brighter future given the proposals for conservation of stocks based on scientific analysis combined with fishermen's expertise to agree sustainable managements on a regional basis, and calls on the Scottish Executive and Her Majesty's Government not to abandon the goal of sustainable management of fisheries and to engage actively in negotiations to ensure that the final draft of the Constitution is not detrimental to Scottish interests on fisheries, renewable energy and other matters."

10:13

**Tommy Sheridan (Glasgow) (SSP):** Being an internationalist and being pro-European has nothing to do with the European Union. The

European Union is an undemocratic, corrupt and insatiable monster that seeks greater powers from the EU constitution to allow it to devour more jobs, more communities and the democratic rights of nations. It is a monster that many on the left had hoped could be tamed and dispatched for progressive purposes, but as most people now recognise, it is out of control and is a real and present danger to social welfare and public services. The appearance of a progressive character in the 1980s was in stark contrast to the dark reaction of Thatcher in Britain during that time. The EU's true free-market colours are now evident for all to see.

The EU is not just an undemocratic, corrupt and insatiable monster, it is a big-business monster whose desire is to plunder and privatise in search of maximum profits for the few, regardless of the consequences in lost jobs and broken communities for the many. The EU constitution would confer the necessary powers on the EU monster that would allow it to destroy democracy within nations and promote a big-business, privatisation agenda throughout Europe.

**Irene Oldfather:** Will the member give way?

**Tommy Sheridan:** Not yet.

I call on those who believe in democracy, socialism and independence to oppose this dangerous constitution and to begin the process of renegotiating our membership of and relationship with the European Union, based on greater readiness to defy the diktats of EU bureaucrats and put Scottish workers and communities first. Like the World Trade Organisation and the International Monetary Fund, the EU is an agent of big business that promotes freedom for big business to expand into all areas of life and to control even more of our wealth and resources. The constitution is a licence for those aims; democratic socialists and those who believe in national sovereignty that relies on the citizens of each nation should oppose that constitution.

**Phil Gallie:** Although I agree with many of the things that Tommy Sheridan said about the effects of the constitution, I obviously come from a totally different angle. On big business, can he say why 85 per cent of big business now urges the Government not to sign up to the constitution?

**Tommy Sheridan:** That depends on whether it is the far-reaching wing of the big business lobby or the old landed aristocracy that Phil Gallie's party tends to represent.

The debate is riven with contradictions. The rump of socialists who are left in the Labour Party oppose the constitution. The Tories are divided between the far-sighted big-business wing that supports such expansion, and the neanderthal bulldog wing that opposes it for its own flag-

waving reasons. The biggest contradiction is within the ranks of the Scottish National Party.

**Margo MacDonald (Lothians) (Ind):** Will the member give way?

**Tommy Sheridan:** I will finish my point and then take Margo MacDonald's intervention.

"The SNP's policy of 'independence in Europe' has never been honest and as a party, attempting to sell a blatant lie, the SNP has played a big part in creating the cynicism of the electorate and the open contempt in which politics and politicians in Scotland are now held. Swinney's latest offer to deliver SNP votes for a 'yes' on the proposed EU constitution, providing Scottish fishermen get a better deal, must rank as the biggest sell-out of the Scottish people since 1707 ... The SNP really is scraping the bottom of the barrel now, being willing to hand over to central EU control Scottish energy resources, foreign policy and defence, law and just about everything that a sovereign nation requires to be worthy of the name—except fishing. And it calls it independence."

**Margo MacDonald:** It is generous of the member to give way in his final minute. I wanted to provide the bridge between Mr Gallie and Mr Sheridan. The big-business interests that are now saying that the EU is not such a good idea are saying so because they see that the economies of the EU countries are on the way down.

**The Deputy Presiding Officer (Murray Tosh):** I will run your final minute from this point, Mr Sheridan.

**Nicola Sturgeon:** Will the member give way?

**The Deputy Presiding Officer:** No. Mr Sheridan has only one more minute.

**Tommy Sheridan:** The SNP is willing to sign up to a constitution that would completely deny Scotland's legitimate democratic right to be a nation in and of itself, as long as we exempt the common fisheries policy from that constitution. That is a selling of the independence jerseys and the SNP is undoubtedly riven with division on that proposal.

I will finish with a quote from Ieuan Wyn Jones, the leader of Plaid Cymru, which is one of the SNP's sister parties. On the new draft EU constitution, he said:

"This draft new constitution is a charter to tighten the grip of the larger nation states of Europe. The voice of the smaller countries will be reduced, while the needs of stateless nations like Wales or Scotland will be ignored completely."

It appears that Ieuan Wyn Jones is still determined to fight for independence for Wales. It is a pity that the SNP is not prepared to continue the fight for independence for Scotland.

I move amendment S2M-1218.2, to leave out from "negotiate" to end and insert:

"recognise that the European Constitution makes fundamental changes to the structures of the European

Union that will further erode local and national democracy, strengthen the grip of the largest and wealthiest nation states of Europe at the expense of the smaller nations and stateless nations, undermine public services in Scotland by opening the door to wholesale privatisation, jeopardise the existence of our fishing industry by engraving in stone the disastrous Common Fisheries Policy, transfer powers over energy to the EU which in turn can be used to block any future moves to bring our oil, gas, and electricity industries into public ownership, lead to a further militarisation of the European continent and give carte blanche to large multi-national states such as Spain and the United Kingdom to deny minority nations within these states the right to genuine self-determination, and, in the light of the damage that this constitution will do to Scotland's present and future interests and given that opposition to the proposed constitution is even stronger in Scotland than the rest of the UK, calls on Her Majesty's Government to call a separate referendum for Scotland."

10:20

**Mr Keith Raffan (Mid Scotland and Fife) (LD):** I will have to give lessons to Mr Sheridan in how to pronounce Plaid Cymru properly in Welsh and with passion.

Increasingly, I look forward to the referendum campaign and to the idea of a Tory and Scottish Socialist Party partnership, with Mr McLetchie and Mr Sheridan sharing a platform. I am not sure that there will be many people in the audience, however; it will be light—very light—entertainment.

We are less than two days away from a moment that history will record not as a footnote but as a chapter heading. On Saturday, we will welcome back to the heart of the European family 75 million people, mostly from central and eastern Europe. That will mark the widest-ever expansion of the European Union. The new member states will bring with them new ideas, energy and—yes—they will bring new challenges. Nicola Sturgeon was right when she said in the chamber last week that the debates on enlargement and the EU constitution

"are closely linked and cannot be held in isolation."—*[Official Report, 21 April 2004; c 7552.]*

If an enlarged European Union is not to come to a standstill and, in the words of the Irish presidency,

"is to be better equipped to respond to the demands of its citizens and to play a more effective role in the world",

we need the constitutional treaty.

**Nicola Sturgeon:** Will the member give way?

**Mr Raffan:** I will give way in a second.

Institutions and ways of operating that worked for a Europe of six members need modernising and streamlining to cope efficiently with a Europe of 25 members.

**Nicola Sturgeon:** I have a great deal of respect for Keith Raffan's views on this subject, but he

appears to be arguing from a point of view that assumes that we have a finalised version of the EU constitution. The constitution is in draft form. My point is that it is perfectly legitimate for Scotland, like every other country, to try to get the draft amended to better reflect Scotland's national interests. What is wrong with doing that?

**Mr Raffan:** Obviously, Nicola Sturgeon is eager to hear my speech and is anticipating my remarks. I will, of course, address that issue shortly. By the way, I must say to Miss Sturgeon while I am at it that although we are a very hard working party, we do not actually meet in conference in August. I do not want her to be clueless, but to be clued up, so I will make available to her later our detailed motion on the common fisheries policy from our conference in March.

"If it is in Britain's interest to be in the EU, then it is also in our interest that the EU work well. Britain can achieve more together with our European partners than we can alone. The new treaty will help us to do so more effectively—but without creating a European superstate."

Those are not my words, but the words of Michael Heseltine.

"If you believe in the nation state, if you believe in greater accountability, if you believe that we should try to make the best of organisations that we are members of, then the constitutional treaty makes a huge amount of sense."

Again, those are not my words, but the words of Commissioner Chris Patten. That, of course, is what the treaty is all about: making Europe work better and ensuring that a widened Europe works well as a Europe of sovereign national states.

I agree, of course, with Miss Sturgeon that fishing is an important Scottish industry. Thirty years ago this year, I stood for Parliament in East Aberdeenshire, where I actually cut the SNP majority. I campaigned vigorously in Peterhead and the Broch—Fraserburgh. I know how important fishing was, and continues to be, to those communities. Within the region that I represent, the prawn fishermen of Pittenweem in the east neuk of Fife might be few in number, but their welfare is as important to me as is that of any of my constituents.

Fishing is an important traditional Scottish industry, but so are farming and financial services, both of which also face major problems. The constitutional treaty is about more than one industry; indeed, it is about more than our whole economic life. It is about answering the challenges of enlargement, drawing together all the previous treaties—from Rome to Nice—establishing the powers of the nation states and those of Brussels and defining what Europe can and cannot do.

The leader of the SNP told his party on Saturday that the Prime Minister would win the SNP's support for the constitutional treaty only

"if he vetoes the absurd plan to hand over Scotland's fishing industry to Brussels."

That was not an off-the-cuff remark; it was part of a carefully scripted speech. Therefore, we have a choice: either he spoke out of ignorance or he did so out of an intention to mislead.

Our very own act of accession, back in the early 1970s, makes it clear that there is no plan because there is no change. Let me quote:

"The Council, acting on a proposal from the Commission, shall determine conditions for fishing with a view to ensuring protection of the fishing grounds and conservation of the biological resources of the sea."

Marine conservation has always been an exclusive competence of the EU.

On Saturday, Mr Swinney grandiosely threw down the gauntlet to the Prime Minister. He pronounced:

"To win that referendum, Tony Blair needs to win in Scotland. To win in Scotland, he needs the support of the SNP."

That is from the party leader who—let me be kind—misled a quarter of his MSPs on polling day last year. That is from the leader of a party whose membership, we are told, has collapsed from 16,000 to just 7,000 on his watch. That is from a party leader who has been warned by his close friend and ally, Mike Russell, that he will have to go if he has another bad election result on 10 June.

Those of us on this side of the chamber, who will fight side-by-side in the referendum campaign, need no faint hearts. Of course the referendum is a challenge, but I say to my pro-European colleagues: remember 1975. I also remind the SNP and Tories of that time. Three months before the crucial referendum in that year, opinion polls predicted a 2:1 majority against our remaining in the European Community. After a great campaign—an energetic, enthusiastic and determined campaign—there was a 2:1 majority in favour of continued membership of the European Union. There will be such a majority again.

**The Deputy Presiding Officer:** We now come to the open debate. We are slightly behind the clock, so members will need to be strict with their six-minute allocations.

10:26

**Richard Lochhead (North East Scotland) (SNP):** I was not sure whether Phil Gallie was referring to scare stories or to scary Tories, but there are certainly many scary Tories in the chamber. Of course, there is also much scaremongering. The minister's opening speech was all about Scotland becoming isolationist if we did not have the new constitution and the disaster that that would be for Scotland's economy and for Scotland full stop. Members will remember that, when the constitution talks in Brussels stalled, Tony Blair said that it would not be the end of the world if we did not have a constitution—it would be no big deal. However, all that the minister can do is scaremonger. It is a great pity that the Executive has resorted to that kind of strategy.

We must destroy one myth by pointing out that the debate over the constitution is not a debate about being in or out of Europe. It is a debate about the draft constitution, which will be put to a UK referendum and over which Scotland will have a say.

**Robert Brown (Glasgow) (LD):** Does Mr Lochhead nevertheless accept that, if there are referenda elsewhere in Europe later, that will be a major blow to the future prospects of the EU and the countries within it?

**Richard Lochhead:** That is why it is so important to ensure that the constitution is right before it is the subject of the referendum. That is why we must secure the appropriate changes. When that has happened, the new constitution will have the support of the people in Scotland and people elsewhere in Europe.

The reason why we have a Scottish Parliament is that the priorities in Scotland are different from those in the rest of the UK. That means that our priorities for the EU constitution might be different from the priorities of the rest of the UK. We now have some influence to ensure that our priorities are reflected in the final version of the constitution. We must use that influence. Tony Blair now has more influence, because Europe knows that he must win and must get the British people behind his vote. We should exploit that situation and ensure that that influence is devolved down to Scotland and that we have a voice when the draft constitution is negotiated.

**Irene Oldfather** rose—

**Richard Lochhead:** I will take a final intervention.

**Irene Oldfather:** I appreciate the member taking an intervention. Will he explain what the SNP's strategy would be in an independent Scotland if the other 24 countries went ahead without Scotland?

**Richard Lochhead:** I wish Scotland was negotiating the constitution from a position of independence, because we would be able to secure concessions. Unfortunately, that is not the case, which is why we must plead with and put pressure on the UK to have Scottish priorities reflected in the draft constitution. That is what is before us in the next 18 months and that is what we should all concentrate our energy on.

For Jack McConnell, Scotland's First Minister, to call the Foreign Secretary and plead with him not to give Scotland concessions is appalling. Can anyone imagine the presidents of Catalonia, the Basque Country or Flanders in Belgium calling their foreign ministers and saying, "Look, we are negotiating the constitution over the next few months, so for goodness' sake, whatever you do, make sure there are no concessions for us"? That would not happen, because the presidents of those countries defend their national interests in such situations. It is dreadful that Jack McConnell is putting narrow political interests before the interests of Scotland in those negotiations.

Jack McConnell refuses even to talk about the issue and raise the debate. Two weeks ago, the *Aberdeen Evening Express*, which is a very good paper, invited all the political leaders in Scotland to give their views on the constitution and the referendum. Articles were submitted by John Swinney of the SNP, by David McLetchie of the Conservative party and by the Deputy First Minister and leader of the Liberal Democrats, Jim Wallace. However, as the *Evening Express* article stated:

"First Minister Jack McConnell declined to comment as the issue concerns a power reserved to Westminster."

Jack McConnell is a man who absolutely refuses to stand up for Scotland and even to talk about what will perhaps be the biggest political issue in this country in the next 18 months. That is a dreadful position for Scotland to be in.

Scotland has its own red-line issues. Of course fishing is the red-line issue for the SNP, because the industry is so important to Scotland's national interest. George Foulkes of the Labour Party told *The Herald* on Monday:

"I think there is an argument for repatriation of control over fisheries and that the SNP has a valid point".

We welcome that change in UK Labour Party policy. Perhaps it will be reflected in Labour policy for Scotland, where fishing is a national interest and is 20 times more important than it is in the UK as a whole.

**Phil Gallie:** Will Richard Lochhead accept an intervention?

**Richard Lochhead:** I am sorry, but I have to move on.



I tell the Minister for Finance and Public Services, Andy Kerr, that the constitution was created to meet three objectives. I know that members on the coalition benches have a short attention span, but I ask him to take a few moments to have a read of the constitution. The first objective is to bring stability to Europe; the second objective is to ensure that the European Union is workable after enlargement; and the third and most important objective is to make Europe closer to the people.

If Andy Kerr looks at the constitution, he will find that it does not meet many of the Executive's objectives. I want to know what Scottish ministers will do between now and the publication of the final version of the constitution to secure those objectives. I shall give some examples.

First, the Executive makes great play of the new commitment to subsidiarity in Europe. Subsidiarity is fantastic, we are told. It will give the Scottish Parliament a say, a role and a new influence that we did not have before. Nonsense! The constitution does not give the Parliament the power, which the former First Minister, Henry McLeish, requested, to have direct access to the European Court of Justice to enforce subsidiarity. So far, ministers have lost that battle.

Secondly, ministers have called for the Parliament to be directly consulted by the European Commission. So far, that battle has been lost and we are no further forward.

Thirdly, there is talk of new powers for national Parliaments. National Parliaments have not even been given a red card. They get six weeks' notice of legislation and, if a third of them say to Brussels that they do not want something, Europe just has to give a reason why it will proceed anyway—and by the way, Scotland's Parliament is not recognised as a national Parliament.

We need a Scottish Executive and a First Minister who will not squeak like a mouse but roar like a lion for Scotland and secure our national interests between now and the publication of the final version of the constitution.

10:33

**Irene Oldfather (Cunninghame South) (Lab):** Listening to Richard Lochhead's speech, one would think that this Parliament had had no discussions on the future of Europe and had not participated in the convention. I recognise that he was not a member of the European Committee when we deliberated on the matter for about a year and a half, but we produced a report that was welcomed by the President of the European Parliament and 90 per cent of which was adopted in the UK submission to the European convention. We also made joint submissions with the network

of regional parliamentary European committees, with which, as Richard Lochhead knows, the Scottish Parliament is involved. It has to be said that much of what was in those submissions is in the draft constitution.

**Richard Lochhead:** Will Irene Oldfather give way?

**Irene Oldfather:** I realise that Richard Lochhead is coming a little bit late to the debate, but if he listens for a minute he will see how this Parliament has participated in the debate for the past three years. Never has there been more consultation on any treaty revision in the history of the European Union.

**Nicola Sturgeon:** If what Irene Oldfather says is correct, I congratulate the European Committee on its involvement in securing changes to the draft constitution. However, as she is lauding the prior involvement of the Parliament in standing up for Scotland's interests, why on earth is she now going to stand in the way? At a crucial time, when we have negotiating strength, she wants to stand in the way of Scotland making its voice heard and getting the crucial changes that we require.

**Irene Oldfather:** I certainly do not want to stand in the way of Scotland's voice being heard. However, although fishing is an important industry—and I will come to it in a minute, if SNP members will just take time to listen—there are other industries in Scotland that would be affected if 24 other member states went ahead and we were sitting on the sidelines.

We want to be at the heart of Europe, sharing ideas with our neighbours and contributing to a fundamental debate, as indeed the Parliament has been doing. SNP members are Johnnys-come-lately to the debate. The debate is all part of protecting our national interests, because negotiation is in the nature of Europe. It is not about who shouts the loudest or about telling people to break the law. Let us be clear about the fact that we cannot change or influence the debate from the sidelines.

**Phil Gallie:** As Irene Oldfather has demonstrated, there are already plenty of arrangements for dialogue within Europe. My question is why the constitution takes so many more powers and gives them to the Commission. What does she feel about that and what can we do about it now?

**Irene Oldfather:** I am happy to answer the points that Phil Gallie has raised. The issue is complex and difficult to deal with in four minutes, but perhaps I could just pick a few matters that I think are important.

More framework legislation should ensure that laws take account of the individuality of regions

and member states. That means that we will have better law making in Scotland, which is something that the Tories have been arguing for for years. They have been critical of the EU because they feel that it has not taken account of local circumstances. We are now introducing a positive factor into the constitution.

The Council will meet in public in legislative session. That will improve transparency. Again, that is something that the European Committee and the Parliament have argued for for the past three years. The adoption of EU legislation will be subject to prior scrutiny of national Parliaments and we have the agreement of the UK Government that this Parliament will be involved in those areas that are devolved to Scotland. The constitution is about better law making, but the Tories fail to recognise that.

**Richard Lochhead:** Will Irene Oldfather give way?

**Irene Oldfather:** I will not give way again, but I would like to pick up on some of the issues that Phil Gallie raised.

Phil Gallie is concerned about the president of the Council, but that role would strengthen the powers of national Parliaments vis-à-vis the Commission, because it would give continuity, stability and focus to the body that is responsible for the national Parliaments and the member states within the European Union. That represents a shift of power from the Commission to the member states. We cannot have enlargement without reform. The whole principle of the draft constitution—it is mentioned specifically in articles 9 and 3 and is referred to elsewhere—is the conferral of power from national Parliaments and member states to the European Union, not the other way round.

I will now make a point that I wanted to make in an intervention during Tommy Sheridan's speech. I am surprised that he should object to article 3.3, which states that the Union

"shall promote economic, social and territorial cohesion, and solidarity among Member States."

That means reducing inequalities between the rich regions and the poor regions in Europe, which is something that sister socialist parties across the whole of the European Union want us to sign up to. That is why the Tories are worried.

Phil Gallie also mentioned tax and the economy. The draft constitution states that member states shall conduct economic policies to contribute to the goals and objectives of the European Union.

There is clearly much on which we are not going to agree, but my view is that we must not let the Europhobes win the debate. A poll of German citizens rated the UK as the most powerful country

in Europe. Scotland has a seat as part of one of the most powerful delegations in the European Parliament, in the Committee of the Regions and in the Council of the European Union. The nonsense that we are hearing today just will not wash. The fact that the nations and regions of Europe have a shared heritage as well as distinctive identities brings with it a commitment to peace, democracy, equality and social justice. That is what Europe is about. In those shared values lies our greatest strength and I support Andy Kerr's amendment to the motion.

10:40

**Mr Jamie McGrigor (Highlands and Islands)**

**(Con):** These are dangerous times on the roads for political hedgehogs. First we had Tony Blair's U-turn on the referendum. Now the SNP has made an even more tyre-screeching change of direction by saying that it might not support the European constitution after all. This is the party that has always said, "Brits out, Brussels in." Unfortunately, the nationalists' fear of losing votes means that they are selling Scotland short on fishing and making it clear that they would sign up to everything else in a constitution that would make the Scottish people more subservient to Brussels not just on fishing, but on every issue.

Nicola Sturgeon was right to say that the European constitution would set things in cement. Member states would have less control over their affairs and experience even more control from Brussels. For example, we would have to give up no fewer than 32 vetoes, while new rules, regulations and red tape would extend into areas that have so far been free from Euro-interference. All that would be set in cement. It is no wonder that most people in Scotland do not want the constitution. They have never called for such interference and have certainly never voted for it.

It has always surprised me that the SNP, which above all else preaches independence, could ever want a constitution that would make Scotland a sort of vassal state forced to comply with directives that might suit Paris or Berlin but not necessarily Peterhead or Campbeltown. Surely such an attitude contradicts John Swinney's recent comments about subsidiarity being his party's key belief. John Major wanted true subsidiarity, which means being in charge of whatever is adjacent and vital to the needs of a particular community or area. The present Brussels regime already interferes with that. After all, most of the legislation that is passed in this chamber emanates from Brussels. An EU constitution will not change that; it will only make matters worse.

**Richard Lochhead:** Will the member give way?

**Mr McGrigor:** No.

In my region and elsewhere, I meet many practical people and businessmen who have to live with broad-brush EU directives, some of which are simply ludicrous. Although many of those people are finding that the directives are making their businesses uncompetitive, they ignore them at their peril.

However, with fisheries, the directives are not just making businesses uncompetitive; they are making the activity downright dangerous. I spoke recently to a fishing skipper who had been fishing out of Kinlochbervie to the west of 4° west. He told me that, thanks to new CFP rules, he had been forced to fish in an area that he would not normally have visited at that time of year. Because of bad weather, one of his crew was badly injured and all of them feared for their lives. He would not have been fishing such treacherous waters at the wrong time of year if the quota for monkfish in his usual fishing area had not been cut by 70 per cent in order to increase the quota in the area further south where the Spanish fish. Because he caught his quota in the first two days of a 10-day trip, he was forced to move into a more dangerous area. Anyone who has seen the film "The Perfect Storm" will know of the catastrophic results that could arise.

Another vessel that was catching haddock in the same area was recently penalised for—believe it or not—using nets whose mesh was too large. That ridiculous technical infringement emanated from the CFP. Although I could give further examples, I do not have the time. It is obvious not only that the Brussels-led CFP is threatening fishermen's livelihoods, but that bad management and ill-considered law are threatening their very lives.

There is abundant evidence that Franz Fischler aims to have a European fishing fleet into which what remains of our historic Scottish white-fish fleet will be integrated. Initially, he requires spare white-fish quota in the North sea to allow Spain, Poland and Estonia to fish there. Most fishermen say that the CFP system of total allowable catches and quotas, which is used to manage Scotland's white-fish fishery, is fundamentally flawed, because it does not discriminate between different species of fish in a mixed fishery. Because the system has caused the huge discards of dead fish, our fisheries spokesman, Ted Brocklebank, and our UK Government spokesman, Owen Paterson, are in the Faroes today looking at other management systems that would work better—Mr Brocklebank is doing something to help Scottish fishermen.

The main perceived benefit of Scotland staying in the CFP used to be that we had the lion's share of quota for cod and haddock stocks. However, ever since interference from Brussels has

forbidden Scottish fishermen to catch those fish, that rather dubious benefit has disappeared.

Saving the Scottish fishing fleet and the people who depend on it means that we must radically alter fisheries management. However, we can achieve that only through having national control of our waters. That is Conservative policy and we will achieve it by getting the power at Westminster to change things. The SNP will not be in a position to do that. Its promise to repatriate fisheries to Scottish control, which has always had a hollow ring to it, has been wrong-footed by Tony Blair's U-turn on the referendum; the SNP is now rushing into a squalid deal and short-term compromise that fall well short of withdrawal from the CFP. The nationalists are desperate to sign up to an EU constitution because their policy of Brits out, Brussels in makes them the doormat at the entrance to the tunnel that leads to a united states of Europe.

Only the Conservatives have a long-term solution that will bring prosperity back to our fishing communities and only the Conservatives favour a vision of a new enlarged European partnership that concentrates on the efficient administration of the essential freedoms of the single markets. We need free movement of people, capital and goods with a minimum of interference in the internal affairs of member states.

10:46

**Linda Fabiani (Central Scotland) (SNP):** Yet again, the SNP has brought a serious debate to the chamber on a subject of crucial importance to Scotland and, yet again, ministers have refused to address the real issues and have simply engaged in scaremongering. Let me be straight: discussing the constitution will not scupper the EU. In fact, at last week's Prime Minister's question time, Mr Blair himself said that the talks on the constitution would offer an opportunity to secure a better deal. A better deal is what the SNP wants—and what every member in the chamber should want—for Scotland.

When John Swinney laid out for Tony Blair the terms of the SNP's support for a yes vote on the European referendum—which were, quite simply, that Scotland's interests must be defended—the First Minister again talked Scotland down and said that a deal could not be done. While the First Minister of Scotland is talking the country down, ministers in London are preparing to meet the SNP to find out whether a deal can be struck. Perhaps the First Minister should ask to be an observer at that meeting. He would do better to join talks with the SNP and other people in Scotland to work out the best possible deal for the country that could be taken down south and

discussed with the UK Government.

**Mr Kerr:** What makes the member think that someone saying, "Can I have a word about fishing?" to someone else in the lobby of the House of Commons gives her the right to spin the story that her party is going to renegotiate the European constitution? She is talking rubbish.

**Linda Fabiani:** The minister is misinformed, because Jack Straw's office phoned and asked us for a meeting. Obviously his masters at Westminster have not passed that information on to him, either. That makes it very clear that we do not have a Government in Scotland. We hardly even have an Executive; we certainly do not have an Executive that has the political courage to stand up for Scotland and to stand firm and represent the opinion of Scotland's people. Andy Kerr had some great words about working together and moving forward in Europe, but what is wrong with working together at home to secure the best deal for our country?

A Government that really governed Scotland instead of skulking away from its responsibilities would always seek to put our interests first. The offer that has been made on the European constitution and the fact that Mr Blair has said that the talks on the constitution provide an opportunity for a better deal mean that there is plenty of scope for putting Scotland at the front of the queue.

The debate is not just about fishing, although that is the red-line issue that really matters to the SNP—without renegotiation on fishing, we will not give our support to a yes vote in the referendum. We should also be talking about the treaty that established the European Atomic Energy Community, or Euratom.

**Alex Johnstone (North East Scotland) (Con):** Will the member take this opportunity to answer a question that has already been asked in this debate? Given that the SNP has made fishing the red-line issue, is it prepared to sign up to a constitution that sells out the energy industries in Scotland and hands over control of much of the energy policy in Europe to the EU?

**Linda Fabiani:** Those discussions have been going on for a long time. Unlike any other party in the chamber, the SNP had a party member right there in the talks on the European constitution, putting the full case. Lots of concessions have already been made, including concessions on energy.

The nuclear industry is subsidised by member states and is one of the most damaging industries in the world. It has already left a terrible legacy. Today, we are meeting people from Chernobyl who have been left with that terrible legacy—and yet we are still allowing state aid for the nuclear industry. Let us talk about that in our discussions

with the British Government. For the life of me, I cannot see the justification for our paying to leave nuclear waste behind us while saying that it is unacceptable to support our fishing industry and to give it a sustainable future. Something is very wrong.

I say this straight from Scotland's party: we want independence in Europe. We are pro-European. I also say this to Mr Sheridan of the SSP: before he starts going on about internal problems that he seems to perceive in the SNP, he should get his own party straight. I have a quote here from Mr Hugh Kerr, who I understand is on the SSP's list for the elections to the European Parliament. While he was a member of the European Parliament, Hugh Kerr asked the President-in-Office whether he agreed

"that the situation in Britain is that not being part of the euro is damaging British industry".

We want to take Europe forward, but we also want to stand up for Scotland at every stage.

**Mr Raffan:** Will the member give way?

**Linda Fabiani:** I do not have time.

In the referendum, we want to be able to campaign for a yes vote. We believe in the general direction that the constitution will take Europe but, to obtain a yes vote, we will not sell out on our principles or on Scotland's interests. Unless fishing becomes a red-line issue, the SNP will not be able to support a yes campaign. We will stand up for Scottish workers and communities who are facing disaster under the current fisheries arrangements. We urge everyone else who has a say to stand up for those communities, too.

10:52

**Mr John Home Robertson (East Lothian) (Lab):** Scotland's place in the European Union is extremely important and extremely valuable to the people of Scotland. We receive £1,094 million in the current tranche of European regional development funding. Add to that the benefits from other programmes and the benefits of trade, stability and security that the EU has led to and we are talking about almost incalculable advantages for Scotland. However, the little Englishers on our right and the little Scotlanders on our left are prepared to put all that at risk as we approach the decision on the new constitution for the EU.

Does the EU need new constitutional arrangements? Of course it does. I have had the privilege of representing Scotland in the EU fisheries council, where we had the advantage of having 10 British votes, more than three times the three votes of the Republic of Ireland—it is worth remembering that point. With the benefit of my experience, I know that the workings of the

Commission and the Council are quite difficult enough in a Union of 15 states with 10 languages. Let us face it: the present procedures would grind to a halt in an expanded Union of 25 states with the addition of Hungarian and the Slav and other languages. The EU must be modernised and made more democratic. That is what the process is all about.

**Phil Gallie:** Will the member take an intervention?

**Mr Home Robertson:** No, I must get on.

From my time in the Council, I recall that the best feature of the present procedures is the presidency's practice of distributing generous measures of Scotch whisky to all delegations when meetings go past 2 am. Many a deal has been achieved on the basis of insomnia laced with the water of life. However, that is no way in which to take decisions on the fishing industry or anything else.

There is a rich irony in the fact that people who have spent years railing against the horrors of Brussels decision making are now digging in to prevent the replacement of the present procedures by a more efficient and accountable constitution. I confess that I do not relish the prospect of trying to persuade the people of East Lothian to go to the polling stations to endorse the new constitution—

**Richard Lochhead:** The member's comment about trying to persuade the people of East Lothian to support the constitution gets to the crux of the debate, which is the gulf between politicians such as John Home Robertson and the people of Scotland and Europe. Does that not show the importance of making the necessary changes to the proposed constitution so that people in Scotland will want to go out and vote yes?

**Mr Home Robertson:** I will come back to the fundamental principles. People will be voting on those principles and not on shoddy little deals between parties. I am well aware of the highly motivated minority that will always vote against anything European; some of them are sitting to my right in the chamber just now. However, I reckon that a healthy majority wants progress on European stability and co-operation, although I suspect that many people would prefer to leave it to Parliament to scrutinise the treaty. However, that decision has been taken. The referendum will be hard work, but do we really have to start making dodgy deals with nationalists? I do not think so. Let us face it: SNP members cannot even deliver votes for themselves, never mind for bigger issues.

The referendum will be an historic decision on whether the EU moves forward and, in effect, on whether the UK remains a full member of the Union. This is the sort of issue on which people

might expect their elected representatives to see the big picture and give responsible leadership. If we are looking for vision and statesmanship from the Scottish National Party, there is always a risk of being disappointed. Just look at the SNP motion. Never mind the big picture; never mind the potential for a better European Union; never mind progress towards regional management for fisheries in the North sea—to hell with all that. The nationalists are prepared to risk the mayhem that would follow a no vote in the referendum in the UK for the completely spurious proposition that there might be more fish in the North sea if the conservation measures of the common fisheries policy were to be torn up. Get real. There is already serious pressure on important fish stocks. Disruption of international conservation measures would only make matters far worse. I strongly agree with what Robin Harper said on that point.

The SNP motion is an unprincipled and opportunistic fishing expedition on the part of the nationalist leadership. For short-term political advantage, the party is prepared to set the last sprat in the North sea to catch the last mackerel in the North sea. I put it to the chamber that the SNP motion should be rejected, for two very good reasons. First, it would be the height of irresponsibility to ignore scientific advice about international conservation of fish stocks. Secondly, it would be disastrous for Scotland if Britain were to become detached or even semi-detached from the EU. This is no time for shoddy deals that would be an insult to the intelligence of the people of Scotland. Let us win this argument on the merits of the case for a better European Union.

10:57

**George Lyon (Argyll and Bute) (LD):** As my colleague Keith Raffan outlined so ably, the constitution is fundamental to Europe. It brings together all previous treaties into one and it clarifies what Brussels can and cannot do. Most important, it reforms the structures of the European Union to take account of the 10 accession countries—a point that has been ably made by many in this debate. Without those reforms, the European Union is likely to become increasingly unmanageable. It is therefore fundamental to the future of Europe that the constitution be agreed.

Europe is extremely important to Scotland. As the minister outlined, 53 per cent of Scottish exports are destined for European markets. The opportunities that will be provided by the 10 new countries mean that that figure can only grow. As the minister said, Europe is vital for Scottish jobs, the Scottish economy and Scottish prosperity.

**Nicola Sturgeon:** When George Lyon's party voted last autumn, not last August, to oppose the

section on exclusive competence being in the constitution, did Mr Lyon vote for or against that, or did he do what he so often does and sit on the fence?

**George Lyon:** I can confirm that, at our spring 2004 conference, we restated the long-held position of the Liberal Democrats that powerful regional management is the way to solve the problems of the fishing industry. Nicola Sturgeon should study her history and stop quoting selectively.

**Richard Lochhead:** Will the member take an intervention on that point?

**George Lyon:** I have dealt with the point and will make some progress. I will come to Richard Lochhead shortly.

The common agricultural policy provides substantial funds—some £500 million a year—to the Scottish farming industry to support jobs and prosperity in our rural areas. That is the big picture, and it is against that background that decisions on whether we are for or against the constitution should be judged. That is how the judgment should be made and that is why the Liberal Democrats will be in the pro-Europe camp when the referendum is held. Let us be in no doubt about the fact that the referendum will be about whether people are pro-Europe or anti-Europe.

In spite of Nicola Sturgeon's protestations that the SNP is still pro-Europe, the reality is that, unfortunately, the SNP has decided to sell out its pro-Europe principles and join the Tory Eurosceptics. That stance has little to do with a principled stand for Scotland and everything to do with saving John Swinney's skin.

**Richard Lochhead:** Among the accession states, Poland is generally regarded as by far the most pro-Europe country in the whole of Europe, but the Poles stopped the EU constitution going through to secure concessions. Does that make them anti-Europe?

**George Lyon:** The battle has to be fought and it is a question of what side one is on. [*Interruption.*]

**The Deputy Presiding Officer:** Order.

**George Lyon:** The SNP is using the debate to score political points on the basis of a false argument that the constitution will lead to Europe taking full control of the Scottish fishing industry. As my colleague Keith Raffan pointed out, John Swinney stated at the weekend that he would support Tony Blair in the referendum only

"if he vetoes the absurd plan to hand over Scotland's fishing industry to Brussels".

However, as Mr Lochhead points out repeatedly in fishing debates, it was the Tories who sold out

the fishing industry when they handed over the powers in question as part of the act of accession in 1970. John Swinney knows that that is the case, but he is making a cynical attempt to mislead the Scottish people for his own narrow political interest.

The Scottish fishing industry's concerns are important, but they will not be addressed by renationalising fishing policy. Those concerns will be tackled only when the regional advisory councils are given the power and the teeth to manage the fisheries and when fishermen are part of the decision-making process. That is what we want to happen; the Liberal Democrats have supported that position for a long time.

The SNP has a proud record as a pro-Europe party. Does it really want to throw away that record by throwing in its lot with the Tories and Michael Howard? Do its members want to be seen as little Scotlanders who are in bed with little Englishers? I appeal to the SNP to think again before it is too late, as there is a battle to be fought. I urge SNP members to join the pro-Europe members of the Parliament; together, we can defeat those whose real agenda is to take us out of Europe.

11:03

**Margo MacDonald (Lothians) (Ind):** I congratulate the SNP on the motion for debate that it has lodged, which represents a great improvement on last week's motion. It should be acknowledged that the SNP is attempting to debate the constitution and the future development of Europe in a serious manner.

However, I thought that Nicola Sturgeon rather over-egged the pudding when she argued sincerely but erroneously that fishing was a big enough issue to allow us to barter at European level; in the context of European power politics, it is not. The SNP might have been wiser to approach the Labour Party in Scotland before John Swinney made his speech. If John Swinney had said to Jack McConnell, "Jack, we've got to work together on fishing," that might have cut out some of the rubbish that we have heard.

**Nicola Sturgeon:** Has Margo MacDonald not been present in the chamber on the several occasions on which John Swinney and other members of the SNP have appealed for such unity on fishing?

**Margo MacDonald:** There are wheels within wheels, as they say. There are back channels and there is First Minister's question time. FMQT is not the forum in which to attempt to build consensus.

Having congratulated the SNP and tempered my congratulations, I want to castigate the members who sit on Labour's front bench. Their display has

been like that of Pavlov's dog. In snapping at the SNP for party-political reasons, they have sold Scotland short. We have not been particularly well served by the diplomatic abilities of the members on the Labour and SNP front benches.

Andy Kerr moved on from fishing to discuss the economy and the importance to it of the expanded European market. I draw his attention to article 11.3 of the draft constitution, which is on the economy; I think that it might have been mentioned already. It states:

"The Union shall have competence to promote and coordinate the economic and employment policies of the Member States."

That cannot be done without impinging on taxation. I suggest that that is one of the reasons why Gordon Brown is not among the leading supporters of the draft constitution. I imagine that he has a great interest in how that statement of intent impacts on his clear idea of how the economy should be managed. To be fair to Gordon Brown, it appears that the benchmarks that he established have been met more successfully than have those that were established in Europe.

It is important to examine what the draft treaty says—like it or lump it—because it seeks to create a new legal entity. Although I appreciate what Irene Oldfather said about the need for transparency in relation to Council decisions and so on, the new legal entity will have sovereignty that is comparable with that of other legal national Governments. That means that it will be a different animal to the body that preceded the treaty.

**Phil Gallie:** Margo MacDonald condemned the members on the Labour and SNP front benches for their contribution to the debate. Does she agree that the Conservatives have at least tried to address the issues that are contained in the constitution and that that is the way in which we should proceed with the discussion?

**Margo MacDonald:** I do. The debate is improving as it goes on. It will be a rolling debate, which we will continue to get better at as we go on.

I want briefly to mention subsidiarity, the principle of which is very important to a Parliament such as ours. The draft treaty says:

"Under the principle of subsidiarity, in areas which do not fall within its exclusive competence the Union shall act only if and insofar as the objectives of the intended action cannot be sufficiently achieved by the Member States".

We know about Sewel motions and I suggest to members that that statement represents the EU version of Sewel motions. Even though it expresses the warm, cuddly, pink-fluffy-cloud intention of subsidiarity, it puts in writing—in a

legal document—the fact that, when the politics dictate it, the EU can override member states.

At this point, I should direct the Parliament to the excellent publication, "Scottish Independence in Europe—A Policy Revisited", which was written by Jim Sillars—who is still a member of the SNP—in October 2000, which was after the Berlin wall had come down. That was when one could begin to think seriously about the hugely extended Europe that we have now. That event changed the ground rules, but I suggest that the intentions behind the draft treaty refer to the ground rules that were established before that event. That is why people such as Laurent Fabius, who was the French finance minister at about the time that Jim Sillars was writing his report, said:

"In the next six months, we will talk a lot about political union, and rightly so. Political union is inseparable from economic union."

Today we will only scratch the surface of the debate on the European constitution, but the SNP is to be congratulated on bringing the issue to our attention. That said, I will vote for Tommy Sheridan's amendment.

11:09

**Richard Baker (North East Scotland) (Lab):**

There should be unanimous agreement in the Parliament on the idea that we want to play a leading role in the European Union. Of course, such unanimity is lacking and it is perhaps a forlorn hope that it will ever be obtained. There should also be unanimity on our desire to have a prosperous fishing industry that has a long future ahead of it. There is agreement in the Parliament on that goal, but there is genuine disagreement on how to achieve it.

The SNP's motion seems to create conflict between those two goals when there should be none. The UK can adopt the EU constitution as it stands, including the part of it on the CFP, and support a successful Scottish fishing industry that has a prosperous future. That is what our subscription to the CFP is about. We always seek to get the best possible deal for Scottish fishermen within the CFP and we will press for changes that achieve that. However, if we had no CFP at all, we would have no relative stability, no Hague preference and no Shetland box. We should remember the progress that we can make through CFP negotiations. Progress was made this year with the improved haddock quota and, through further negotiations, progress was made on increasing the flexibility to catch it. We are making progress on increased local decision making within the CFP, with the establishment of regional advisory councils, which have been welcomed in the industry.

The CFP exists because we need international management of our fish stocks; it also encourages the necessary conservation of our fish stocks. We have to take a responsible attitude to those stocks, or there will be no industry in the future. The SNP argues that withdrawing from the CFP would be a panacea for the problems of the industry, but to do that is to visit a cruel deception on our fishermen. If there were no CFP there would be a free-for-all, or we would have to negotiate new agreements with every neighbouring country, because fish migrate between waters. Such agreements would have to deal with exactly the same problems and issues that the CFP does, and I do not foresee them resulting in a better arrangement.

On the basis of false arguments, the SNP would threaten our position not only at the heart of Europe and in signing up to the constitution, which is necessary, but in the European Union itself. As the Commission has made clear, countries cannot withdraw from the CFP and remain members of the EU. The SNP would threaten our signing up to the vital new constitution—which will be key in creating a new Europe that includes the new member states—on the basis that the constitution simply reiterates the current position on the CFP. The constitution does nothing new. It does not change anything. It simply confirms existing agreements that were established in the 1950s and which we signed up to in the 1970s. Nicola Sturgeon confirmed that.

For a party that says that it is so much in favour of the European Union and which tells us that it wants an independent Scotland in Europe, opposing the constitution on that basis is bizarre. The policy positions that the SNP has taken would mean that Scotland would be out of Europe. The SNP would threaten our membership of the EU, when 287,000 jobs in Scotland are dependent on exports to the EU. SNP members' pledges of being pro-Europe ring hollow when they say that they will vote no in a referendum on the constitution simply because it confirms the existing status of the CFP.

Any members of the SNP who are genuinely pro-Europe must be bewildered by the stance that their party is taking. That stance will do no service to the fishing industry, no service to people who work in every other industry in Scotland, and no service to the vital goal of achieving a thriving European Union with new members. Anybody who genuinely wants to achieve that goal should endorse the constitution. I look forward to taking part in the yes campaign in the referendum, whether the SNP is part of it or not. Perhaps the SNP's true colours will be exposed if it joins the no campaign on the basis of political opportunism. All genuine pro-Europeans will be part of the yes campaign and will be doing the right thing, not just for the people of Europe, but for all the people of

Scotland.

11:13

**Alasdair Morgan (South of Scotland) (SNP):**

Phil Gallie said that the Tories are not anti-Europe, but the problem is that every time they open their mouths they criticise the European ideal. They do that for two main reasons. First, there is a substantial element within the Tory party that is anti-Europe, as John Major found to his cost. That element has to be appeased at all costs, otherwise the Conservatives will descend into the chaos that led to their defeat in 1997. Secondly, the Tories know that lots of votes are to be gained by appearing to be anti-Europe and, cynically, they try to get as many of those votes as they can. They may mention as a footnote in every speech that they are not anti-Europe, but the rest of the speech is a diatribe against the European Union and all its works. They do all that without saying that all the significant changes in our relationship with Europe have been made under Conservative Governments—a point that they conveniently try to forget.

One of the dangers for the Conservatives of jumping on and supporting every tabloid criticism of Europe is that they totally ignore the benefits of being in Europe. One of those benefits—it has not been mentioned so far, but it is at the heart of the European ideal—is peace and absence of conflict. We are coming up to the 60<sup>th</sup> anniversary of the D-day landings. Sixty years ago, the previous 70 years had seen three wars between France and Germany, two of which became global wars. Who could have said 60 years ago that such a war would not happen again, especially following a post-war settlement that took vast territories from Germany, such as Silesia and East Prussia?

**Alex Johnstone:** How does Alasdair Morgan react to the accusation that he is cynically avoiding the detail of the treaty by talking about such things?

**Alasdair Morgan:** By saying that I have four minutes, and that the treaty is rather big for me to cover all the detail in that time. I would rather concentrate on some of the principles.

It is clear that there was the potential, 60 years ago, for further conflict. We should be congratulating people like Schuman, Mollet and Adenauer, whose vision arrived at the Treaty of Paris in 1951 that set up the European Coal and Steel Community, which was the first Community. The benefits still exist. There is potential for conflict between new countries that are coming into the EU next month, because they have exchanged territories over the past 50 years as a result of the second world war. The fact that those countries are joining the EU reduces the scope for



conflict in the future.

We have heard from Labour members the argument about the strength of the UK and how it benefits us, and how we need its 10 votes. The problem is that there is precious little evidence of those votes ever having been used to Scotland's advantage. All the evidence is that small countries in the EU have managed to get good deals for themselves on their vital interests. We should bear that point in mind.

Andy Kerr said that if SNP members have a red line, they are being Eurosceptic and anti-Europe. The implication, however, is that Tony Blair, who has red lines, is being statesman-like and pro-Europe. I do not know how Andy Kerr explains that. The point is that the public who will vote in the referendum have red lines.

George Lyon suggests that we should support the constitution regardless of what is in it, but the voters expect a bit more judgment from their politicians. They expect them to stand up for some of the things that they think are important. Unless the Government recognises that, we will be out campaigning, in the year after the next general election, for a referendum that we will lose. I do not want to be in that position, because we cannot afford to lose all the benefits that the European Union has brought us but which the Conservatives never mention. That is why it is important that we produce a constitution that the voters—not the politicians—can sign up to. There is precious little evidence of the Government taking that view on board.

**The Deputy Presiding Officer:** My regrets to the four members whom I have been unable to call, but we must proceed to closing speeches.

11:18

**Tommy Sheridan:** I start by saying:

"Article III-217,4 removes the previous exemption of 'educational services and social and human health services' from competences to be negotiated centrally by the EU commission in terms of international treaties. Previously the Treaty of Nice left these areas subject to national veto. This enabled education and social services to escape inclusion in the latest GATS treaty on the liberalisation of trade and services when negotiated by the EU Commission in 2003.

Dr Franz Stumman, secretary to the Health and Social Affairs Committee of the Assembly of European Regions, comments: 'seemingly unnoticed by the general public, the Draft of the Constitutional Treaty proposes major changes which, when adopted at the Intergovernmental Conference, will have serious implications for the future handling of all trade negotiations within the WTO and particularly in relation to GATS ... It would present a real turning point for the different national education systems and for cultural diversity in Europe as it paves the way for harmonisation and unlimited liberalisation of public services in these sectors. Once adopted there is no chance to get back to the old regulations'."

The draft treaty is anti-socialist and anti-public service, and no self-respecting socialist would be prepared to defend it. A socialist within the new Labour Party, however, is no more than a chameleon in political terms.

Much has been said about people being in bed with various individuals. If I was going to bed with somebody, I would want to know who it was and whether they would be the same person when I woke up. I would not know that with the Liberals and the Tories, that is for sure.

In my opening speech, I made some references to SNP policy. I repeat:

"The SNP really is scraping the bottom of the barrel now, being willing to hand over to central EU control Scottish energy resources, foreign policy and defence, law and just about everything that a sovereign nation requires to be worthy of the name—except fishing. And it calls it independence."

I did not say that those were not my words. They were spoken by Jim Fairlie, a former SNP councillor and convener of the Fife regional branch of the SNP.

**Nicola Sturgeon:** Tommy Sheridan also omitted to mention that Jim Fairlie has not been in the SNP for about 15 years.

Will Tommy Sheridan respond to my colleague Linda Fabiani's comment and say why the SSP European Parliament candidate Hugh Kerr, when he was a member of the European Parliament, spent much of his time in Brussels arguing for British entry to the euro?

**Tommy Sheridan:** Absolutely—I was coming to that. The Scottish Socialist Party encourages democratic discussion and debate and we sometimes disagree with one another. I give the member an absolute assurance that, regardless of Hugh Kerr's differences with SSP policy, and even if he decides to criticise my style of leadership of the SSP, we will not suspend him; we will defend his right to have an opinion about the SSP. That is what membership of a diverse party is all about.

By proposing that we can somehow extract fishing from the draft treaty and saying that that will make everything all right, the SNP is selling the jerseys as far as independence is concerned. Article 5 of the draft treaty ensures the "territorial integrity" of the current member states, which ensures that the treaty will block independence. Article 11.3 will ensure that all economic and employment policy is vested in the hands of the European Union, which will prevent us from tackling the grinding poverty in Scotland. Article 11.4, which is on a common defence and foreign policy, will allow us to be dragged into wars and to be part of a nuclear defence policy, regardless of the opinion of the Scottish people.

Mr Blair supports the treaty because of his anti-trade union and anti-worker agenda. He was quoted in the *Financial Times* in February as saying to the Confederation of British Industry:

"decisions taken at a supranational level can often push through economic reforms that are harder for Governments to achieve".

He has made it absolutely clear that he wants to agree to the constitution so that he can say, "It wisnae us, guv—I'm sorry about those job losses and the loss of public education and health services, but it is all because of that big bad European Union."

The SNP must face up to the reality of the draft constitution, which tries to enshrine a free-market privatisation agenda throughout Europe and would ensure that independence in Scotland and control of our natural reserves such as oil, gas and electricity, would be debarred. I again ask SNP members to give me their opinion of Ieuan Wyn Jones's comments. He said:

"This draft new constitution is a charter to tighten the grip of the larger nation states of Europe. The voice of the smaller countries will be reduced, while the needs of stateless nations like Wales or Scotland will be ignored completely."

Do the SNP members agree or disagree with that?

11:24

**Mark Ballard (Lothians) (Green):** I welcome the fact that the SNP has introduced a debate on the draft European Union constitution. The debate is important and one that we need to have. However, I have been a bit disappointed by the SNP motion and the consequent debate, which has simply been a reprise of a fishing debate and not the debate that we need to have on the constitution, the future of Europe and the kind of European Union that we want.

I welcome the fact that Tony Blair has bowed to popular and cross-party pressure and agreed to a UK referendum on the new constitution. I support other European Greens who call for a Europe-wide referendum on the new constitution. Everybody in Europe should have their say on the vision for Europe in the constitution. The fundamental point is that we must give people a choice. Robert Brown said that a no vote would be a major blow to the European Union. I do not agree, but I believe that it would be a major blow to the European Union if the constitution went ahead despite the fact that a majority of people in the countries of the European Union did not support it. We need democracy and we need people to support the move. If we do not have that support, we must redraw the constitution so that people will support it. I am worried when members such as Robert Brown express such

fundamentally anti-democratic sentiments. Andy Kerr and George Lyon said that if we do not support the constitution, we will be out of Europe. The distinction that they make between Europhiles and Europhobes is not valid.

**George Lyon:** I did not say that. I said that the referendum will show whether we are pro or anti-Europe and that people must make up their minds about which camp they are in.

**Mark Ballard:** We need to move away from such polarisation of the debate. We cannot allow that.

I do not believe that, as Tommy Sheridan argued, the European Union is fundamentally a monster. However, it behaves like a monster. When Pascal Lamy goes to the World Trade Organisation in Cancún, he behaves like a monster and ignores the wishes of the people of Europe by pushing the neo-liberal free-trade agenda. However, that does not mean that the European Union is a bad thing or that a constitution is a bad thing. The problem lies with the direction of the European Union and of the draft constitution, about which we must have a proper debate.

I welcomed Phil Gallie's and Margo MacDonald's comments about shared competence, which is a fundamentally daft idea. Imagine the warfare that would take place if this Parliament and the Westminster Parliament had shared competence. We must have clear definitions of who is competent for what; if we do not, we will see the competence creep that Phil Gallie outlined.

**Alex Johnstone:** The draft constitution contains a clear definition of who is competent when shared competence exists: the EU would be competent unless it chose not to act, at which point the nation state could act as an alternative. Shared competence provides the EU with the opportunity to act on its own.

**Mark Ballard:** That is one reason why we need clarity in the constitution and why the present draft is flawed. We need a clear constitution that avoids the sort of issues that Alex Johnstone raises.

We do not want to militarise the EU and we do not want a nuclear or neo-liberal EU. I was glad that Linda Fabiani mentioned the Euratom treaty. I would have been pleased if the SNP had spent more time talking about such issues than it spent on the debate on fishing. I remind members that the Euratom treaty sought to create the necessary conditions for the development of a powerful nuclear industry in Europe. No other industry has received such support. I agree that we need a constitution to clear up, clarify and simplify European Union processes, but the Euratom treaty, which was signed in 1957, has gone

virtually word for word into the draft constitution. That would enshrine in the European Union constitution the vision of a powerful nuclear industry, and we should challenge that.

As Robin Harper said, there is much to welcome in the new constitution, such as the charter of fundamental rights, which the Greens support passionately. We must recognise that common European resources need common management on the basis of good science, not national interest. The common fisheries policy has suffered for far too long because there has been not common management in the interests of science, but management in national interests. Countries and political parties have squabbled about who gets the biggest share of the cake instead of worrying about what is happening to the cake and tackling the decline in resources.

At the core of the SNP motion is the common fisheries policy. The SNP fails to make a proper case for our leaving the CFP. The SNP's policy is unsustainable and anti-environmental; it is also unworkable, because fish do not have passports. I support the amendment in the name of my colleague Robin Harper, and support a campaign for a good constitution for Europe and a European Union that works for the interest of people, not big business.

11:30

**Mike Watson (Glasgow Cathcart) (Lab):** The debate has, for the second time in a week, opened up the sores in the Parliament on the issue of the future of the EU and the role of Scotland and the UK within it. I regret to say that I have not taken a huge number of positives from either debate.

We know that 10 new member countries will be admitted to the EU on Saturday. As Andy Kerr said, it is not possible for them to be accommodated without reforming the EU's decision-making process. I do not see anything unusual or unnatural about that. The benefits that have flowed to countries such as Greece, Spain and Portugal over the past 15 years are the sort of benefits that the new member countries will surely gain over a similar period.

I deplore all the arguments that are coming up, such as those that were made on the radio this morning and in today's papers, in which it is suggested that huge waves of immigrants will come into the country and that we will be swamped—all the usual hysterical nonsense. Similar statements were made in 1985 and 1986 after Greece, Spain and Portugal joined; it did not happen then and it will not happen now. We need to concentrate on the positive aspects of expanding the European Union.

In the treaty, we need to do more than just

consolidate the various treaties that have been negotiated over the years. It is instructive to hear the Tories call as loudly as they have done for a referendum, given that they allowed the Maastricht treaty and the Single European Act to go through without referendums. Both had, potentially, far further reaching consequences than the constitution has.

**Richard Lochhead:** Will the member give way?

**Mike Watson:** No, not just now. I will come on to the SNP's arguments soon.

We need the constitution to modernise decision making through the extension and simplification of qualified majority voting, the election of a full-time chair of the Council of the European Union, the reform of the Commission and a strengthening of the European Parliament's powers.

A new treaty will clearly define the extent of EU competences and will ensure that they do not extend to key areas in which member states want to retain their own sovereignty.

**Richard Lochhead:** Mike Watson is clutching at straws by saying that Europe cannot operate without a constitution. I remind him that Europe enlarges on Saturday—in a couple of days' time. No matter what happens with the constitution, we will have to survive for several years without one, yet the EU is not expected to collapse.

I ask Mike Watson to say, on behalf of the Labour Party, what changes he is looking for between now and when the final treaty is published. We are talking about only a draft treaty—surely, no matter what it says, the Labour Party now accepts that. What changes does he want to see?

**Mike Watson:** The Labour Party has certain red lines. Nicola Sturgeon talked of a red line on fishing as if that was the overwhelming issue and the most important aspect of the treaty. I tell members not to misunderstand my comment: I am not suggesting that fishing is unimportant, but it is not the overriding issue. Labour will want to ensure that there are agreements on fishing that are suitable not only for Scotland but for the rest of the UK. There are red-line issues on tax, social security, defence and so on, in relation to which we will ensure that additional powers are not given to the EU.

That brings me to the SNP. I heard what Alasdair Morgan said, and I am clear that I do not believe that the SNP is an anti-Europe party. However, it is difficult for someone listening to the debate today not to reach that conclusion. I know the SNP's credentials on Europe; they are largely similar to mine. The point is that the SNP is in danger of losing those credentials within the debate and, as Margo MacDonald said, of over-

egging the pudding by raising the issue of fishing to such a level. There is no prospect of the 25 nations agreeing not to have competence over fishing; regional management agreements are surely a much more profitable way forward in order to give Scotland a bigger say.

The SNP seems prepared to put everything at risk by calling for a no vote if it does not get what it wants on fishing. There are dangers in that approach. It is ironic that Alasdair Morgan characterised the Tories as fishing—if that is the appropriate term to use—for votes on the back of anti-Europeanism in the referendum. It seems to me that that is exactly what the SNP is doing. There is a danger in the SNP fanning the flames of the debate to such an extent. The issues related to fishing—however important—do not involve the vast majority of people in Scotland and will not be given a great amount of importance by them. However, that fact may be lost to many people in Scotland: they will hear the SNP call for a vote against the constitution, they will assume that the SNP is anti-Europe and the debate will be further sidelined. The SNP is putting the EU constitution at risk over its view about what might happen to fishing.

George Lyon pointed out the benefits of the CAP for Scottish farming and talked about the big picture, which is something that we must look at. The accusation that I make is that the SNP is not looking at the big picture as far as Europe is concerned.

**Nicola Sturgeon** *rose—*

**The Deputy Presiding Officer:** The member has one minute left.

**Mike Watson:** I am sorry. I would have taken Nicola Sturgeon's intervention, but I have been told that I do not have time.

George Lyon also talked about being pro and anti-Europe. However, the debate is not about being pro and anti-Europe; it is about being pro and anti-EU. The Tories are anti-EU, although they may tell us that they do not believe that we should pull out of Europe. I could not believe it when Phil Gallie said that we must have no more erosion of

"mastery of our own affairs."

For goodness' sake: that terminology is from the middle ages.

The Tories are certainly an anti-Europe party; they consistently highlight all the deficiencies—as they see them—of Europe. In Scotland, we are not an anti-Europe people and Scotland is not an anti-Europe country. We have years of internationalism—going right back through everything from the auld alliance to the sides that we have taken in wars over the years.

There is no anti-Europeanism as such in Scotland. Like the SNP, the Tories are in danger of touching some very raw nerves. What worries me about the referendum is that the debate might get carried away and the issues might not be dealt with because of the way in which the media will highlight the arguments made by the SNP and the Tories. Let us get behind the campaign and win a yes vote in the referendum. A yes vote is a vote for the positive aspects of being part of the wider EU, to which we have made a big contribution in the past and to which we must make a further contribution in the years ahead.

11:37

**Murdo Fraser (Mid Scotland and Fife) (Con):**

It is important that I reiterate at the outset what my colleagues Phil Gallie and Jamie McGrigor said during the debate about what precisely we see as being wrong with the new EU constitution. The SNP is right to identify the problem with fishing, but that is only one of a number of issues that require to be addressed.

First, we object to the very principle of an EU constitution. When free and sovereign nation states deal with one another, they enter into bilateral or multilateral international treaties: they do not enter into constitutions. A constitution is in the nature of the nation state itself; the principle of having a European Union constitution is therefore wrong.

The detail of the constitution indicates that EU law will have primacy—

**Mr Raffan:** Will the member give way?

**Murdo Fraser:** No, not at the moment.

The constitution indicates that EU law will have primacy over domestic law and that, for the first time, the EU will have a single legal personality and will determine the rights of citizens on their arrest.

**Irene Oldfather:** Will the member take an intervention?

**Murdo Fraser:** I will in a second.

For the first time there will be a near-permanent EU president and an EU foreign minister determining foreign policy. Shared competences will be extended, for example on energy policy, under article 13.2.

**Mr Raffan:** Will the member give way? Come on.

**Murdo Fraser:** No. Sit down, Mr Raffan.

All those measures are wrong, but only we are prepared to say so.

If there is any doubt as to where British interests

stand, let us consider the ICM poll of company chief executives. Only 18 per cent of the chief executives said that the EU constitution would be good for their businesses, while 59 per cent said that it would be bad. That is a clear message from businesses.

I listened closely to what Nicola Sturgeon said—it was reiterated by Linda Fabiani—and I put to her directly the question whether fishing is the only red-line issue for the SNP. The answer was clear—yes, fishing is the SNP's only red-line issue. Therefore, the very principle of having an EU constitution has been surrendered; the primacy of EU law has been surrendered; citizens' rights on arrest have been surrendered; the creation of an EU president and an EU foreign minister has been surrendered; shared competences have been surrendered; and our energy policy has been surrendered. That is the message from the SNP.

As my colleague Alex Johnstone said, I cannot imagine that it will go down well in the north-east of Scotland that the SNP is selling out the energy industry to Europe by giving up our interests. I do not often agree with Mr Sheridan, but he is absolutely right: the SNP represents a sell-out of our national interest.

**Bruce Crawford (Mid Scotland and Fife) (SNP):** I wonder whether the Tories have read beyond the first 50 pages of the proposed constitution. After negotiations on energy, it was agreed that

"Such laws or framework laws shall not affect a Member State's choice between different energy sources and the general structure of its energy supply".

That was accepted by the UK oil and gas industry.

**Murdo Fraser:** That goes nowhere near far enough for my party. If Mr Crawford's party is satisfied with that, it is very disappointing.

**Tommy Sheridan:** Does the member recognise that article 17 of the draft treaty—the flexibility clause—would allow the newly constituted European Union to ignore any of those policies?

**Murdo Fraser:** I am obliged to Mr Sheridan for that helpful contribution.

I will deal with a couple of points that have been raised. Mr Kerr and his colleagues on the Labour benches made the point—we have heard them make it before—that to campaign for a no vote would mean that we wanted to pull out of the EU. That is absolute nonsense. When the Danes voted against the euro, were they being anti-Europe? When the Irish voted against the Treaty of Nice, were they being anti-Europe? No, they were not. We can vote against the constitution and still be in favour of involvement in the EU: that is a perfectly legitimate position.

The SNP has been running around this week saying that Labour needs its help to win the vote in the referendum. What arrogant self-delusion the SNP shows, believing that it alone can sway Scottish opinion. How foolish it is for Labour to go down the road of pretending that there is any legitimacy to the SNP's position, saying "Mr Kerr objects, but what about Mr Straw's conversations with Mr Salmond?" Labour is being sucked in.

**Robert Brown:** Will the member give way?

**Murdo Fraser:** No, thank you.

Mr Raffan was right on this point: the SNP vote is in decline and the party is shedding MSPs like leaves off a tree in a November gale. Poor Mr Martin is sitting in splendid isolation across the aisle from his colleagues—Campbell Martin should not worry; they will soon be coming to join him, one by one. That is the SNP that Labour seems so keen to sign up. I hope that Labour has learned its lesson.

Let us be clear about the myth that people in Scotland are pro the proposed EU constitution. The ICM poll said that 71 per cent of Scots are against the constitution and only 18 per cent are in favour of it, in comparison with a UK figure of only 68 per cent against. The Scots are even more anti the constitution than people in the rest of the UK. That gives the lie to the myth that somehow the Scots are more signed up to the euro project than people in the rest of the UK.

The SNP is betraying Scottish interests. It is out of touch with public opinion and it is swimming against the tide. It wants exclusive competence on fishing to be removed from the EU, but it will swallow everything else hook, line and sinker. The SNP is not to be trusted; only the Conservatives can be trusted.

11:43

**The Minister for Environment and Rural Development (Ross Finnie):** Given the rather narrow focus of the SNP motion, it was inevitable that we would end up with a somewhat hybrid debate that focused mostly on fishing, although some members have tried to widen the debate to consider issues that are of importance to Scotland in the context of the proposed constitution. The Executive amendment represents a genuine attempt not only to embrace the issues that are of importance to Scotland, but to introduce the wider issues that are at stake. My colleague Andy Kerr put that position, which was well supported by Keith Raffan, Irene Oldfather, John Home Robertson, George Lyon, Richard Baker and Mike Watson.

SNP members have given a typical performance, which I think recurs in debates such

as this one. They make one serious mistake in trying to claim at all times that only the SNP stands up for Scotland. I remind them that, like others in the Parliament, they are a minority. It is an insult to the majority of Scots to suggest that they do not stand up for Scotland, or to suggest that Scots who do not share the SNP's political views do not stand up for Scotland.

**Richard Lochhead:** Will the member give way?

**Ross Finnie:** I will take an intervention from the member but I want to make progress first.

The SNP tells us that we must have exclusive control of fishing and almost suggests, by implication, that our fisheries would be in a much better state at a stroke if that were to happen. That is a cruel myth and a most unhelpful deception to practise on the Scottish people and Scottish fishing communities.

Let us try to separate the issues that are at stake. The SNP motion refers to

“the conservation of marine biological resources”.

Of course, those resources have been widely defined and encompass everything from life on the sea bed and plankton to all species of fish—not just those that our fishermen target. All categories of fisheries are covered by that definition. It is a myth to suggest that Scotland alone can manage the biological resource in Scotland's best interest.

**Richard Lochhead** rose—

**Tommy Sheridan:** Will the minister take an intervention on that point?

**Ross Finnie:** No, I said that I would take an intervention from—

**Tommy Sheridan:** Will he tell us why—

**Ross Finnie:** I did not agree to take an intervention from Mr Sheridan.

**The Deputy Presiding Officer:** The minister is trying to give way to Mr Lochhead.

**Tommy Sheridan:** Sorry. I did not realise that.

**Richard Lochhead:** It is a bit rich of the minister to say that parties other than the SNP stand up for Scotland, given that the First Minister of Scotland telephoned the Foreign Secretary and told him not to give concessions to Scotland during negotiations over the draft treaty.

George Lyon, who is a member of the minister's party, said that the minister would argue for powerful regional management. Will Mr Finnie, as the minister with responsibility for fishing in Scotland, make the case between now and when the treaty is finalised and negotiate more powers for Scotland's fishing communities—albeit that he might describe that as “powerful regional management”?

**Tommy Sheridan:** What about Norway?

**Ross Finnie:** I will not take a sedentary intervention from Mr Sheridan, either.

The issue is quite clear: nobody can guarantee—as the SNP claims to be able to do—that we can satisfactorily conserve the marine biological resource on our own. That is a myth. To suggest to the Scottish people that that would be in their best interests is a cruel deception.

If we accept—as we do—that there must be an overarching policy for the conservation of the marine biological resource, the key issue is how that can be managed and implemented in Scotland. The Executive believes that it will be better managed in Scotland's interest by having a far greater degree of regional management. Simply to opt to go it alone would involve treaty renegotiation, with no guarantee that the relative stability of the current arrangements would be sustained—indeed, they were vigorously attacked during the recent negotiations on the common fisheries policy and they were successfully retained as a result of the Scottish Executive's contribution to the UK's fisheries policy. Neither the conservation of the marine biological resource nor the management of our fisheries can be done on their own, because even if we have stronger regional management, the notion that we could manage the whole of the North sea from the perspective of Scotland alone is another cruel deception.

**Richard Lochhead:** Will the minister clarify whether he will negotiate powerful regional management for Scotland's fisheries during the months in the run-up to the referendum? He knows fine well—he has accepted this in the past—that that policy is not currently on the table. We may argue for the repatriation of fishing, but will he argue for powerful regional management?

**Ross Finnie:** I made that absolutely clear. That has been and remains our policy and we will continue to pursue it.

Let us move on to other matters. Phil Gallie talked about myths, but one of the great myths that the Conservatives continue to propound is the notion that there can be absolute sovereignty. In a global economy, that is a myth. It is just not good enough for Murdo Fraser to tell us that states enter into treaties, not constitutions. Has he misunderstood the situation? The proposed constitution will bring together a raft of constitutional treaties in a single, legally binding document that will be no more legally binding than the instruments that it collates.

At the end of the day, the SNP has posited the whole debate on the question whether we are acting in Scotland's best interests. It is in Scotland's best interests to recognise that the

conservation of our marine biological resource can be achieved only at the European and international levels. To claim otherwise is not in Scotland's best interests.

It is, however, in Scotland's best interests to accept and address the scientific evidence on declining stocks. By rubbishising and ignoring that evidence, the SNP is not acting in Scotland's best interests. Another cruel deception that is not in Scotland's best interests lies in claiming and—sadly—maintaining that the management and implementation of fisheries policies can be done only on a narrow, Scotland-alone basis and in failing to recognise that international co-operation is required and that that can be achieved and better facilitated already by the European Union.

**Tommy Sheridan:** Will the minister take an intervention?

**The Deputy Presiding Officer:** No—the minister is well over his time.

**Ross Finnie:** The Executive's amendment defends Scotland's fishing interests and respects Scotland's interests in the wider issues that are at stake in the constitution. It has a wider perspective that recognises that we wish to be fully engaged in Europe, and I commend it to members.

11:51

**Mr Kenny MacAskill (Lothians) (SNP):** Mr Watson referred to this debate and to previous debates that have taken place. A difficulty appears to be that in each of those debates, members have discussed the next debate that is to come. In the debate on EU enlargement, many members spent their time discussing the terms of the negotiations on the constitution. In this debate, in which we are debating the terms that we should negotiate for the constitution, some members—Mr Kerr and Mr Lyon in particular—have debated whether we should support the constitution, suggesting that our support should be absolutely arbitrary and confirmed. For the avoidance of doubt, I make it clear to Mr Fraser that fishing is a major red-line issue for us and that we are highlighting that issue because of its importance to the Scottish people. That does not mean that we will not consider the fine print and detail of other issues and address them—that is taken as read.

I take issue with what Mr Kerr and Mr Lyon in particular have said. Whatever he may have said in an intervention, Mr Lyon appeared to argue that the decision was whether one was for or against the constitution and that the decision should be made now. To me, that appears utterly preposterous. We are entering negotiations that will be not only multinational but multilateral, and we do not know what the outcome of those negotiations will be. Until there have been

negotiations, a commitment cannot be made. We do not know what question will be put to the people—indeed, it seems to be a matter of debate whether the question will be put by Mr Blair or whether it will come from the Electoral Commission; that matter must be addressed, too. However, it would be utterly bizarre to take a fixed position before we have seen the final position that has been negotiated with the various members of the European Union.

The debate started with my colleague Nicola Sturgeon making clear the three points that the SNP views as important: the reason why the Parliament has a role; the importance of our taking action; and why there is an opportunity. She made it clear that our role is important because it is our duty and right to defend our national interest. She made it clear that it is important to address the issue of fishing because the First Minister is failing to attend to it and has left us with the status quo, which the majority of people in this country believe is entirely unacceptable. She also made it clear that Tony Blair's weakness is our opportunity.

In response, Andy Kerr gave us the usual diatribe about the importance of being represented by a large nation state and about only the big countries in the European Union getting good deals. I am always surprised when such views are regurgitated by Labour members in particular, because others in Labour's serried ranks frequently say that the Celtic tiger metamorphosed only as a result of the fantastic deal that it managed to negotiate with Europe and all the spondulicks that come to it as a result of Europe bailing it out. I do not know who negotiated the wonderful deal that Wendy Alexander and others have mentioned. Perhaps Germany represented Ireland or the United Kingdom took it under its wing, but it would appear impossible that a small, independent nation in the European Union such as Ireland—which is even smaller than Scotland—managed to achieve such a tremendous deal.

**George Lyon:** If the member looks back, I think that he will find that the reason that Ireland got such a good deal was that it was one of the poorest countries in Europe—that is why it needed help.

**Mr MacAskill:** The difficulty is that the new deal continues while Ireland's gross domestic product far surpasses ours, and the situation is not getting any better. Ireland is overtaking us and leaving us far behind. A warning will come on Saturday. Where Ireland has gone, other nations, such as Estonia, Lithuania, Latvia and Poland, will also venture, unless we take steps.

Mr Kerr seemed to suggest that the EU could implode and that there could be intense difficulties, but that is utter nonsense. It is clear that the position that is being put forward by Mr Blair, into

which we wish to insert a Scottish agenda, must also be addressed by Denmark, Sweden, Poland and other nations that have a Eurosceptic position and which would have great difficulty in winning a referendum if they chose to have one.

It was not surprising that Robin Harper's party was not represented by his colleague from the north-east because the points that Robin Harper made about the fishing industry are certainly not what we have heard on the streets of Fraserburgh and Peterhead. When he has a pot shot not only at the scientists and the politicians but, by implication, at those who fish for a livelihood, he should remember that the perception in the north-east is not that Europe has created a free-for-all, but that Europe has given F-all. That is the major cause of controversy on the streets.

**Robin Harper:** Will the member take an intervention?

**Mr MacAskill:** Not at the moment.

What Tommy Sheridan said was dealt with by Irene Oldfather and fundamentally addressed by my colleague Alasdair Morgan. Mr Sheridan described the European Union as undemocratic, corrupt and an insatiable monster. Such language is better, and more frequently, used in connection with the Soviet Union rather than the European Union. There are problems in the European Union and there is a democratic deficit, but to view it as an insatiable monster is utterly absurd. As Alasdair Morgan said, it has been of benefit in bringing peace to the European continent and in moving the EU on from being an economic union to becoming a union that is also social.

**Tommy Sheridan:** Does the member at least agree that it is possible to be a small, independent country such as Norway and not be anti-Europe? Does he agree that being anti-European Union does not make a person anti-Europe?

**Mr MacAskill:** I accept that. However, to an extent, the major problems that social democracies face in the modern world come from the WTO and the general agreement on trade in services. The best way to address such problems is transnationally rather than simply one nation, no matter how big or small it is or whether it is Scotland, the United Kingdom, Albania or North Korea, acting alone. I and people in other political parties have always been concerned that the SSP's hostility to Europe leaves many on the democratic left and in social democratic parties throughout north and south Europe aghast and perplexed.

My colleague Richard Lochhead made an excellent and lucid contribution—there is a bit of flattery—on the importance of addressing the issue of fishing in the context of the constitution. An opportunity exists. With respect to fishing, the

status quo is unacceptable. We have an opportunity to ensure that the First Minister stands up and takes action rather than simply acquiesces. I think that Mr Kerr suggested that a discussion or a phone call between Jack Straw and SNP members was not up to much, but such a discussion would probably be more significant than discussions between Jack Straw and Dick Cheney or, when it comes to the actions of Ariel Sharon, discussions between George Bush and Tony Blair. International negotiations take place in a variety of ways.

As we approach 1 May, we must be clear. There will be a debate in the months and years to come about whether we should vote for the constitution. Currently, there is an opportunity to decide what the terms of and conditions in the constitution will be. We must defend Scotland's interests. What greater responsibility rests on a national Parliament than that of standing up and representing the people and their issues? If we pass that responsibility back and pass the buck, a decision will be taken over which Scotland will have had no influence. Given the importance to Scotland of the interests and circumstances that are involved, we should support the motion and support partaking rather than spectating. We should seek to ensure that Scotland and our major national interests in the fishing industry are represented. When we have seen the final deal, we should decide at that juncture and in discussions whether we are for or against the constitution. At the moment, it is the duty of all, particularly the First Minister, to stand up for Scotland and to negotiate the best deal, especially on the fundamental issue of fishing.

**Alex Fergusson (Galloway and Upper Nithsdale) (Con):** On a point of order, Presiding Officer.

**The Deputy Presiding Officer:** Before I take the point of order from Alex Fergusson, I wish to make what is effectively a point of order of my own. In the course of his remarks, Mr MacAskill used an expression that is a commonly known euphemism for an obscenity. That language is not acceptable and it will not be tolerated in the chamber from now on.

**Alex Fergusson:** Presiding Officer, you have just made my point of order rather better than I would have made it myself.

**The Deputy Presiding Officer:** Thank you. In that case, I now pass the chair to the Presiding Officer.



## First Minister's Question Time

12:01

### Cabinet (Meetings)

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

To ask the First Minister what issues will be discussed at the next meeting of the Scottish Executive's Cabinet. (S2F-837)

**The First Minister (Mr Jack McConnell):** The next meeting of the Cabinet will discuss our progress towards implementing the partnership agreement to build a better Scotland.

**Mr Swinney:** This morning we concluded our debate on the European constitution. Were there to be a referendum on the constitution as it stands, would the First Minister vote yes?

**The First Minister:** No, I would not. The British Government is absolutely right to demand changes to the draft constitution. I support its actions in seeking to achieve changes to the draft constitution, but a condition of my support in any referendum on the constitution will be the security of the provisions that extend the influence of the Scottish Parliament and our devolved Government—and other devolved Governments throughout Europe—which the Executive and the Parliament have been so central in achieving.

**Mr Swinney:** That was a fascinating answer from the First Minister. What he has just said is that it is all right for him to pick and choose the issues that he is concerned about in the constitution, but that it is not okay for the rest of us to do that. That seems to rather contradict what he said at his press briefing yesterday.

The Prime Minister has specified a number of red-line issues. He said that he wants to protect the national interest on taxation, on social security, on defence, on foreign policy, on criminal justice and on the common law. Why is it reasonable for English common law to be a red-line issue and unreasonable for fishing to be a red-line issue for Scotland?

**The First Minister:** I am getting increasingly worried about the language that is being used by the leader of the Scottish nationalist party. My determination to ensure that Scottish criminal law is protected in the new constitution is not the same as trying to protect English common law, which is what Mr Swinney claims that we are doing. It is very wrong indeed for him to polarise these matters into Scotland against England, as if he were on the fringes of extreme nationalism rather than in mainstream nationalism in Europe.

I support a proper constitution for the European Union. In particular, I support a constitution that

gives more power to the Scottish Parliament and our devolved Government in the European framework. However, I would not support a constitution that would take too many powers away from the legal system in Scotland in the process of trying to ensure that we have cross-border co-operation to tackle international terrorism and organised crime.

**Mr Swinney:** I did not ask the First Minister about criminal justice; I asked him about fishing. I do not know why he went off and talked about criminal justice when the issue that I raised was about fishing.

Let us return to fishing. At the weekend, George Foulkes, who is a former Government minister, a senior Labour member of Parliament, chairman of the board of Scotland in Europe and a very clear pro-Europe figure, said:

"If the Prime Minister comes up with a European constitution in which he puts fishing in as one of the key issues that must be brought back to this country—and back to Scotland, so we can have some control over this issue in the Scottish Parliament—then that is a deal that I would very warmly welcome."

Why does the First Minister not take the opportunity to defend a vital national industry for Scotland? Why will he not put the national interest before his party interest?

**The First Minister:** Over the past few days, Mr Swinney might have been taken in by Mr Salmond and his talk of a deal. Perhaps he was even set up by Mr Salmond to talk of a deal. I do not think that it is in the interests of Scotland to put the nationalist interest above the national interest.

We believe that, as a point of principle, it is right that marine resources are dealt with at the European level. What is wrong with the common fisheries policy is the way in which it is implemented and not the fact that it recognises that fish travel across borders throughout the sea. The implementation of the common fisheries policy in Europe needs to change. We need to have not only the regional advisory councils that we managed to secure, but further regional management of decision making.

We should achieve that within a constitution that recognises the status quo on fishing but gives the Scottish Parliament and the Scottish Executive more of a role inside the European Union. We are very clear that that is what is worth securing in the European constitution. Mr Swinney has to be clear about whether he is prepared to put aside the advantages that would come as a result of international co-operation to tackle organised crime and other serious crime. Is he prepared to put aside the benefits that we get in jobs and economic development from the European Union? Is he prepared to do all of that? Will he put aside the interests of all of Scotland for the sake of

making one point, which is to secure more votes for the Scottish nationalist party in the election in June? He is wrong to do that. Let us put the national interest before the nationalist interest. Let us put Scotland first.

**Mr Swinney:** The First Minister has just said that there are circumstances in which he would vote against the constitution if he were not to get what he wants. He has to work out what his priorities are. Our priorities in the SNP are to fight for the vital national industries of Scotland. It is a disgrace that the biggest obstacle in the process is the First Minister of Scotland. Instead of getting on the telephone to block the deals, why does the First Minister not support the deals to protect the fishing industry in our country?

**The First Minister:** The SNP might be happy to line up with the Tories and the Trots against the developments in the European Union, but we are going to take a principled stand.

**Roseanna Cunningham (Perth) (SNP):** The First Minister is going to do the same thing.

**The First Minister:** No, we are not going to do the same thing. [*Interruption.*]

**The Presiding Officer (Mr George Reid):** Order.

**The First Minister:** We are clearly saying that if the European Union or some European states want to take new powers that are unacceptable to the people of Scotland and to the British people, we will be against that. I am thinking of such areas as taxation, defence and social security. Where the European Union has those powers already, our job is to ensure that they are exercised more in the interests of Scotland than they are at the moment. That is why we support and demand improved decision making on the common fisheries policy. It is also why we support and demand changes that give the Scottish Parliament and this devolved Government more of a role at the European level. Mr Swinney might believe that the best way to show leadership and to influence decisions is to bully and expel people, but that is not the way that things happen in the real world. In the real world, people have to negotiate and they have to win the argument. We are going to win the argument for Scotland.

### Prime Minister (Meetings)

**2. David McLetchie (Edinburgh Pentlands) (Con):** To ask the First Minister when he next plans to meet the Prime Minister and what issues he intends to raise. (S2F-838)

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

**David McLetchie:** I am sure that when the First

Minister and the Prime Minister do meet, they will discuss issues such as the European constitution. Despite all the bluster that we heard from Mr Swinney this morning about fishing and doing deals with Labour over the European constitution, does the First Minister agree that that whole ludicrous posture completely misses the point, which is that the common fisheries policy is a reality—European constitution or no European constitution?

The way to end the common fisheries policy is not to focus on some distant referendum, but to elect a Conservative United Kingdom Government, as that would be the only Government that would be pledged to restoring national and local control over our fisheries after the next general election. I remind the chamber that that general election will precede any referendum on a European constitution. Would the First Minister not agree that it is completely illogical to be talking about red lines in constitutions and distant referendum dates if, by the time that a European constitution could come into force, there might be no fishing industry to sustain?

**The First Minister:** It is interesting what two weeks does to the importance of a referendum in Conservative policy. I remember that, two weeks ago, holding a referendum was central to the European debate for the Conservatives. There will be a referendum if, and only if, any new European constitution is acceptable to the current British Government. That is the right position for the Government to take, both on the referendum and on the constitution.

I have already stated our position on the common fisheries policy. My position on the matter is clear. I believe that the marine resource should be the subject of policy making at a European level, because fish cross borders and seas cross borders, and there is a need to take the environment and the sustainability of stocks seriously at a European level. There is also a need to ensure that we have regional and devolved decision making under the common fisheries policy, so that Scotland and the other nations around the North sea can make decisions for themselves, and so that a similar policy exists elsewhere in the European Union. This is the right way forward. There should be a proper Europe-wide agreement on the strategic framework for fishing, but there should also be devolved decision making, in which we in Scotland can take part and which we can implement, and an awful lot more successfully than the European Union has done over the past 30 years.

**David McLetchie:** I remind the First Minister of his answers to two essential points. First, Norwegian fish swim across borders, just like

Scottish fish, but they do not need a common fisheries policy. Secondly, not so many months ago in the chamber, the Conservative party moved a motion calling for a referendum, but Mr McConnell's party and the Liberal Democrats voted that down, so let us not have any preaching from them about the importance of referenda here.

Despite all the bluster between the Scottish National Party and the First Minister today, the fundamental point is that, when it comes to the European constitution, they are two peas in the same pod, because they are both fundamentally in favour of the European constitution.

**The Presiding Officer:** Please ask a question, Mr McLetchie.

**David McLetchie:** The constitution is a mechanism for transferring powers not just from Westminster to Brussels, but from the Scottish Parliament to Brussels. Mr Kerr has already conceded to the European and External Relations Committee that 75 per cent of the work load of the Executive and the Parliament is influenced by decisions taken in Brussels and Strasbourg.

**The Presiding Officer:** Question, please.

**David McLetchie:** That percentage will increase if the new constitution comes into effect. Did the First Minister and others really campaign for a Scottish Parliament only to see its powers eroded and given away to Brussels? That is what is happening.

**The First Minister:** Mr McLetchie is very wrong in his final remarks. We have been instrumental in our influence with regard to the draft constitution, which gives new powers and recognition not just to the Scottish Parliament but to other devolved Parliaments and Governments throughout Europe. Article 5 states:

"The Union shall respect the ... fundamental structures ... inclusive of regional and local self-government."

Article 9.3 states:

"the Union shall act only if and insofar as the objectives of the intended action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level".

For the very first time in the 50-year history of the European Union, we have secured a recognition that regional government is a legitimate form of government throughout the European Union, that the EU must take that into account and that it must be less centralising and more decentralising in its approach. In my view, that is the way to make enlargement of the European Union work for Scotland and for every other country in Europe.

If Mr McLetchie thinks that the national interests of Scotland or the United Kingdom would be best

served by a Tory Government driving Scotland and Britain out of Europe—taking away the hundreds of thousands of jobs that are created and sustained by the European single market; taking away our influence and co-operation on tackling organised crime and international terrorism through the EU; and taking away all the other benefits that come from European Union membership—he is very wrong indeed.

**The Presiding Officer:** There is one constituency question.

**John Farquhar Munro (Ross, Skye and Inverness West) (LD):** The First Minister will be aware of the controversy that has been created by Caledonian MacBrayne's proposal to introduce a Sunday ferry service to the island of Raasay in my constituency. I understand that the people on the island have not been consulted on the issue by the ferry operators. Would he care to intervene by instructing Caledonian MacBrayne to hold a public meeting on Raasay to determine the islanders' views before commencing Sunday ferry services between Skye and the island?

**The First Minister:** Although I recognise the strength of feeling that exists in the community on Raasay on the issue, the determination of ferry services in relation to such developments is clearly a commercial decision for Caledonian MacBrayne. However, in these circumstances I would expect Caledonian MacBrayne to use its judgment well and wisely and to ensure that it has proper consultations with the local communities that are affected.

### **Sustainable Scotland (Cabinet Sub-committee)**

**3. Robin Harper (Lothians) (Green):** To ask the First Minister when the Cabinet sub-committee on sustainable Scotland will next meet and what matters will be discussed. (S2F-846)

**The First Minister (Mr Jack McConnell):** The next meeting of the Cabinet sub-committee on sustainable Scotland takes place on 8 June and, not surprisingly, it will discuss a wide range of issues that relate to sustainable development in Scotland.

**Robin Harper:** That answer did not give away much more than the minutes. I will address a marine issue that is under the Executive's control. Although the run of salmon on the east coast of Scotland is one of the best in recent years, salmon and sea trout continue to be threatened on the west coast. The Executive's aquaculture strategy is not being applied. Given that we do not know what the total chemical load is, that no co-ordinated sea life strategy has been developed for the whole coast, and that not a single farm has been relocated under the revised locational guidelines, does the First Minister agree that the

aquaculture strategy has failed, is failing and will continue to fail until he gets a grip on it?

**The First Minister:** The aquaculture strategy has been widely welcomed, not only by the aquaculture industry in Scotland but by local communities, as it provides a framework for the way forward for an industry that is vital for communities throughout the north and west of Scotland. It is obviously the case that we need to continue to monitor the impact of salmon farming, in particular, on those communities and on the environment in which they are located. However, it is also important for us to recognise when scientific evidence does not prove the claims that have been made in recent weeks about the impact of marine salmon farming on the wider environment.

Salmon farming is vital in communities throughout the west of Scotland. Recently, I opened the new harvesting station at Mallaig, which is an investment by Marine Harvest that will sustain the industry so that it can thrive in international markets for many years to come. It is important for us to continue to support the industry, but it is also important for us to monitor the impact on the environment.

**Robin Harper:** Does the First Minister agree that if we are to drive up standards, for example to the standards in Loch Duart, we must co-ordinate the veterinary service, Scottish Natural Heritage, the Scottish Environment Protection Agency, local councils and the Crown Estate? Given the wide spread of stakeholders that must be co-ordinated to achieve the end that the First Minister enunciated—support for the salmon industry—and given that the aquaculture strategy is not working, does he agree that he must put the matter on the agenda of the Cabinet sub-committee on sustainable Scotland as a matter of urgency?

**The First Minister:** I am sure that these issues will be discussed at the appropriate time by the Cabinet sub-committee. However, it is important that we recognise that the standards in Scotland are as high as, if not higher than, those in other countries throughout the world that have a salmon-farming industry. It is also important that we recognise, within the wider context of Government policy in Scotland, that we are committed to further moves to preserve and enhance the marine environment in Scotland. The consultation that we launched recently included the options of marine national parks and coastline national parks—potential developments that would help us to preserve and enhance that environment.

I do not agree that the aquaculture strategy is not working, but I agree that we need to monitor the impact of the aquaculture industry on our environment. I believe that we can have a natural

salmon environment in marine and inland waters alongside a thriving aquaculture industry, which currently contributes about 50 per cent of our food exports from Scotland. The importance of that industry has to be recognised. However, as I said, the importance of its impact on the environment also has to be recognised.

**Sarah Boyack (Edinburgh Central) (Lab):** Will the First Minister reveal what priority he has made tackling climate change—one of the greatest threats to the world's stability—for the Cabinet sub-committee in the week in which the climate group has been established to help the United Kingdom to meet its targets under the Kyoto agreement? Will he also say what the Scottish Executive is doing to turn round Scotland's performance in tackling climate change in the light of recently published evidence that shows that we are falling behind the rest of the UK in cutting our greenhouse gas emissions? I am particularly keen to know what the Executive is going to do on transport, energy and economic policy to turn the situation round.

**The First Minister:** We remain strongly committed to making our contribution to the UK target for the reduction of greenhouse gas emissions. We also have an integrated programme for tackling climate change, which is called the Scottish climate change programme. We will review that programme this year to ensure that it continues to deliver that Scottish contribution. We will need to review the programme as the years go by, but we should not review our commitment to action, which must remain strong, not just on transport policy, although that is important in this area, and on energy efficiency, which is vital, but on the many other areas of Executive activity and policy that can have an impact on climate change and greenhouse gas emissions.

#### Prisons (Sanitation)

**4. Pauline McNeill (Glasgow Kelvin) (Lab):** To ask the First Minister how the Scottish Executive will respond to the legal judgment regarding sanitation in prisons. (S2F-844)

**The First Minister (Mr Jack McConnell):** We have received Lord Bonyon's judgment on the petition of Robert Napier against Scottish ministers and we are considering it carefully.

**Pauline McNeill:** Does the First Minister agree that those whom we incarcerate for their crimes should be held in humane conditions in our prisons and that it is harder to rehabilitate prisoners who are held in overcrowded conditions with no sanitation for up to 23 hours a day? Does he believe that a balance has to be struck, as the victims of crime are struggling to understand the judgment, which could mean that more prisoners

may be entitled to compensation although there are other priorities? Will he assure Parliament that at least progress will be made on ending slopping out in Scottish prisons because it is the right thing to do? Will he also note the view of Her Majesty's prisons inspectorate for Scotland that overcrowding in our prisons causes more damage to tackling offending behaviour and that it is not just about ending slopping out, but about looking at other conditions in our prison system?

**The First Minister:** Pauline McNeill raises three issues. First, we remain committed to ending slopping out and tackling overcrowding, both of which are important, not least for their contribution towards tackling reoffending. Secondly, we are absolutely committed to tackling reoffending patterns in Scotland, which has one of the worst records in Europe for reoffending. We need a new approach to custodial and non-custodial sentences to tackle that. Thirdly, I agree with Pauline McNeill that we need to strike a balance between compensation and investment in support for victims and witnesses. At the same time, we must realise that our prisons have to be fit for the 21<sup>st</sup> century.

**Nicola Sturgeon (Glasgow) (SNP):** Will the First Minister tell Parliament what the Executive's financial liability is estimated to be as a result of Lord Bonomy's judgment? Will he apologise to the Scottish people on behalf of those who were responsible for not taking the opportunity to address the issue in 1999, as Lord Bonomy has said that they could have done, instead of creating a situation in which millions of pounds will have to be taken out of public services and paid into the pockets of convicted criminals?

**The First Minister:** As I said, we are currently considering the judgment and we will give our view once we have done that properly. I make no apology for using resources in 1999 to establish the Scottish Drug Enforcement Agency. The millions of pounds that matter most to ordinary Scots are the more than £50 million in 2002-03 that the Scottish Drug Enforcement Agency was responsible for taking from drug dealers and putting back into the pockets of Scottish taxpayers. That is the action and the priority that the people of Scotland expect us to apply. As Pauline McNeill said, we have to balance that with tackling reoffending and the conditions in our prisons.

**Miss Annabel Goldie (West of Scotland) (Con):** When the First Minister and his colleagues get round to considering Lord Bonomy's judgment in detail and accept that it is a judicial keelhauling of the Scottish Executive, will he say why it was not thought appropriate in 1999 to deploy some of the year-end surplus revenue—a very considerable amount of money—to meet what

most people in Scotland would now regard as the essential public sector obligation to provide sanitation in our prisons?

**The First Minister:** I have already answered that point. In 1999 we believed—and I believe today—that we were right to use resources to support new programmes for victims and witnesses and to establish the Scottish Drug Enforcement Agency. That agency has been responsible for record levels of seizures from drug dealers in Scotland and record numbers of arrests of drug dealers, and has set an international example that is being copied elsewhere. We were right to use resources to establish the Scottish Drug Enforcement Agency and the people of Scotland will support that view rather than the views of the Tories and the nationalists that we should have used the money for something else.

**Margaret Smith (Edinburgh West) (LD):** Does the First Minister agree that the prison building and refurbishment programme has to be implemented as speedily as possible? Can he indicate when there is likely to be an end to slopping out in Scotland's prisons?

**The First Minister:** As we have made clear this week, the target date for ending slopping out in Scotland's prisons will follow the creation of those new prisons, which are fundamental to establishing the new practice. Among other things, the establishment of the new prisons will depend on planning permission for the two sites that have been provisionally identified. In both cases, planning decisions remain outstanding.

### Hepatitis C (Ex Gratia Payments)

**5. Christine Grahame (South of Scotland) (SNP):** To ask the First Minister whether the Scottish Executive has any concerns over delay in implementation of the ex gratia payment scheme for those infected with hepatitis C through contaminated blood products and, if so, what steps are being taken to address the delay. (S2F-849)

**The First Minister (Mr Jack McConnell):** It is essential that we get the procedures for claimants right and in particular that we agree those procedures and the application forms with the patient groups. We will announce in May the date from which people can start submitting claims.

**Christine Grahame:** Frankly, that is disgraceful. In October 2001, the Health and Community Care Committee recommended that

"the Executive set up a mechanism for providing financial and other appropriate practical support to all hepatitis C sufferers who have contracted the virus as a result of blood transfusions provided by the NHS"

and that that support should come into effect within 12 months. We are more than two and a

half years down the line and the forms are not completed. Will the First Minister now take responsibility for delivery of the scheme? His Minister for Health and Community Care might have time on his side, but the claimants do not.

**The First Minister:** I do not agree with Christine Grahame. I do not believe that it is disgraceful to consult patient groups, to take their views on board and to act quickly to ensure that the forms and procedures reflect their comments. There was a meeting with patient groups on 26 March and a further meeting is planned for the middle of May. The need for the further meeting and the delay are a direct result of representations made by the groups to amend the forms and to ensure that the procedures suit them. To describe that level of consultation and involvement as disgraceful is unfortunate indeed.

#### Identity Cards

**6. Phil Gallie (South of Scotland) (Con):** To ask the First Minister what discussions the Scottish Executive has had with Her Majesty's Government in respect of the introduction of identity cards. (S2F-835)

**The First Minister (Mr Jack McConnell):** As a result of regular discussion that we have had with the Home Office, it has published a consultation paper that makes it clear that the card that it proposes will not be used for accessing devolved services in Scotland without the agreement of this Parliament.

**Phil Gallie:** I welcome the First Minister's comments. Does he envisage advantages in the use of an ID card in Scotland? What key issues does he believe could be incorporated, with the agreement of Her Majesty's Government, in an ID card that could be used in the future by the people of Scotland?

**The First Minister:** That is a debate that will go on in Scotland over the years to come. I personally do not have any problems with carrying cards that identify me as an individual. However, our policy position is right, which is that access to services that are devolved to this Parliament should be controlled by this Parliament. Under the UK Government's proposals, we will have the right as a Parliament to determine which services, if any, might be accessible through the use of an ID card in the years to come. That position is right in principle and it will be good for Scotland in practice.

12:31

*Meeting suspended.*

14:00

*On resuming—*

## Question Time

### SCOTTISH EXECUTIVE

#### Environment and Rural Development

##### United Kingdom Sustainable Development Strategy

##### 1. Mr Kenneth Macintosh (Eastwood) (Lab):

To ask the Scottish Executive how Scottish perspectives will be integrated into the review of the UK sustainable development strategy. (S2O-2197)

**The Minister for Environment and Rural Development (Ross Finnie):** Last Wednesday we launched a consultation called "Taking it on: developing UK sustainable development strategy together". We are working with the United Kingdom Government, the National Assembly for Wales Government and the Northern Ireland Assembly Administration to create a new UK-wide strategic framework for sustainable development. We will also develop a separate Scottish strategy to translate the framework into action.

Obviously, sustainable development matters to the Scottish Executive and is of great importance to the people of Scotland and the wider world. All of us have a part to play in making sustainable development a reality. I urge everyone to ensure that Scottish perspectives are understood by taking part in the consultation that we announced.

**Mr Macintosh:** Does the minister agree that, in addition to environmental issues, social justice and education lie at the heart of a successful sustainable development policy? Does the minister also agree that, if we are to build support for sustainability, the way in which to do that is by improving the quality of life in our disadvantaged communities? Does he further agree that policies like our eco schools initiative need to be developed as a priority?

**Ross Finnie:** I wholly agree with the thrust of Kenneth Macintosh's remarks. I know that he takes an interest in the issue. Increasingly, eco schools are playing a leading role in the matter. The interest at primary and secondary school level has increased over recent years and the Executive is giving every encouragement to their further development. I believe that that is important if the upcoming generation is to understand better the imperative need for us to take seriously sustainable development.

**Shiona Baird (North East Scotland) (Green):**

The minister will be aware that during the recess the UK Sustainable Development Commission published a report that posed 20 challenges on sustainable development to the Government. As the majority of those challenges involve areas that are the responsibility of the Scottish Executive, is the Executive prepared to take up the commission's challenges and respond formally about how it will act in response to each of the challenges?

**Ross Finnie:** As the member will be aware, we are fully engaged with the commission and with its two Scottish commissioners. We try to ensure that they are actively involved and engaged in any initiatives that are promoted by the Scottish Executive. The decision as to whether we will make a formal response is one that we have yet to take. The challenges cover very different areas. I can assure the member, however, that we take seriously the long list. The member rightly said that there are a large number of challenges that we have to meet. The challenges are before the Scottish Executive; indeed, they are before me as the minister with responsibility and we will be processing them.

### Deer (Culls)

**2. Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** To ask the Scottish Executive whether it will direct the Deer Commission for Scotland to suspend any further mass cull of deer and from whom it has sought advice on the issues involved, other than its own advisers and the Deer Commission for Scotland. (S2O-2148)

**The Minister for Environment and Rural Development (Ross Finnie):** Ministers will consider shortly a report on the conduct of the recent culls at Glen Feshie and in particular the role of the Deer Commission for Scotland. This follows a meeting with the Scottish Gamekeepers Association. The report will draw on advice from a number of sources including the state veterinary service and the Food Standards Agency Scotland.

We shall be reflecting on the conclusions that are to be drawn in the light of that report. However, given the statutory obligation that is placed on the Deer Commission for Scotland by the Deer (Scotland) Act 1996 to take action where it is satisfied that serious damage could be caused to agriculture, woodlands or the natural heritage, or where there is a risk to public safety, the options available are unlikely to include the ordering of a suspension of culling.

**Fergus Ewing:** I think that the minister is aware that nearly 900 deer have been culled in Glen Feshie, partly under the use of emergency powers. I think that he is also aware of possible further culls that are planned in other areas of the Scotland. The issue has raised serious concerns

about whether the culling was carried out in a proper and humane way.

Can I put to the minister a suggestion that I intimated to the Deputy Minister for Environment and Rural Development last week for a way to break the impasse between the Deer Commission and the Scottish Gamekeepers Association? I suggest that the minister appoints a committee, comprised of three people, one of whom would be nominated by the Scottish Gamekeepers Association, another of whom would be nominated by the Deer Commission and the third of whom would be an independent person nominated by the minister after consultation and who would act as a chair. The committee would have the remit of examining what happened at Glen Feshie, the lessons to be learned and the issue of deer management. Will the minister give serious consideration to that suggestion as a means of breaking the logjam on this issue, which is of great concern to many people in Scotland?

**Ross Finnie:** I recognise the constructive contributions that Fergus Ewing has made to the consideration of this matter, but regret his tendency to refer to the situation as a "mass cull." If he examines the numbers, he will agree that a comparison between the number of deer that have been culled during the process that we are discussing and the 700,000 or so deer that are culled each year demonstrates that he is displaying a slightly hyperbolic tendency. However, he has made a serious contribution.

As I said in my original answer, I want to see the report that we have called for. That report will inform me and other ministers of the nature of the cull and, in particular, will address some of the issues that have been raised about how that cull was carried out. I look forward to advice from the veterinary people and from the Food Standards Agency.

Once I have reflected on that, Fergus Ewing's suggestion will still be on the table. I can undertake only to consider it along with the options that I have for responding to the findings of the report. I am anxious that the statutory obligations of the Deer Commission, given to it under the Deer (Scotland) Act 1996, be carried out properly. It is important that ministers are satisfied of that.

**Mr Jamie McGrigor (Highlands and Islands) (Con):** Does the minister agree that red deer herds are an important and historic part of Scottish national heritage and that deerstalking and deer watching bring in money for tourism? Does he agree that this noble animal should not be reduced to the status of vermin because some people want to save money on fencing?

**Ross Finnie:** If I thought that Fergus Ewing was indulging his hyperbolic tendency, Mr McGrigor is

most certainly indulging his. Mr McGrigor should be careful when talking about the occasions on which the Deer Commission uses its emergency powers and the level to which it uses them. It does not do so frequently. The Deer Commission spends a great deal of its time trying to engage with landowners to arrange management agreements for the maintenance of sensible numbers of deer consistent with our environment, bearing in mind the danger to that environment that deer can pose.

There is no suggestion that the Deer Commission, or myself and other ministers, do not regard deer as being an important species. To say that we or the Deer Commission regard them as vermin is wide of the mark. If the conditions in the Deer (Scotland) Act 1996 for imposing a cull are met, that is a different matter. Mr McGrigor should be careful that he does not go too far on that matter.

**Nora Radcliffe (Gordon) (LD):** Is the minister content that there are mechanisms in place to ensure that any deer carcass that has not been gralloched immediately will be condemned as being unfit for human consumption?

**Ross Finnie:** That important point is why, in calling for a separate report, we have sought not only veterinary advice but the advice of the Food Standards Agency. We wish to be informed as to how the cull was carried out and how the animals were transported. That will be an important consideration in assessing the impact of that cull.

### Peatlands (Damage)

**3. Eleanor Scott (Highlands and Islands) (Green):** To ask the Scottish Executive what proportion of climate change emissions is from damaged peatlands and what action it is taking to restore damaged bogs. (S2O-2183)

**The Minister for Environment and Rural Development (Ross Finnie):** There are no data available specifically on emissions from damaged peatlands.

The Scottish Executive supports the maintenance and restoration of peatlands through Scottish Natural Heritage. SNH's natural care schemes, together with management agreements with individual owners and occupiers, offer significant levels of support for the management and restoration of peatland habitat. The Executive's agri-environment schemes also support the conservation and management of significant areas of moorland that are composed largely of peatland.

Projects that aim to restore peatlands in Scotland have also benefited from substantial support from the European Commission's LIFE-Nature programme. Those initiatives have

received Scottish Executive support, which will continue in future where appropriate.

**Eleanor Scott:** As the minister will be aware, it is recognised that although damaged peatlands are a major contributor of carbon emissions, healthy bogs absorb and sequester carbon. The Government target in the UK biodiversity action plans for blanket bog and raised bog is to restore about 500,000 hectares of bog by 2015. Given that it costs about £50 per hectare to restore drained blanket bog, we expect £25 million—or £2.5 million per year—to be spent on bog restoration in the next 10 years. That is more than twice what the Forestry Commission Scotland and Scottish Natural Heritage are spending on such work. What plans does the Executive have to increase those organisations' budgets to accommodate the extra demand for bog restoration?

**Ross Finnie:** I underscore the importance that we attach to the matter, but I have to say that every organisation has its own target figure. If the Government were to commit itself to the target figure of every organisation, we would need billions and billions of pounds, which we simply do not have.

**Mark Ballard (Lothians) (Green):** It is your target.

**Ross Finnie:** There are other priorities. It is simple for the member to say that we should spend money on this, that or the next thing, and it is an interesting proposition. We are committed to working with SNH, the Forestry Commission Scotland and others to restore boglands. We are not flying away from that, and we will devote resources as appropriate.

**Mr Alasdair Morrison (Western Isles) (Lab):** While recognising the importance of peat bogs, will the minister assure me that the emphasis that is placed on protecting such bogs will not in any way hinder the ambitious plans to build wind farms in my constituency?

**Ross Finnie:** On wind farms, I must consider each case on its merits. That is what we do, and I will not give a blanket answer—that is perhaps an unfortunate phrase to use in a discussion on bogs—because there is an issue about the overriding or equal importance that we give to restoring bogs. There must be ways in which that can be achieved, but we are conscious of the issue that the member raises.

### Environmental Justice

**4. Karen Whitefield (Airdrie and Shotts) (Lab):** To ask the Scottish Executive what progress it is making in the pursuit of environmental justice. (S2O-2195)



**The Minister for Environment and Rural Development (Ross Finnie):** We are committed to delivering environmental justice for all Scotland's communities. Our progressive environmental policies are helping us to achieve that by improving everyone's local living environment. Through such policies and initiatives, we are making excellent progress on a broad range of important initiatives, including reductions in the amount of waste that goes to landfill, progress on the strategic environmental assessment, tackling litter, fly-tipping and graffiti, improvements in air quality, reductions in fuel poverty, increases in energy from renewables, the introduction of community wardens and tackling environmental crime.

I am pleased to announce today that we are extending the community environmental renewal scheme, which is funded from Scotland's share of the aggregates levy. The scheme will allocate more than £4 million during the next three years to support projects in communities that are affected by past or present quarrying operations. We are also allocating aggregates levy funding to support a number of other major sustainable development projects, including the planning for people programme that is run by Planning Aid for Scotland to help community groups and voluntary organisations to understand and get involved in the planning system.

**Karen Whitefield:** It is essential for the Scottish Executive not only to talk about environmental justice but to deliver it. Does the minister agree that my constituents in the village of Greengairs have seen little environmental justice? It is important for the Scottish Executive to listen carefully to their concerns and to ensure that no further landfill sites blight their area and prevent them from enjoying the environmental justice that so many other communities in Scotland appreciate.

**Ross Finnie:** I am well aware of the member's particular and singular interest in the matter. She has consistently taken up cudgels on behalf of her constituents in Greengairs. As she is well aware, we are keen to give every assistance but we also have the problem of the historic establishment of rights in terms of planning law. We are anxious to help, and we are conscious of the plight of her constituents. I hope that the measures that I discussed will be of assistance to them.

**Rosie Kane (Glasgow) (SSP):** How can we ensure that the people who live along the route of the very urban M74 northern extension are given environmental justice if the consultation on the road took place in the 1960s, when many of us—or some of us—were children? The Executive would like to start to build the road in the next few years. How can we ensure environmental justice,

consultation and democracy?

**Ross Finnie:** On the approval of programmes, in terms of consultation and democracy, there will be further consultation on several aspects of that plan. The Executive's aim to achieve the overall extension is a policy objective that was argued during democratic elections. There are individual issues that will arise in the construction and prior to the construction of that road extension that will require consultation, and people who are affected will have every opportunity to express their views.

**Alex Neil (Central Scotland) (SNP):** Karen Whitefield has cross-party support for her comments on Greengairs. I remind the minister that the First Minister made a promise two years ago to Greengairs and the surrounding villages that there would be no more landfill or opencast sites there. Will he give a commitment to reject the application from Eden Waste Recycling for the ninth landfill site at Greengairs?

**Ross Finnie:** I am not about to pronounce on a matter of planning law, which would require proper consideration by Scottish ministers. That would be wholly inappropriate and not in accordance with the law.

## Climate Change

**5. Mr Mark Ruskell (Mid Scotland and Fife) (Green):** To ask the Scottish Executive what plans and resources it has in place to deal with the impacts of climate change. (S2O-2181)

**The Minister for Environment and Rural Development (Ross Finnie):** The Executive is working closely with the UK Government and the UK climate impacts programme to develop a comprehensive adaptation strategy to ensure that Scotland is prepared for the threats that are posed by climate change. Policy development is informed by a number of Executive research publications and by the latest climate change scenarios.

One of the main impacts of climate change on Scotland will be an increased risk of flooding. Our national flooding framework, which was launched last year, forms the cornerstone of our policy for dealing with that. The 2002 spending review substantially increased the resources that are available for flood prevention schemes to £40 million over the period 2003-06.

**Mr Ruskell:** I ask the minister how we are to assess whether Scotland's contribution to tackling the root causes of climate change is good or bad if we have no Scottish target for climate change emission reductions and no action plan. Given the Executive's emphasis on impacts rather than prevention, would the Executive consider itself liable to pay compensation in scenarios such as the collapse of Scottish agriculture if the northern conveyor failed?

**Ross Finnie:** Gosh, we are into the hyperbolic tendency this afternoon. I really think that that is taking an extreme view.

I do not accept that we are simply into measurements. We have a whole range of policies on energy and shifting the balance. Transport was mentioned earlier and we seek to move towards less being spent on private transport and more being spent on public transport. Energy use reductions and transport reductions are important, but we are not focusing exclusively on that. The action that we are taking across all sectors is doing nothing other than assisting us in pursuing our wish to reduce the impact of climate change in Scotland.

### Outdoor Access Code

**6. Alex Johnstone (North East Scotland) (Con):** To ask the Scottish Executive how many copies it plans to publish of the finalised outdoor access code. (S2O-2095)

**The Deputy Minister for Environment and Rural Development (Allan Wilson):** Under the Land Reform (Scotland) Act 2003, the duty to issue the Scottish outdoor access code rests with Scottish Natural Heritage. SNH has advised that the code will be widely publicised through a range of media such as an access website. It has also advised that it will publish a summary code and leaflets on specific issues.

**Alex Johnstone:** Can the minister give me a further guarantee that that action will be sufficient to ensure that all those who choose to access Scotland's rural areas—especially farmland—through the rights that are granted to them under the Land Reform (Scotland) Act 2003 will do so in a responsible way and will have the information that is necessary to ensure that they know what responsible means?

**Allan Wilson:** Yes. I am glad to welcome Alex Johnstone to the growing number of people who appreciate the rights of responsible access that the Land Reform (Scotland) Act 2003 granted to the Scottish people. Responsible is the operative word. Through the outdoor access code, we will ensure that very clear guidelines are available to people who exercise their rights. They must do so responsibly and take into account land management interests in the process.

### Health and Community Care

**The Presiding Officer (Mr George Reid):** It is 14:20, so we move to questions on health and community care. Unless my eyes deceive me, Mr Mike Pringle is not here. However, I am obliged to call the question. As Mr Pringle is not here, question 1 falls and we move to question 2.

### Waiting Times (General Practitioners)

**2. Dr Elaine Murray (Dumfries) (Lab):** To ask the Scottish Executive what action is being taken to reduce GP waiting times. (S2O-2129)

**The Minister for Health and Community Care (Malcolm Chisholm):** In March 2003 I announced funding for the Scottish primary care collaborative. Waiting times have fallen by 36 per cent in the 100 practices taking part in the scheme. A second wave starts this month. All the practices involved are committed to spreading the learning and good practice that ensue.

**Dr Murray:** I am pleased to hear that action is being taken to reduce waiting times and hope that the new general practice contract will help to attract more doctors to remain in and to join general practice.

I have received many complaints from constituents about the length of time that they have to wait to see their doctor. I have also been advised by doctors in my constituency that they have problems in obtaining locums. What action is the Executive considering in order to secure locum cover for general practice members who are off sick?

**Malcolm Chisholm:** The member raises two issues. Clearly, we believe that the new contract will be entirely helpful in respect of the recruitment and retention of GPs. The member's main point was about waiting. The team-based approach in the contract will help to address that issue. I am interested to hear from Elaine Murray about waiting problems that remain in her constituency, because travelling around Scotland I have been impressed by the major advances that have been made on waiting for appointments at GP practices. Over the past year, there have been amazing falls in waiting times for such appointments, not just in practices in the primary care collaborative but more widely.

I commend to members the primary care collaborative, which I visited and spoke to recently. The collaborative is a team-based approach to care and is looking to redesign the patient service, with the involvement of patients. It is analysing demand, so that it is very patient focused. An amazing amount has already been achieved and more is to come this year.

**Christine Grahame (South of Scotland) (SNP):** I refer the minister to the report "Good Advice Better Health" by the citizens advice bureau in Haddington. The CAB has funded an advice surgeries project and home visiting services. According to the report,

"The Project has enabled many patients to be helped by CAB and of course this has an ongoing effect on their health when they are much happier with their financial situation".

The positive effects of the project were that clients required less GP time and fewer home visits and prescriptions. Unfortunately, the project will receive no more funding. Does the minister agree that this is the very kind of project that would have a direct impact on GP waiting times and take people out of the surgery and back into happier lifestyles?

**Malcolm Chisholm:** The project to which the member refers is a good one. As I said, waiting times are falling dramatically even without such initiatives. Clearly, this is a matter for local funding. I know that there are examples of similar projects throughout Scotland. I am pleased that very soon I will launch such an initiative in the north-east Edinburgh local health care co-operative in my constituency. I commend the efforts of the Haddington CAB, but Christine Grahame will agree that initiatives of that kind are matters for local funding.

**David Mundell (South of Scotland) (Con):** Does the minister share my concern about the amount of time that people will have to wait and the distance that they will have to travel to see a GP out of hours in Dumfries and Galloway under the proposed new out-of-hours scheme? Does he agree with the local medical director that that will be a less convenient service for patients? What will he do to ensure that the whole of Dumfries and Galloway is not covered by two doctors, one in Dumfries and one in Stranraer?

**Malcolm Chisholm:** I have discussed the issue of out-of-hours care in Dumfries and Galloway with the chair of the Dumfries and Galloway NHS Board. I have not seen the most up-to-date version of the board's plans, but I will examine it in the light of the member's comments.

A new model of care is being developed throughout Scotland, and I know that the subject of out-of-hours care gives rise to concern. Nearly every other aspect of the new GP contract was applauded by the Parliament when the Primary Medical Services (Scotland) Bill was passed. There is a new model for out-of-hours care that is based on using the whole health care team. There is a guarantee about the service that that will deliver and any alternative services will have to be accredited.

#### **National Health Service (Decentralisation)**

**3. Karen Gillon (Clydesdale) (Lab):** To ask the Scottish Executive what NHS services are being decentralised to smaller hospitals, general practitioners and primary health care teams. (S20-2201)

**The Minister for Health and Community Care (Malcolm Chisholm):** NHS services should be provided close to people's homes wherever it is

practical and clinically safe to do so. Local chemotherapy clinics and renal dialysis units are examples of a wide range of services that NHS boards are moving from larger acute hospitals to local communities. The new general medical services contract and the development of community health partnerships will also drive forward service developments in primary care.

**Karen Gillon:** I thank the minister for his answer. Those are welcome developments. Decentralisation is essential for a constituency such as mine, which has no district general hospital and which covers 600 square miles. A key factor in rolling out the services is the availability of diagnostic services, such as X-ray facilities, that are linked up through modern technology to hospitals. What steps is the minister taking to ensure that such services can be rolled out to rural communities?

**Malcolm Chisholm:** An X-ray facility is a good example of the kind of service that can be delivered more locally. I have seen in other parts of Scotland, rather than in Lanarkshire in particular, scanning that was previously done in a hospital centre being done in local communities. There are also examples from Karen Gillon's area, which I have seen, of consultant-led clinics in health centres and anticoagulation services in general practitioner practices instead of in hospitals. Moreover, Clydesdale local health care co-operative has invested in more rehabilitation of older people in local GP hospitals. There are many such examples throughout Scotland and everyone should remember those when discussing what is sometimes the opposite movement for more specialist services to go to specialist centres.

**Rob Gibson (Highlands and Islands) (SNP):** It is welcome to Scottish National Party members and, I am sure, to all members that such decentralisation is taking place. Unfortunately, health boards must also take centralisation measures at this time. Should not the long-overdue report about a national framework for the NHS in Scotland, which the minister announced earlier this week, kick in? Decisions such as that to centralise maternity services in Caithness, as well as decisions about other job dispersals ought to be taken once the framework is in place, not beforehand.

**Malcolm Chisholm:** The fact is that, as members will know, we already have a national framework for maternity services, which is called the expert group on acute maternity services—EGAMS. Other work has been done on a national framework—for example, through the white paper last year. We believe that that is a continuing process. That is why we have initiated a further piece of work through a high-level expert group that involves clinicians and patients. The group will

report in due course, but that does not mean that the service changes that are being discussed throughout Scotland can be frozen in the meantime. That would not be possible in many cases and it certainly would not be desirable. On maternity services, there is already a framework and that is, of course, one of the documents that I will look at when assessing plans for services that local boards bring.

### Diabetes

**4. Karen Whitefield (Airdrie and Shotts) (Lab):** To ask the Scottish Executive what action it is taking to improve diabetes care. (S2O-2211)

**The Minister for Health and Community Care (Malcolm Chisholm):** We are making good progress in implementing the Scottish diabetes framework through a programme of initiatives to improve services. That will help us to meet the recommendations from NHS Quality Improvement Scotland's review of its diabetes standards.

**Karen Whitefield:** I am grateful to the minister for his answer. The minister will be aware that the "Scottish Diabetes Framework" document, which was published in 2002, is being reviewed and that an updated framework is to be published in November. What consultation is taking place with patients, carers and their representative groups to ensure that the review is fully informed by their views and experiences?

**Malcolm Chisholm:** There is certainly a great deal of consultation with patients who have diabetes on updating the framework. That continues a process of patient involvement that has been central to the diabetes framework since it was launched. I was pleased to attend a conference in Edinburgh recently involving the local managed clinical network at which one of the patient representatives spoke. Indeed, I spoke to him beforehand about how he and others are involved in the development of diabetes services in Edinburgh. Such development is also happening elsewhere in Scotland, in particular through the managed clinical networks. I assure Karen Whitefield that the process will continue and intensify over the next few months.

**Mrs Nanette Milne (North East Scotland) (Con):** Does the minister agree that specialist nurses could play an increasingly valuable role in the management of diabetes and other chronic diseases, such as multiple sclerosis, asthma and various neurological problems? That would relieve pressure on overstretched acute hospital services.

Does the minister also agree that the recruitment and retention of nurses in the national health service might be enhanced if more nurses could train and work as specialists in their chosen field?

**Malcolm Chisholm:** I agree entirely with Nanette Milne. Her comments connect with the subject matter of the previous question, because one of the ways in which more services are being delivered in primary care is through the enhanced role of nurses, in particular specialist nurses. For example, in some cases nurses initiate insulin therapy for diabetic patients in primary care, where that was previously done in hospitals. Nurses lead a range of clinics for various chronic diseases. That is an extremely positive development.

I agree with Nanette Milne's second point, too. We are doing a lot in relation to the recruitment and retention of nurses, but the development of specialist nurses and nurse consultants represents another important way of providing more opportunities for nurses and, even more important, better care for patients.

### Ambulance Service (Call-out Rates)

**5. Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** To ask the Scottish Executive what the percentage increase has been in respect of ambulance call-out rates as a result of the introduction of NHS 24. (S2O-2165)

**The Deputy Minister for Health and Community Care (Mr Tom McCabe):** Many of the calls received through NHS 24 would previously have gone directly to the Scottish Ambulance Service. NHS 24 referrals last year accounted for 3 per cent of the calls to accident and emergency control rooms.

**Jeremy Purvis:** Perhaps I should declare that my dad is an ambulance technician.

The minister will be aware that the Scottish Ambulance Service health plan, which was published in March 2004, says on page 51:

"There is a threat that, faced with a perceived diminution in service or dissatisfaction with NHS24 telephone advice, patients or relatives will place unacceptable demands on the 999 emergency ambulance service."

Will the minister ensure that NHS 24 and the Scottish Ambulance Service make sure that all computer or personal systems are in place, to ensure that there is no disproportionate rise in call-out rates as a result of NHS 24?

**Mr McCabe:** We have no evidence whatever that there is a disproportionate rise in calls to the emergency services. One of the benefits of NHS 24 is that it offers an opportunity properly to direct non-urgent calls. There is evidence that that is proving to be successful and that the service is taking strain off the 999 service.

**Shona Robison (Dundee East) (SNP):** Does the minister appreciate that those of us who supported NHS 24 are finding it harder and harder to do so? The average cost of a call is more than

£130 and the service has apparently failed to reduce pressure on accident and emergency departments or on general practitioners' surgeries. How will the minister persuade the public that NHS 24 offers value for money?

**Mr McCabe:** I totally refute Shona Robison's suggestion. There is evidence that NHS 24 is highly regarded—and that it is becoming more so by the day as the public becomes more aware of the service. There is much evidence of a good level of satisfaction from people who use the service. Clearly, the service will continue to develop, but we have every intention of continuing in that direction of travel.

### Maternity Services (Oban)

**6. Mr Jamie McGrigor (Highlands and Islands) (Con):** Lorn and Islands hospital has the highest number of births of any hospital in Argyll and the isles. In light of the fact that—  
[*Interruption.*]

**The Presiding Officer:** I think that you have got a little ahead of yourself.

**Mr McGrigor:** I beg your pardon.

To ask the Scottish Executive whether it intends to downgrade maternity services at the Lorn and Islands district general hospital. (S2O-2167)

**The Minister for Health and Community Care (Malcolm Chisholm):** Although that is primarily a matter for Argyll and Clyde NHS Board, I understand that no decisions have been made. Argyll and Bute local health care co-operative is working with all stakeholders to sustain and further develop high-quality local maternity services, and I would encourage all local people to get involved in that important work.

**Mr McGrigor:** Thank you. In light of the fact that the Vale of Leven hospital has also had its maternity services downgraded and that expectant mothers in Argyll and the islands now have to drive 100 miles and more to Paisley for such services, will the minister acknowledge the importance of maintaining a 24-hour midwife-led service at the hospital in Oban to deliver babies and to provide prenatal and postnatal care and advice? Furthermore, is he aware that, because of the rumours about the downgrading of the service, mothers are feeling consternation and staff morale in the hospital is low?

**Malcolm Chisholm:** I have been aware of the issue since I visited the Lorn and Islands district general hospital in August. However, I understand that discussions are still continuing. As I indicated in my earlier response, the local health care co-operative is heading those discussions. Indeed, I believe that Jamie McGrigor attended a meeting recently at which these matters were discussed.

The intention is that the issue should be a matter for local decision making involving midwives and service users. The excellent community midwife-led maternity unit in Oban, which has been operating for some time, will continue, but any precise details are for further local consideration.

**The Presiding Officer:** I remind members that supplementary questions must be specific to the issue of the Lorn and Islands district general hospital.

**George Lyon (Argyll and Bute) (LD):** The minister will be aware of the local community's real concern about the proposed move from a 24-hour service to an on-call night-time service. Will he guarantee that there will be proper consultation with local communities before any changes are introduced? Moreover, will he assure us that any such changes will mean that more rather than fewer births take place in north Argyll?

**Malcolm Chisholm:** From what I have seen, local people are fully involved in the matter. However, I would certainly convey any concerns that such involvement is not happening to NHS Argyll and Clyde. Although any decision on the matter will be fundamentally local and will not be referred to the centre for approval, I will take a keen interest to ensure that there is full public involvement.

**Mr Duncan McNeil (Greenock and Inverclyde) (Lab):** In his question, Jamie McGrigor raised concerns about NHS Argyll and Clyde's centralisation programme. Should the minister not be concerned that the programme is reducing choice and access to services for women and children? If that is not bad enough, does the minister share my concern that the overuse of the Royal Alexandra hospital is increasing waiting times and has led to recent outbreaks of infection and the problems with cleanliness that were reported at the weekend?

**The Presiding Officer:** The minister will have heard my earlier qualification on this question.

**Malcolm Chisholm:** Yes. I do not think that the issues that Duncan McNeil raises apply to the service at the Lorn and Islands district general hospital. No one is saying that the service there will not continue.

In more general terms, I referred earlier to the fundamental matter of delivering services more locally while moving others to a more specialist centre. That raises very live issues for NHS Argyll and Clyde. In fact, last Friday, I received a presentation from the board on the current state of its clinical services strategy. A full consultation on the strategy will take place later this year and all the issues that Duncan McNeil raised will be able to be discussed at that time.

**Jim Mather (Highlands and Islands) (SNP):** Given the threat to Lorn and Islands district general hospital and other maternity hospitals in the Highlands and Islands and the depressing forecast that the population of young people in the region will fall further, what specific steps is the minister taking to work with his colleagues in the Finance and Central Services Department and the Enterprise, Transport and Lifelong Learning Department to create conditions, including the provision of local maternity services, that are likely to persuade more young people to stay in or relocate to the area?

**Malcolm Chisholm:** The relationship between the provision of maternity services and attracting or retaining people in a particular area has been raised in various contexts. In that respect, I should say that there is no question but that the community midwife-led unit will remain in Oban for as long as anyone can foresee. After all, such a service has been provided in the town as far as anyone can look back. People should remember that Oban has never had a consultant-led maternity service, and that has not resulted in the kind of economic consequences that some people have suggested have arisen in other situations.

**Carolyn Leckie (Central Scotland) (SSP):** I am sure that the minister will agree that the example of the Lorn and Islands district general hospital gives us all cause for concern. Is the minister aware, as I am, that up to eight further units, for which no formal consultations have been announced, are under pressure because of staffing levels in obstetrics and midwifery? I have shared my concerns about midwifery staffing levels before. No strategic decisions have been taken on those units but they are under pressure and their viability is beginning to be questioned. Even historical establishments cannot be met. Does the minister agree that we have to act urgently to arrest the further deterioration of maternity services throughout the country? How much centralisation will take place and how many units will be left when centralisation stops?

**The Presiding Officer:** Again I have to point out that we are dealing with a specific question on Lorne and Islands district general hospital. We cannot have general questions asked on the back of specific questions. However, if you wish to comment, Mr Chisholm, on you go.

**Malcolm Chisholm:** I will simply repeat the fact that we are very conscious of workforce issues in maternity services; indeed, I have set up a workforce group to look into those issues, as I mentioned in the recent debate on maternity services. The number of midwives is increasing, although I accept that the number declined for a while as the birth rate declined. We are doing all we can in relation to obstetricians. The posts are

there and the training posts are there, but it is not proving to be the most popular specialty at the moment.

## General Questions

**The Presiding Officer:** Question 1 is withdrawn.

### Amateur Sports Clubs (Rates Relief)

**2. Dennis Canavan (Falkirk West) (Ind):** To ask the Scottish Executive how many local authorities have agreed to participate in the voluntary arrangement whereby community amateur sports clubs will receive at least 80 per cent rates relief. (S2O-02136)

**The Minister for Finance and Public Services (Mr Andy Kerr):** On 13 April 2004, I announced that the Scottish Executive has secured a voluntary agreement with all 32 local authorities—subject to some local variations for gun clubs—to grant at least 80 per cent discretionary rates relief to sports clubs that are registered as community amateur sports clubs with the Inland Revenue. The cost of such relief will be funded centrally.

**Dennis Canavan:** Will the Scottish Executive take measures to make every genuine sports club in Scotland aware of the advantages of registering as a community amateur sports club with the Inland Revenue and of applying to their local council for rates relief? When legislation is being prepared to put voluntary arrangements on a statutory basis, will the Executive also include relief from water charges? Those charges are a considerable burden on many amateur sports clubs.

**Mr Kerr:** On the first point, I and many other colleagues have contacted local sports clubs. I will happily investigate any method by which we can further promote the relief scheme. The scheme is helpful and supports our promotion of sporting activity in communities. It supports important local organisations.

I would have to discuss the second point with the relevant minister. When we consider rates relief schemes—from water charges or other charges—we must acknowledge that someone has to pay at the end of the day. The Executive has to consider taxpayers' money and the money of those who pay their water charges.

### School Closures

**3. Christine Grahame (South of Scotland) (SNP):** To ask the Scottish Executive whether there will, as a matter of urgency, be a presumption against school closures. (S2O-02170)

**The Minister for Education and Young People**

**(Peter Peacock):** Local authorities have a duty to consult fully on any school closure proposals and must take responses to consultations into account before coming to decisions for which they will be held locally accountable. There is guidance on such matters and I have made it clear that authorities should apply a test of proportionate advantage to such proposals.

**Christine Grahame:** As the minister is aware, there is a presumption against the closure of primary schools in England. All proposed closures must be referred to the minister, under guidance from 1999. The Scottish guidance is dated 1988. Does the minister recall his written answer on this issue in 1999? When asked whether he had any plans to change the criteria under which proposed closures of rural schools were referred to ministers, he said:

"We have no such plans."—[*Official Report, Written Answers*, 2 July 1999; S1O-133.]

In a written answer five years later, he said:

"we will prepare guidance".—[*Official Report, Written Answers*, 1 April 2004; S2O-1886.]

Given that it took five years to reach that point, and given that 11 schools in the Borders and Midlothian are under threat of closure, will the minister declare a moratorium in case another five years pass before we see the guidance?

**Peter Peacock:** I have made it clear in the past that decisions on closures are essentially local decisions. It is increasingly clear that the SNP does not support local democracy or the ability of people to make decisions locally. It is remarkable that Christine Grahame makes the proposition that she does. She is prone to waving bits of newspaper about, so I will reciprocate. I have here a headline from *The Press and Journal* on a ban on rural school closures that John Swinney announced as part of SNP policy at a recent conference of the Countryside Alliance. However, I have another piece of paper that has a headline from the *Brechin Advertiser*—for those members who do not know, Brechin is in Angus—about the closure of a school. Angus Council is controlled by the Scottish National Party. It is a pity that, when John Swinney promised the Countryside Alliance that he would not close schools, he did not tell it that his own members were closing schools in Angus.

**The Presiding Officer:** Just occasionally, it is possible to have a second supplementary.

**Christine Grahame:** The position is that the minister has a responsibility. He has said that he will issue guidance for local authorities. Scotland is already 10 years behind England. There have been few closures in England, but there have been 35 closures in Scotland per year.

**The Presiding Officer:** Question.

**Christine Grahame:** The rural school is the heart of the community. The minister should be ashamed that, five years on, he has had to change his mind—and he still has not delivered the guidance.

**Peter Peacock:** It is interesting that the SNP increasingly looks to England for inspiration on educational policy. I repeat what I have said in the past: such decisions are difficult. They require to be taken and to be given proper weight locally. We should not listen to what the SNP says but should look at what it does with the limited opportunities that it has for power in Scotland.

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** On a point of order, Presiding Officer. I might be mistaken, but I think that Ms Grahame had a second supplementary question. How appropriate was that, given that other members are waiting to ask questions?

**The Presiding Officer:** Second supplementary questions are allowed at my discretion; I use them very sparingly and I use my judgment on when to allow them.

**Susan Deacon (Edinburgh East and Musselburgh) (Lab):** Does the minister agree that a primary school plays a huge part in the local community in urban as well as rural settings? Does he acknowledge that there are significant concerns in many city areas—including some within my constituency—about the prospect of losing a local primary school? Furthermore, does he agree that, although capacity and cost are factors that affect local authorities' decisions in such matters, educational, social and safety considerations must be paramount? Can he assure us that he will work with local authorities to ensure that that is the case?

**Peter Peacock:** I am happy to respond to that. Susan Deacon makes the good point that any primary school is a big part of any community in Scotland. That is the case almost by definition. I recognise that parents have concerns about such matters. That is why I am particularly keen that local authorities are clear with their communities about the considerations that they must take into account in arriving at what are very difficult decisions.

Parents often think that purely financial motives drive the process but, as well as weighing up the possible financial benefits, authorities should consider the potential impact of the closure of a school on the community. They should examine how it would affect the community's fabric and the services that it receives and take into account the educational impacts on individual children and the wider social impacts. That is where the test of proportionate advantage—which Brian Wilson

talked about when he was an education minister and which I am keen to continue to promote—is important. It allows that set of considerations to be properly balanced in public so that parents can see what is happening and councillors can come to proper decisions.

**Lord James Douglas-Hamilton (Lothians) (Con):** Does the minister accept that there is a case for strong, updated guidance that supports rural schools that are viable not just because they are centres of educational excellence, but because it would be a tragedy to rip the heart out of small, fragile rural communities?

**Peter Peacock:** That point is very emotive, although I understand why people make it. In rural areas, it is often the case that small rural schools are amalgamated within a rural context and that the amalgamated school continues to sustain the wider rural community. Patterns of population change are a fact of life. We are experiencing the biggest decline in school populations that any of us has seen. In some parts of Scotland, the school population will decline by up to 40 per cent over the coming decade. That means that it is necessary to consider the proper way in which to sustain education in the long term, which is in all children's interests.

I have made clear that I regard the test of proportionate advantage to be important. I will be happy to illustrate that more fully for local authorities. As we move forward, I will help them to understand the requirements that we support in applying such tests in individual circumstances. I remind Lord James Douglas-Hamilton that the guidance that we are operating was brought in by his Government in 1981 and that he did not choose to change it while he was education minister.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** I want to build on that theme. The parents of the children at the schools in my constituency that are faced with closure, which are in the Borders and Midlothian, have told me that they want the issue to be considered on a non-partisan basis. They want parents to be involved all the way through the process, they want wider consideration of the rural areas and they want any issue to do with schooling to be considered on educational grounds. Will the minister meet me and some parents who are genuinely interested in exploring opportunities with his department and the Environment and Rural Affairs Department, so that there is proper co-ordination in dealing with the fragile rural communities that I represent?

**Peter Peacock:** I would be happy to meet Jeremy Purvis. I hesitate to widen the invitation, because he will appreciate that there are many instances like the one to which he refers throughout Scotland. I am happy to meet

members of Parliament to discuss issues in their constituencies without necessarily widening the invitation to include parents.

The key point is that local authorities should consider properly the issues at local level and pick up the points that Jeremy Purvis and others have made today, and that he has made previously. We take these matters seriously. I am happy to ensure that in the work that we do to illuminate for local authorities what we expect of them, we build in issues about sustainable rural communities and the Executive's wider agenda.

**Rhona Brankin (Midlothian) (Lab):** I welcome the minister's comments. I seek reassurance that when the new guidance is published it will refer specifically to rural schools, because the existing guidance relates to every school.

**Peter Peacock:** Generally, guidance that we issue on education matters applies to all schools. However, in relation to the point that I have just made to Jeremy Purvis, we are keen to have joined-up policies in the Executive and to ensure that the Education Department is working in tune with Ross Finnie's department on sustainable rural policies. Therefore, by definition, any circulars that we issue to further illuminate how we want things to be done will have to refer to the rural dimension of life and to sustainable rural communities.

**The Presiding Officer:** Question 4 is withdrawn.

### Small Claims (Limits)

**5. Paul Martin (Glasgow Springburn) (Lab):** To ask the Scottish Executive what progress is being made in raising the limits for small claims in the courts. (S2O-02154)

**The Deputy Minister for Justice (Hugh Henry):** The Scottish Executive continues to support an increase in the jurisdiction limits for small claims and summary cause actions. Officials have been in contact with bodies such as the Scottish Consumer Council, the Consumers Association, Citizens Advice Scotland, the Scottish Trades Union Congress, the Law Society of Scotland, the Scottish Court Service and the Department of Trade and Industry, and with members of the public, to obtain further views. Their responses will help me to decide how to take matters forward.

**Paul Martin:** I have two points to raise with the minister. First, does the minister accept that a significant increase is required in the limit on a claim that consumers can make in the small claims court? Secondly, does he accept that those who wish to make a claim in the small claims court should be given significant advice and assistance to ensure that they are able to address the difficulties that many people face in taking such



action?

**Hugh Henry:** On the first point, I note the significant support for a change in the limit from within the Parliament. John Home Robertson lodged a motion, which was supported by two independent members and by every political party except the Scottish Senior Citizens Unity Party. I recognise that there is genuine cross-party support. A significant body of opinion suggests that we need to make a change. We hope to do that at the earliest opportunity.

Paul Martin raised a pertinent point about not just changing the limits, but empowering people to use the system once a change has been made. We have already examined how to improve the quality of the material that is provided to people so that they can understand and use the system. He makes a pertinent point about providing support to people who want to make legitimate claims for sometimes relatively small amounts, so that they can access justice appropriately. We will reflect on the points that he made and see what improvements can be made to the system.

### **Sport for All**

**6. Johann Lamont (Glasgow Pollok) (Lab):** To ask the Scottish Executive what action it is taking to encourage sport for all. (S2O-02155)

**The Minister for Tourism, Culture and Sport (Mr Frank McAveety):** The Executive is committed to a sport-for-all ethos and is working with partners to develop and deliver the targets within sport 21.

**Johann Lamont:** Does the minister agree that an important balance needs to be struck between developing the abilities of individual and elite sport talents and encouraging all our young people to be involved in sport as a means of supporting their physical and emotional well-being?

In achieving that balance, will the minister reflect on the work of local sporting organisations such as Hillwood and Mossspark football clubs in my constituency, which are almost entirely sustained by voluntary activity? Such organisations reach out to young people and communities in a way in which more formal and better-funded organisations often fail to do. Will the minister consider how funding bodies such as sportscotland can be further encouraged to support local groups, which make a real difference throughout Scotland?

**Mr McAveety:** A few months ago, we had a positive discussion with Hillwood boys club, which came about as a result of work by Johann Lamont. That discussion influenced the determination of the youth football review. We have asked sportscotland to develop a widening access programme and most of its resources are now

used on that. A number of local authorities, which are key players in widening access to sport and encouraging a philosophy of sport for all, are partners in that work. That is why I spent an hour and a half today with the Convention of Scottish Local Authorities, discussing how we can deliver sport 21 through COSLA and its partner authorities, and ensure that we widen access to the community clubs that Johann Lamont rightly mentioned.

**Karen Gillon (Clydesdale) (Lab):** Given that schools are one of the key places in which sport can be encouraged, what discussions are ongoing between the minister's department and the Education Department to increase the provision of physical education in schools and to enhance the role of school sports co-ordinators, to ensure that continuity between schools and communities is maintained?

**Mr McAveety:** We are continuing discussions on that issue. We await the final recommendations of the review of physical education in schools, during which a variety of views have been raised. The review complements our discussions with local authorities about their role in ensuring that schools are a key tool for ensuring that young people have access to sport and development opportunities.

### **Homelessness**

**7. Maureen Macmillan (Highlands and Islands) (Lab):** To ask the Scottish Executive what progress it is making on its target to eradicate homelessness. (S2O-02171)

**The Deputy Minister for Communities (Mrs Mary Mulligan):** The Scottish Executive is committed to tackling homelessness, which means both preventing its occurrence and ensuring that it is dealt with effectively and appropriately when it happens. The homelessness task force made 59 recommendations, all of which are being implemented in partnership with local authorities and others. Progress against those recommendations is set out in the report of the homelessness monitoring group that was published in January this year.

**Maureen Macmillan:** I appreciate the Executive's commitment to combat homelessness in the Highland Council area. I remind the minister of her recent visit to the day centre for rough sleepers in Inverness. However, is the minister aware of the hidden homelessness in remote areas of the Highlands, where people leave their communities because of a lack of housing? Is she aware of the letter that Di Alexander, the development manager of the Highlands Small Communities Housing Trust, sent to Margaret Curran, which once again highlights the blight on the delivery of rural housing because of Scottish

Water's moratorium on an increase in the capacity of waste-water treatment plants? Will the minister reschedule the postponed visit to Highland Council for the near future?

**Mrs Mulligan:** I am aware of the difficulties with the supply of housing in certain rural areas. This year, the Executive is committing £65 million to rural housing supply, which is the biggest percentage of the housing budget that has ever been spent on rural housing. However, I recognise that if we are to provide more rural housing, we must ensure that the infrastructure exists to support it. That is why the Minister for Communities, Margaret Curran, has been actively speaking to Scottish Water to ensure that it takes into account the needs of rural housing development in its plans for the future.

#### **Scottish Executive (Public Relations)**

**8. Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** To ask the Scottish Executive how much it estimates it will spend in total on public relations in this and the next two financial years and whether it will take any steps to reduce those figures. (S2O-02150)

**The Minister for Finance and Public Services (Mr Andy Kerr):** The Scottish Executive plans to spend £750,000 on contracted public relations agencies to support its public information campaigns in 2004-05. The amount has been held at the same level as for 2003-04. The Executive's marketing budgets are set annually, so it is impossible to estimate what the spend will be on public relations work to support campaigns in the next two financial years.

**Fergus Ewing:** Not for the first time, we do not get an answer to the question. According to press reports, a colossal amount of money is being spent on public relations—on the Executive promoting itself rather than investing in Scottish public services. Is not far too much being spent on that and what will the minister do to reduce the figure?

**Mr Kerr:** The member knows the price of everything, but the value of nothing. Let me give the Parliament some examples. One example is the work that we have done on domestic abuse. Christina Aguilera joined our campaign, which got us on the front page of *The Herald* and got coverage in nine other national newspapers, four regional dailies, 15 local newspapers, on the front page of the BBC UK website, on the BBC World website and on 17 other international websites. Another example is the work that we have done in relation to the free at the Dee campaign, on which we spent £25,000 and got a return to the taxpayer of £156,000. We invested £230,000 on public relations in the healthy living campaign, which brought back £1.7 billion-worth of free advertising

for the Executive. We are challenging lifestyles in Scotland, and we have to challenge those lifestyles because that is how we save money for the taxpaying public. A woman leaving a domestically violent situation because of the price of any work that the Executive has done makes it a price worth paying.

## Reducing Reoffending

### **The Deputy Presiding Officer (Murray Tosh):**

The next item of business is a debate on motion S2M-1219, in the name of Cathy Jamieson, on reducing reoffending and improving the effectiveness of custodial and non-custodial sentences, and one amendment to the motion.

15:02

### **The Minister for Justice (Cathy Jamieson):**

For too many years now, it has been the case that too many offenders in Scotland are offending time and again. In 2002, more than two out of every three people who were convicted of a crime or offence had offended before. The most recent figures show that 60 per cent of offenders are reconvicted within two years of release from prison. The figures show that 58 per cent of those who received a probation order and 42 per cent of those who began a community sentence order are reconvicted.

Those figures are not acceptable. Every single one of those offences represents someone in this country whose life has been damaged by the criminal actions of another. Lives have been damaged—too often lives have been lost—by the choices that one person has made about how they will behave, regardless of the cost to another human being.

The issue is about more than system failure. It is neither abstract nor theoretical: it is real and it is directly about the lives of ordinary women, men and children throughout this country. Therefore, the Government in Scotland has decided to confront the issue and all its challenges head on. We will act decisively to reduce reoffending.

We know where we need to be; the question is how best to get there. To reduce reoffending we need a criminal justice service that meets three straightforward tests. The service must first be an integrated service in which all offenders are managed consistently and appropriately throughout their sentences and in a way that manages their reintegration into our communities. Secondly, it must be a service of excellence that is focused on reducing reoffending, not on other issues. Thirdly, it must be a service that is structured and organised to deliver what we need, which is a consistent, sustained reduction in reoffending.

I am sure that everyone in the chamber today knows someone from their community whose life has been blighted by reoffending. Such people include individuals and families whose lives have been touched by crime and reoffending; victims of assault, theft, housebreaking, or antisocial behaviour, and other families that have been

damaged—sometimes torn apart—when one member of the family offends repeatedly. That is the true cost of not managing sentenced offenders effectively.

I want a criminal justice system that is on the side of ordinary, decent people and a criminal justice service that is on the side of the many, not the few. I want a service that delivers the protection that people need and deserve. I want an integrated service to ensure that they are no gaps for offenders to fall through and no chinks for them to exploit so that they can avoid being held accountable for their actions and responsible for the choices that they make about the kind of lives that they lead. That is the challenge that faces our criminal justice service and which the service must face up to.

Some people will tell me that the problem of reoffending has no single solution. They are right and I agree with them, which is why the Government in Scotland is leading the most comprehensive justice reform programme for a generation. It includes High Court reform, the McInnes review, the Sentencing Commission, measures against antisocial behaviour, the risk management authority and drug testing and treatment orders.

However, all those measures are not enough. More needs to be done because we need to end the revolving door of criminal behaviour, which is too often the norm. We will do that by recognising that the individual who offends is responsible for their choice and its consequences, and by building recognition of that fundamental principle into everything that we do with and offer to such individuals. We will demand of them that they accept that responsibility and that they face up to the consequences. It is important that we then offer them the chance to change their attitudes, behaviours and lifestyles. To do that, we and the service need to improve the way in which we manage, supervise and support offenders while they serve their sentences.

There are no easy answers or simple solutions. I have never been in the business of giving offenders more excuses than too many of them can come up with themselves. However, I believe that change is possible. If offenders take that responsibility, we should offer them the chance to change.

It is undoubted that factors in an individual's life can lead them to believe that a criminal act is acceptable or unavoidable. Drugs, alcohol and a life's experience of violence can all affect criminal behaviour. We need to recognise that and to develop sentence regimes that address, minimise or control factors that contribute to offending behaviour and which maximise factors that encourage law-abiding lives. That is not about

being soft on offenders, but about reducing crime and increasing safety in our communities.

We will not simply throw more resources at the system. Between 1992 and 2002, criminal justice social work budgets more than trebled from £18 million to £63 million. In the same period, the Scottish Prison Service's budget nearly doubled from £122 million to £229 million. Over 10 years, resources increased in real terms, yet all those additional resources failed to reduce reoffending. Therefore, despite what some might argue, additional resources are not necessarily the answer.

I will go further than that. Before I argue for additional resources, I want to be satisfied that every pound of public money that we spend now is being used to maximum effect. We need to examine critically the criminal justice service to identify its weaknesses and inefficiencies and then to develop a smarter integrated system that delivers the results that we want.

We already know much of what we need to do. People who are sent to prison are more likely to reoffend than those who are given community sentences, but the rise in the number of short-term prison sentences continues. In 2002, 97 per cent of all custodial sentences were for less than 4 years and 82 per cent were for 6 months or less.

We know that when an offender goes to prison, the links between that individual and the community are severed, but links with family, friends, home and the workplace can have a positive effect on an offender's behaviour. On release, those connections need to be re-established.

Supervision on release is not a legal requirement for short-term prisoners, but those offenders are most liable to reoffend. There is no time during those offenders' short sentences to deal with their attitudes and behaviour. Their community connections are severed and they have no supervision or support on release. If we are serious about reducing reoffending, that scenario makes no sense.

There is more. Community interventions are delivered by local authorities and voluntary sector organisations. Their availability, quality, objectives and results vary throughout Scotland. Inconsistencies make evaluation extremely difficult, so we do not always know which interventions are the most effective, or are effective at all, in reducing reoffending.

When an offender moves between prison and the community or from one local authority area to another, there is too often discontinuity or duplication of interventions. That lack of co-ordination and consistency damages and undermines our capacity to supervise and manage

such an individual for the maximum reduction in reoffending.

There are also strategic issues that must be considered. There is no single organisation that has as its objective the reduction of reoffending rates, but shared objectives and clear lines of accountability are absolutely critical if we are to have the integrated management of offenders that we need in order to challenge their behaviour, supervise their actions and help them to take the opportunities that are on offer to change their lives and stop committing crime.

An individual who enters the criminal justice system will encounter a number of separate agencies, each of which works to its own agenda. At the most basic level, his details do not transfer from one organisation to another as he moves through the system. He could be assessed several times by different agencies, undertake a series of programmes or find himself subject to different interventions that are delivered by different agencies that have no shared objective. He might undertake no programmes at all. That is the current scenario; it is ineffective, wasteful and inefficient. It does not work well enough for public safety, for the staff in the service or for the offender.

I am not blaming anyone who works with or manages offenders, because I know that prison officers, social workers and workers from the voluntary sector are dedicated professionals who work under difficult situations with difficult issues every day. However, the system is also failing them—it holds them back from doing the best job they can. I am talking about a system failure, which must be tackled.

There is a strong and widely recognised argument for closer integration of the agencies that are responsible for delivering offender services. Closer integration could close the gaps in offender management that I have described. How can we achieve that? The experience of single agencies in Sweden, Finland, Norway, New Zealand and other countries suggests that they can provide consistent and effective interventions, common objectives and clear accountability for reducing reoffending. They can develop integrated offender management services and can direct maximum resources to reducing reoffending rather than to running the system.

That model is worthy of consideration, although I recognise that there are other models—for example, the national probation services of Germany and the Netherlands, and the administration of sentences by a central Government department, which happens in the Republic of Ireland and Catalonia. There are many ideas out there.

I believe in open debate. No one has a monopoly on good ideas. That is the spirit in which I decided to broaden our partnership agreement commitment to consult on the establishment of a single agency, so that we can more fully examine reoffending and what can be done to reduce it. I hope that in the short time that has been available to me, I have impressed colleagues with the context and scale of the problem that we face.

The consultation is an open consultation and I welcome all contributions that add value to the discussion, whether from victims or offenders and their families who have experienced the criminal justice system from different perspectives, or from the general public who live in Scotland's communities, whose contributions are also important. I say to my parliamentary colleagues that the debate is not a debate only for the professionals and I urge and challenge them to reach out and involve the communities that they represent and to let their voices be heard.

Minor change for minor improvement is not the issue for debate. The issues that we all need to address are how we can improve matters and what kind and scale of change we should make. I think that all of us would agree that building a safer Scotland is our goal and that there can be no finer goal. Taking on the challenge of reducing reoffending is central to that goal. I therefore commend the motion to members.

I move,

That the Parliament notes the publication of *Reduce, Rehabilitate, Reform – A Consultation on Reducing Reoffending in Scotland* and recognises the need for significant improvement and change in the management of offenders serving custodial and non-custodial sentences in order to reduce reoffending and step up the efficiency and effectiveness of the criminal justice system.

15:13

**Nicola Sturgeon (Glasgow) (SNP):** I am always happy to discuss reoffending. The minister did not say much with which I would take issue, but sooner or later the Scottish Executive will have to stop talking about reoffending and do something about it.

The latest stage in the talkathon has been the publication of a pretty vacuous—even by the Scottish Executive's standards—consultation document, which is, intriguingly, called "Re:duce Re:habilitate Re:form—A Consultation on Reducing Reoffending in Scotland", which suggests that it might be time for a new offence of abuse of the English language. The online forum that is part of the consultation process has so far received a grand total of 10 responses, four of which are from an e-mail user known as "Scottish Executive". I am trying to make the point that we do not need gimmicks at this stage. I agree with

the minister that we need debate, but more than that, we need action from the Scottish Executive, whose job it is to take decisions and get something done.

We know that Scotland has a problem with reoffending—we have debated the matter in the chamber on many occasions. Our recidivism rates are among the highest in Europe. Too often our prison doors are revolving doors. However, there is an inextricable link between reoffending and our penal policy. We send more people to prison than any other country in Europe. It is recognised by all parties in the chamber—with the possible exception of the Conservatives, who I will allow to speak for themselves—that the reality for many offenders is that prison just does not work. Some 60 per cent of offenders who are released from prison go on to commit further offences. We know that the success rates of community-based disposals are much higher, although it is true that prisoners who have committed particularly heinous crimes should be in prison.

Above all else, we need leadership from politicians—that is not the responsibility of Government alone, because Opposition parties must also accept responsibility—to persuade people that prison is not always the answer and that alternatives to custody are often better, more effective and tougher than prison sentences. Sentencing is ultimately a matter for judges and I am a great believer in judicial independence, but our job as politicians is to ensure that, in the first instance, we raise the debate and do not always play to the tabloid agenda. We must ensure that judges have a range of alternatives available to them, that they have confidence in those alternatives and that they feel able to use them.

We have had the debate on previous occasions and it is regrettable that the most notable contribution that the Executive has made to widening the range of alternatives to custody over recent months has been to withdraw funding from the Airborne Initiative. That was a step backwards in a debate that should be advancing.

Although reform of sentencing policy is fundamental and underpins all efforts to reduce reoffending, I agree with the minister that we have to look at the bigger picture. We have to look more at the routes out of crime that we are providing for offenders. We have to ask ourselves what support and encouragement is being offered to offenders—whether those offenders are serving custodial or non-custodial sentences—to enable them to maintain a crime-free life thereafter. Like the Scottish Executive, I believe that that requires more integration in the system. It requires more integration within and between the various agencies.

The Scottish Executive's big idea for achieving that integration is to have a single national correctional agency to bring together the Scottish Prison Service and criminal justice social work. I welcome the comments that the minister made about not having a closed mind on the matter—that is positive. That idea is the focus of my amendment today. I ask the minister to read the amendment carefully. In it, I do not say that the SNP is implacably opposed to a single agency; I say that we are not yet persuaded by the idea. I am not persuaded that major organisational upheaval will, in and of itself, make the difference that we all want to see.

Research that was carried out for the Convention of Scottish Local Authorities—not an organisation with which I always agree—has found no international evidence that single agencies work to reduce offending. I agree that the two halves of the system have to work together better. Nobody would look at the Scottish Prison Service and criminal justice social work and say, “The status quo is working perfectly and no change is required.” However, is the best solution to bring those two organisations together? Better partnership working is required, so I ask the Executive to consider some arrangement along the lines of the joint future approach, when the national health service and community care were brought together to work more effectively without the kind of structural upheaval that would have been involved in a full-scale merger.

We also need to transfer resources from prisons to fund community sentences, but the question that we have to ask and answer is how a single agency will achieve that end.

For me, however, the biggest question about the proposal for a single agency stems from the fact that integration between the SPS and criminal justice social work is only one part of the jigsaw. Arguably, the more important links that we need to strengthen are those between the correctional services and the services that have been shown to help to reduce reoffending. Supporting access to health, education and employment will do more than anything else will to keep people out of crime. A single agency would leave those services, and the agencies that provide those services, on the outside looking in.

A single agency is something that works well as a line in a manifesto. I do not mean that to sound like a dig; all political parties are prone to doing that sort of thing. However, more questions than answers arise when the proposal is considered more carefully.

My intention is not to take an ideological or entrenched party position on the issue. If the Executive can produce compelling evidence to show that a single agency has a part to play in a

package of measures to reduce offending, the Scottish National Party will give the proposal a fair wind. If not, we will oppose it. In those circumstances, such an agency will be a diversion from the real debate, which is about partnership and resources and about having the courage as politicians to change our approach to sentencing over the long term.

I move amendment S2M-1219.1, to insert at end:

“but is, as yet, not persuaded of the case for a single national correctional agency.”

15:21

**Miss Annabel Goldie (West of Scotland) (Con):** I am not usually gripped by the text of Executive motions. The language that is normally deployed invites me to welcome, praise, commend, warmly endorse or fulsomely enthuse over some perceived attribute of Executive activity. It usually stops just short of inviting me to embrace the Minister for Justice on the floor of the chamber with attendant shouts of jubilant acclamation.

**The Deputy Minister for Justice (Hugh Henry):** As long as you leave it at the minister.

**Miss Goldie:** The minister—and Mr Henry—are safe because today is different. Today I can praise the candid language of the motion, in particular the phrase

“That the Parliament notes the publication”

of the consultation document. The motion does not invite us to welcome or praise the publication. I have to say, however, that it is hardly written in the spirited language of ringing endorsement. The rest of the motion is also frank: it recognises the need for significant improvement and change and accepts the need to step up efficiency and effectiveness.

Far from being a clarion declaration of success, I have to say that the motion is a frank admission by the Scottish Executive that little has been done in the past five years to try to deal with the genuine problem of reoffending. It may be that Labour is content to let the blame for that lie with its Liberal Democrat partners because, of course, responsibility for justice in the first session of the Parliament rested with Mr Jim Wallace, who was then the Minister for Justice.

Having looked at the consultation, I have to say that it is difficult to welcome something that contains no proposals, but merely sets out the difficulties that prevail in Scotland. The reality is that, since 1999, the Scottish Executive has deluged Scotland with consultations. We have just about reached consultation burnout and, once electoral opt-out is added, we have an unfortunate

tandem. People are fed up with Scottish Executive blether; they want some Scottish Executive bottle in the form of proposals and solutions.

I have listened to what the minister said about the prospect—I accept that it is no more than that—of a single national corrective agency. I share the reservations that Nicola Sturgeon expressed, but I feel a little more strongly about the matter. There is evidence that public sector departments have been slow to speak to one another across a wide range of topics over the past decade. That problem has been compounded by disparate technology systems that have, in fact, further impeded the process of communication.

A rigorous audit is required of the individual departments that are involved in the whole matter of offending and reoffending, in order to establish how they deal with technology, what the efficiency of their operations is and how their management structures attend to authority, responsibility and oversight. It seems that if we are prepared to look at the individual structures and the individual sectoral players, we could go a considerable distance down the road of improving communication of information. That would be a vital step to take; it would address what I consider at the moment to be a deficiency.

I also think that solutions can be implemented now. I do not expect the minister to agree with the solutions, but my party believes that measures could be taken at the moment, one of which would be the ending of automatic early release from prison. That in itself is only a part solution; the other part of the equation is improved rehabilitation. I am acutely aware that many prisoners on early release are victims of drug abuse and drug addiction. We have to make a marked improvement in how we cope with this situation.

I also think that there is a strong case for investigating the availability of drug treatment and testing orders for offenders whose cases are heard in the district courts. A huge number of offenders who come before those courts suffer from substance abuse problems. At the moment, it is only when that person graduates—ironically, because of a more serious crime pattern—to the sheriff court that that drug problem is addressed.

The idea of electing conveners of police forces to ensure that more police are put on the beat met with derision in this chamber when it was advocated by the Conservatives previously, but I think that the need for such action is becoming increasingly clear. The minister would, I am sure, accept that the Executive cannot ensure that more police go into our communities. The Executive might endeavour to allocate additional resources but, at the end of the day, we are in the operational hands of chief constables. There is a

genuine concern in the chamber—certainly on the part of the Conservatives and the SNP—that there are not enough police in our communities. Increased democratic involvement of the public in the way that has been suggested would make a difference.

**Hugh Henry:** Annabel Goldie raises an interesting concept when she not only talks about the need for additional police in communities but questions the ability to influence operationally the way in which those police are used. She correctly points out the fact that the Executive, local councils and so on cannot dictate operational matters to chief constables. What would her solution be to ensure that politicians ensure that police are deployed in the way that she wants them to be?

**Miss Goldie:** There is a world of difference between political control of the police—which would be inimical to everyone in this chamber, I am sure—and introducing an advanced degree of democratic involvement that would allow the public to have some say in the general provision of law enforcement in their areas. The solutions that I have outlined could make a practical difference.

One area about which I am concerned in respect of the attitude of the Scottish Executive concerns the Airborne Initiative. That situation makes manifest the deficiencies of the Executive's approach as well as the hypocrisy of the Liberal Democrats. The project was dealing with some of our toughest young offenders and, according to an evaluation, was providing a useful addition to the range of non-custodial programmes for offenders who were otherwise at risk of a custodial sentence. Indeed, in their election manifesto last year, the Liberal Democrats hailed it as an exemplary model. However, despite that, the Executive, which comprises Labour and the Liberal Democrats, closed it down in February this year.

Although the motion earns praise for honesty and will be supported because it is an honest motion—I should point out that I am prepared to support the SNP amendment as well—it is an all-too-revealing exposé of what I am afraid is a rather depressing failure.

15:28

**Margaret Smith (Edinburgh West) (LD):** I agree with a great deal of what has been said already. It is absolutely crucial that we tackle the key problem of reoffending, which is a blight on all our communities and which, one way or another, affects every family in the country.

One thing that we can agree on is that there is no easy answer. There are partial answers, some of which we have heard already. I agree with

Annabel Goldie that having police on the street deters people from offending, and there is much to be said for measures such as the extension of drug treatment and testing orders. Furthermore, we need to consider proposals relating to integration. However, there are no easy answers: if resources were enough, the resources that we have invested in our five years in Government would have brought greater change than they have so far. Resources are not, in and of themselves, the answer.

We have record numbers of prisoners in our prisons and growing numbers of people on a range of community disposals, yet reoffending continues to be a growing problem. We welcome the Executive's open consultation on the issue. It is no secret that the Liberal Democrats and Labour disagree at the core of the issue in that the Liberal Democrats are sceptical about the single-agency solution. However, I think that the consultation says that that is only one potential solution out of many.

I was interested to hear some of the examples from outwith Scotland that the minister gave. It is important for us to look around the world to see what might work instead of looking narrowly at one possible solution. I welcome the fact that the Justice 1 Committee is to begin an investigation into rehabilitation in our prisons—that will be a useful contribution.

Some 60 per cent of offenders who are released from prisons and 42 per cent of offenders who began a community service order will be reconvicted within two years. Although the figure for community disposals is better, it is still not good enough. We need local and national strategies that are backed up by proper resourcing and which support all the partners who work in the field. That includes not only people in criminal justice, but people in the voluntary sector, people who deal with addiction and people in local authorities who deal with housing, early education, children in care and so on. It is crucial that all those people be brought together.

We should focus on reducing the number of people in our prisons—we say that repeatedly, but the figures still increase. Prison should be for the most serious offenders and for people who are a serious danger to the public. It should not be used for people who are there for only a short time; to be frank, that does not work. It is also an expensive option; a six-month prison sentence costs £15,000 whereas a community service order for the same period costs £1,400. I point out in passing that prison is cheaper than the Airborne Initiative, but it is still not good value for money.

We must ensure that the rehabilitation services that we provide represent good value not only in terms of the money that is spent from the public

purse but in terms of how many people reoffend at the end. Prison is not giving good value on either of those things, and it often represents bad value. That is why we support the Executive's efforts to extend community disposals such as drug treatment and testing orders and restriction of liberty orders with safeguards. We must challenge offenders to take responsibility, to make reparation, to engage in restorative justice and, if possible, to remain in their communities to put something back as payment for their offences, rather than drag them from their communities and put them in prison, where none of those things will happen.

All the evidence suggests that community disposals are more effective. They allow people to remain in their communities, perhaps in employment, in accommodation and in family structures. It is crucial that community disposals be properly supported by the right personnel, the right programmes and the right amount of resources. Currently, only those who are given a custodial sentence of more than four years are statutorily entitled to supervision by criminal justice social workers on release. YouthLink Scotland and others have highlighted the patchy nature of transitional support for young offenders, and those who serve short sentences are unlikely to get the care and support that they need. In fact, for 83 per cent of those in custody no aspect of offending behaviour will be addressed in prison at all. That is not acceptable.

There needs to be better communication and integration of services. That means greater sharing of data and a more uniform approach to the provision of services so that people can continue with their rehabilitation if they move around the country. The most effective programmes address individuals' needs and their reasons for reoffending, and give the support that is required to turn them away from crime. There are people who think that the only way to integrate the services is through a single correctional agency. I welcome the minister's comments and her open mind on that. We remain sceptical, but we are committed to consultation on the matter and we will reserve judgment until that is complete. We must listen to the opinions and experiences of people who work in the system and those of offenders and victims.

We recognise the concerns that have been expressed, but the key question is whether setting up a single agency will achieve the objective of reducing reoffending rates. We will not support the SNP amendment today. During the coming weeks, we will listen to the justice community and to communities throughout Scotland on the matter. We will then be ready, as a party of Government, to tackle the issue head-on with proper commitment and proper resourcing.



**The Deputy Presiding Officer:** We move to open debate. I expect to be able to call all members who wish to speak if members are disciplined about the use of the six minutes.

15:34

**Pauline McNeill (Glasgow Kelvin) (Lab):** Of the individuals who were convicted of a crime or offence in 2002, about 70,000 were reoffenders. The focus of our criminal justice system is increasingly on reoffending and persistent offenders. The police approach to crime is to tackle not only individuals who commit crime but persistent offenders, and that is the right approach.

Reoffending is a complex issue. We should not get carried away with the idea that we can manage every case or that, if we have the right policy, we will solve all of it. Clearly, there are limitations to what we can achieve. Some offenders will continue to reoffend despite our policies. However, we could change the course of many recidivists' lives if we gave them the right opportunities and support. That is why this opportunity for consultation is too important to miss and I whole-heartedly support it. Like Margaret Smith, I alert members of the Parliament to the fact and emphasise to ministers that the Justice 1 Committee is conducting an inquiry into the specific issue of rehabilitation in prisons. I hope that we will be allowed to put forward our findings into the consultation process.

Offending behaviour is dealt with by the Scottish Prison Service primarily through structured programmes incorporating psychological principles that are known to impact on the way in which individuals think. It uses cognitive skills, anger management, drug prevention programmes and the STOP programme, which has been talked about in Parliament before. It is claimed that community programmes are much more effective in preventing reoffending, although research into that is limited. However, it is impossible to make comparisons unless the same offender and the outcome are compared. The nature of the more serious criminals who are in custody and the nature of prison itself mean that we are always at a disadvantage with people who are deprived of their liberty, who are naturally going to be disconnected from their communities; therefore, it is wrong to make comparisons directly between what prison can achieve and what community sentencing can achieve. I believe in alternatives to custody. The Executive is pushing down the right road, but we must strive for higher standards in those programmes and ensure that those who make the judgments have faith in the system.

I am of the opposite opinion to that of Nicola Sturgeon on the prospect of a single agency. I

have a tendency to be very interested indeed in it. It may have started off as a line in a manifesto, but the more that I think about it, the more obvious it is to me that there needs to be central co-ordination of the services that we provide. The Prison Service runs a very good throughcare service and in the visits that I have made as part of my work in justice I have seen that it is striving for a better-quality system. However, it is clear to me that the throughcare service is disconnected from the rest of the service.

**Miss Goldie:** Does the member distinguish between what may be practical problems of communication and structural deficiencies? Does she agree that, before we proceed to structural change that might result in the creation of another quango, we should look carefully at existing communication in the system?

**Pauline McNeill:** I totally accept that that is exactly the kind of examination that we want to have. I would not support the creation of an agency that was another quango—I have got a thing about quangos, anyway. I would not support the idea of a single agency if I did not think that there were structural problems.

The Executive has committed millions of pounds to the excellent post-prisoner release programme, which tries to ensure the sustainability of prisoners who have already got themselves off drugs. They undertake a 12-week programme, with assistance, out in the community. Let us be clear: that is where it all falls apart. A prisoner who has done very well and who has benefited from the rehabilitation programmes in prison goes out into the community, but the agencies do not come together to allow that person to continue on the programmes that they have benefited from. I am clear that there is something to be gained from looking at the situation in a more central way.

I have listened to the Prison Service and to the criminal justice social work service and I get the impression that each is arguing that it is better at doing that work. I think that it would be better to bring the two together and involve both in running the service. I ask the minister, in winding up, to consider whether there might be a greater opportunity for local accountability under a single agency structure. Could communities get more of a say in the methods or practices that we use to reduce reoffending?

I am miles behind what I was going to say, so I will summarise a point that I have made many times. There is a fantastic opportunity to end the vicious cycle of women's offending. I welcome whole-heartedly the establishment of the time-out centre. We must satisfy ourselves that that means that there will be a reduction in the number of women who go to Cornton Vale. Drug treatment and testing orders should also be available for

lower tariff crimes, which may happen under the McInnes proposals. As the minister said, we should not be afraid to consider ideas from other countries. Like Michael Matheson, I believe that it is worth considering weekend custody as a way of ensuring that someone is able to maintain their employment.

I welcome the approach that the ministers are taking to this issue. They are ruling nothing out and there is much to be gained from all of us chipping in ideas.

15:41

**Stewart Stevenson (Banff and Buchan) (SNP):** If we are prepared to change, we must change how we prepare. This consultation document is very thin.

I want to address some specific issues that may illuminate the debate. In doing so, I remind us all that, on 5 September 2002, the Minister for Justice said:

"We have always recognised the work of the staff at Peterhead as world class. We have always pledged that their work and the ethos that they have created will be protected."

He continued:

"Peterhead will remain open and will be the centre for the treatment of long-term sex offenders in Scotland."—[*Official Report*, 5 September 2002; c 13375 and 13386.]

At the time, I welcomed those comments warmly, both from a constituency interest and in the wider public interest of people in Scotland. It was and remains my view that where Peterhead has led on reducing reoffending, others should and can follow. Rehabilitation and the reduction of reoffending are at the heart of the ethos and focus of all staff at Peterhead and form its core commitment—as exemplified by the international recognition of its achievements and the award of beacon status by the office of the Prime Minister. If we do not reduce reoffending after conviction by using prison and people repeat their offence—if we simply cycle them out and they roll back in the door within a short time—the whole purpose of the conviction and punishment that brought them into prison is lost.

It is disappointing that the minister's consultation document makes no substantive reference either to the achievements of Peterhead in showing a way forward with a particular class of prisoners or to the way in which a single correctional agency might incorporate a national centre for long-term sex offenders. Peterhead is excellent in performance, if not yet in facilities. How does it fit in?

One would imagine that the Scottish Prison Service would wish to praise the regime at

Peterhead to the skies, but there is not a word about it. It is hard to escape the belief that SPS management continues to pursue an agenda to downgrade the work of the prison. We are making good progress on installing power in cells but, after 20 months, we have yet to find a way of eliminating slopping out. This morning's statement by the First Minister did not help in that regard.

There is little point in improving our record in reducing reoffending elsewhere if at Peterhead we lose the ability to do that for long-term sex offenders. This is not just a personal obsession of Stewart Stevenson, the member for Banff and Buchan, where Peterhead prison is located. Last week I received an e-mail from a prisoner—who has now been released—that praised the holistic approach of Peterhead and the staff who make it work. When considering reoffending and its reduction, the minister must not be dragged down the road of imagining that only programmes in prison will make the difference. Reducing reoffending—reorienting offenders in prison—is a dawn-to-dusk activity that involves all those with whom prisoners come into contact.

Prison visitors, chaplains, contractors and even MSPs do not meet prisoners unless they have been briefed on the aims and purposes in relation to changing prisoners' attitudes and beliefs. That is to ensure that none of us creates the opportunity for prisoners to escape from the relentless but humane pressure to reform by understanding the nature of their crimes and what they must do to prevent themselves from reoffending.

I am not persuaded of the need for a single, unified body, although I am less bigoted about that matter than is my colleague Nicola Sturgeon. I am delighted that Margaret Smith said that she was not yet persuaded of the need for such a body, but how she can then refuse to support an amendment that has that thought at its core baffles me. To support the SNP amendment is not to oppose the Executive. I say to her and to other members, "Courage, mes amis," and urge them to read the SNP amendment carefully and then vote for it at 5 o'clock.

I have in the past extended an invitation to the minister to visit Peterhead. I note in the consultation document that she intends to go round the country. I repeat my personal invitation to her to visit the staff of Peterhead prison and the Peterhead community, which supports what goes on in the prison and realises the importance of that work. Let me add a bit of spice to my invitation to the minister. Within a short drive from the prison is the United Kingdom's vegetarian pub of the year, which also has a good selection of vegan dishes. I will buy the meal if the minister will buy into Peterhead's lessons on reducing reoffending. I

support my colleague Nicola Sturgeon's amendment.

15:47

**Margaret Mitchell (Central Scotland) (Con):**

The debate on how best to reduce reoffending and to rehabilitate and reform offenders is an important one that has the potential to impact radically on the efficiency and effectiveness of the criminal justice system. By far the best way of reducing reoffending is to prevent an offence from being committed in the first place. Evidence from the Scottish Consortium on Crime and Criminal Justice shows that most adult offenders start committing offences as young people. Therefore, effective prevention involves identifying young children at risk as soon as possible, before a pattern of offending becomes established.

The consortium identifies a range of preventive intervention strategies for children at risk, which includes ensuring that they have quality pre-school education and that their parents are involved with, and receive a visit from, health professionals. Further, the parents should receive education in parenting skills. It seems that a multi-agency approach is much more effective than a criminal correction agency would be. I support the SNP's amendment in that regard.

Measures such as those to which I have referred, coupled with a greater police presence on our streets, help to prevent low-level offences, such as vandalism, from escalating into something more serious. However, for those who offend and reoffend, the appropriateness of alternative sanctions to custody should be considered, with prison remaining the ultimate sanction if all else fails. In the case of fine defaulters who have wilfully refused to pay, recovery should be made by deducting the fine from benefits or salaries, as the McInnes report recommended and the Conservatives have long advocated.

For other offences that might otherwise attract a short-term prison sentence, the appropriateness of imposing a custodial sentence or an alternative to custody is determined, in theory, by looking at the offence or pattern of offending and deciding whether there is a public safety issue. In practice, as Safeguarding Communities—Reducing Offending points out, court decisions are often based on what is available rather than on what is most effective. In other words, there is a resource problem because the alternative to custody is often not available. As Annabel Goldie pointed out, if a drug-related offence has been committed, it may be appropriate to consider a drug treatment and testing order, which requires an offender, if they consent, to undergo treatment for drug misuse. However, such orders are available only through the sheriff courts and are not an option in

Scottish district courts, which deal with the minor offences that tend to involve a concentration of young people. As a result of the lack of resource, the opportunity is lost for early intervention to impose the sanction that is the most appropriate to address the offending behaviour.

Alternatives to custody must be properly resourced if they are to work. That is especially the case in relation to community service orders and supervised attendance orders, both of which require intense input from social workers. Given the current shortage of social workers in Scotland, we must question how effectively such orders are being implemented. The minister said that additional resources are not always the answer. I agree with that, but the resource problem that I have outlined is real and affects our ability to deliver the sanction that can most appropriately address the offending behaviour. I call on the minister to take note of that and to act accordingly.

I do not know whether there has been a survey of the number of consultations that have taken place since 1999, but members might be interested to know that there have been more than 700. I call on the minister to consult a little less and to act a little more, especially by putting resources into alternatives to custody.

15:51

**Donald Gorrie (Central Scotland) (LD):** I have often criticised Executive motions for being bland, but I strongly recommend the motion in this debate, which examines the issue honestly and critically.

It is quite reasonable for people such as Margaret Smith and me to say that we are a long way from being convinced of the need for a single correctional agency. However, given that the Executive has issued a consultation document on the matter, it is not sensible for supporters of the Executive to say that they do not want such an agency. We may set out our concerns, but we must then give the consultation a fair chance and examine the matter carefully. The motion, rather than the amendment, is therefore well worth supporting.

**Stewart Stevenson:** Does Donald Gorrie—or any member of the Liberal party—intend to criticise the idea of a single correctional agency in his response to the consultation?

**Donald Gorrie:** Yes.

We must first try to find out what works. There are different points of view, as the difficulties over the Airborne Initiative showed. Some people thought that the project worked and some thought that it did not. We must thoroughly examine the difficult work of preventing offending and

reoffending, which can trespass into dangerous areas in which help is offered that might be risky. The Justice 1 Committee, which Pauline McNeill convenes, or another committee, should thoroughly evaluate the alternatives to custody and consider past approaches as well as look ahead, to identify what works and what we should invest in.

We need a coherent, national strategy, but there is no such strategy at the moment. Such a strategy would have to be delivered locally, because systems vary in different parts of the country. Some local authorities and voluntary organisations run good schemes. The strategy would have to include concordats between the Scottish Prison Service and the social work service, so that each service knew what it must deliver to the other. Interesting pilot schemes are going on in—I think—two areas, in which local criminal justice boards are chaired by sheriffs principal. Those schemes have developed from ideas that were put forward by the Crown Agent, Andrew Normand, and they represent good examples of the co-operation that is needed. We must work at delivering such co-operation locally in accordance with a national strategy.

However, Governments tend to provide very focused funds for particular schemes. It would be much better if they provided social work services with adequate funding and told them to get on with things as best they can. That would allow proper scrutiny to take place and improvements to be made in areas where those services are not delivering. In any case, it would be much better if they could introduce local initiatives without having to jump through hoops.

To achieve that, we need someone like the inspector of prisons who would be an inspector of alternatives to custody. Instead of having a uniform bureaucracy running the whole thing, we need a gadfly who will go around establishments, recommend good practice that others can learn from, criticise bad practice and help people to come together in a much better way.

Some very good projects are currently running in prisons. As prisons are overcrowded, they cannot deliver proper education and address people's offending behaviour. I recently visited the Fairbridge project, which has a good track record of working outside jails with difficult young people. It has been working inside jails for a couple of years and, over the past year, it has been very successful in helping more than 100 young people in prisons and in Polmont young offenders institution. The project seems to be interesting those young people in education. When, as a member of the Justice 1 Committee, I visited prisons once a week, I formed the impression that although prison education services were excellent,

they were never used because the system did not work like that. However, the Fairbridge project seems to have got over that problem.

We must invest more people and resources not only in alternatives to custody but in helping people earlier. Children's services are grossly under-resourced in staff and funding. The earlier we can help families and children with difficulties, the more we will reduce the number of people we have to deal with through custody or alternatives to custody.

15:57

**Patrick Harvie (Glasgow) (Green):** This afternoon's debate has one of those general, aspirational titles such as "Action to Promote Women", "Better Behaviour, Better Learning", "Improving Scotland's Health" or indeed "World Peace" with which few could disagree. As a result, I will address some general themes instead of looking at specific details.

Although a fair amount of cold water has been poured on the Executive's consultation document, I welcome it and congratulate ministers on taking the issue seriously. Such an approach is so much more constructive than some people's attitudes to issues of offending. Even in parliamentary debates, the language used in relation to these issues is punctuated by mindless name-calling for the sake of a few cheap tabloid headlines.

We should welcome many of the ideas in the consultation. If they are followed to a logical conclusion, they will force a move away from the tough on crime side of Labour's old slogan and require more of a focus on causes. One of the most important elements is the emphasis on support for released prisoners. A great deal could be achieved if the Executive could ensure that all ex-prisoners had the help that they needed to build a stable life on their release. As the consultation points out, that means addressing issues such as accommodation, employment, health services and family ties. However, it also means less tangible concepts such as hope, self-respect and a respected place in wider society.

I also greatly welcome the goal of ensuring that Scottish society views prison as the ultimate sanction for the most serious offenders and people who pose an unacceptable risk. However, the endorsement of retribution as a purpose of the prison system is not to be welcomed. Prison as a means of physically protecting the public from people who endanger them is of course indispensable. Prison as a place of rehabilitation is even better. However, the endorsement of the concept of retribution by an Executive that has stated its own commitment to a Christian society is wrong. I am not a Christian and I am certainly not

a theologian, but I seem to remember something from the worship that I endured in schools about forgiveness and turning the other cheek. How sad it is to read this week that such sentiments will still be chanted and sung in our schools when retribution will still be a goal of our justice system.

**Cathy Jamieson:** Does the member accept that what I have said today—and, indeed, the thread that runs through the whole consultation document—is about getting offenders to take responsibility for their actions and about putting respect back into our local communities? Does he accept that there is nothing wrong with either of those concepts?

**Patrick Harvie:** I can endorse those concepts, but I cannot endorse this from the Executive's consultation document on reducing reoffending:

"Prison sentences are necessary ... to fulfil the goals of retribution and deterrence."

That language is entirely unhelpful.

Abandoning the notion of retribution does not mean opening the jails and letting everyone walk free, any more than forgiveness has to mean turning the other cheek. The Executive endorses the principle of restorative justice but seems determined to place it within a justice system that is based on notions that are directly opposed to that principle. The way forward has to be a truly restorative system that deals with more than just the question of who committed what crimes and how we should express society's anger about them. Such a system would be more likely to succeed in reducing reoffending. It would mean using prisons—prisons that are adequate and that treat human beings as human beings, rather than the squalid warehouses that still exist—only to protect society from danger or to ensure compliance with rehabilitation programmes that are otherwise available in the community.

**Johann Lamont (Glasgow Pollok) (Lab):** Does the member not agree that it is entirely reasonable for someone who is the victim of a serious crime to want that crime to be marked as a serious crime? Sometimes it is not enough just to establish that the person who committed the crime will not be able to commit it on someone else. Some crimes are sufficiently serious that they have to be marked as such, even if the people who committed them are not a threat to anyone else.

**Patrick Harvie:** The next paragraph of my speech is about victims. I hope that it will answer Ms Lamont's point.

The Executive has given high priority to victims' needs and for good reason. Supporting victims can reduce the impact of individual crimes and the fear of crime in general. However, to focus only on victims would be as misguided as to ignore them

completely. Such a focus can lead to a sense that all we have to do is react to crime, rather than explore new and challenging ideas. It can also reinforce the notion of a clear division between victims and offenders. In reality, many of us are both victims and offenders at various points in our lives. Pauline McNeill's question in today's First Minister's question time on slopping out in prisons reminded me of that. It is too easy to decry the payment of compensation to prisoners by labelling them as convicted criminals. They are convicted criminals, of course, but they are also the victims of a human rights violation. It is their victimhood that demands compensation. Offenders and victims are not always separate groups in society. A recognition of that would help to promote serious consideration of what are complex issues. Pointing the finger of blame can never do that.

I sincerely congratulate the Executive on opening debate on this issue, and I congratulate Cathy Jamieson on her assertion, in her speech today, of her belief in rehabilitation, and on her acknowledgement of the harm that prison can do. However, society is a long way from taking those ideas to their logical conclusion. I hope that the results of the consultation will show that to be true.

16:03

**Jackie Baillie (Dumbarton) (Lab):** I am sure that members will be wise enough to resist Annabel Goldie's consistent attempt, however charming, to rewrite history. Reoffending is not a problem that simply appeared five years ago; it was a problem during the dark decades of the Conservative Government and I did not see Annabel Goldie attempting to do anything about it then.

It is worth reminding ourselves of the context in which we approach this debate. Three statistics jump out: Scotland has the fourth highest rate of imprisonment in the European Union; in 2002, 82 per cent of custodial sentences were for six months or less; and 70 per cent of all individuals who were convicted of a crime or offence in 2002 were actually reoffenders.

The aim of putting someone in prison is twofold. Prison is about punishing the offender; I hope that Patrick Harvie is not suggesting that people who commit serious crimes should not pay for them in some way and should be merely let off. However, prison is also about rehabilitation, which enables us to stop people committing crimes in the future.

Why are we failing to deter so many individuals from reoffending? It may seem obvious to say that prison isolates offenders from their families and their communities. Isolation may indeed be necessary for those who are convicted of serious crimes, but the majority of offenders who are sent

to prison on less serious charges suffer from it—it is probably the hardest hurdle for them to overcome on their release. An ex-prisoner will often struggle to find a job or even to secure accommodation. They might have lost touch with family and friends and might be suffering from drug or alcohol addiction. Being released from prison into a community in which there is no apparent support network makes it more, rather than less, likely that the individual will reoffend.

Rehabilitation is a difficult task, especially in the short term. When an offender is serving a sentence of six months or less, addressing the root causes of their behaviour and providing rehabilitation is certainly challenging and I am sure that the minister will be aware of the concerns that exist about the efficacy of the programmes that are available in prisons for those offenders who are on short-term sentences. We are beginning to acknowledge that, given the complexity of need, the most effective sentences—whether they are custodial or non-custodial—are those that take into account the much broader problem areas of the offender's life, such as health, addiction, literacy and employment.

Prison is an expensive resource; it costs about £15,000 to fund a six-month prison placement. Do not get me wrong—if that provided the answers, we might not be having this debate, but it is clear that prison does not tackle reoffending. I think that it is time that we considered more effective and long-term alternatives to short-term prison sentences.

What works? There are examples of—and better awareness and use of—community reparation as an effective means of dealing with offenders. In addition, the findings from SACRO's alcohol education probation programme have highlighted the positive effects of alternatives to custody. The programme was designed to give participants a much better understanding of the effects of alcohol and a greater ability to control their use of it. Of the 68 people who completed the programme, 71 per cent had no further convictions after one year.

Another example of a reasonable service to do with tackling reoffending is the constructs project in West Dunbartonshire, which acts as an alternative to probation or prison. Offenders focus on addressing the consequences and impact of their offending behaviour and on some of the underlying causes, such as alcohol and drug abuse. Whatever the intervention, it is essential that it is provided as early as possible—before the offending becomes more serious—that it addresses individual needs and that it is available consistently throughout Scotland.

I say to Patrick Harvie that we must acknowledge that there will be people who still require to go to prison. We must get much better

at providing throughcare and aftercare for those people. It is particularly damning of the Prison Service that offenders can be released into the community without having a home to go to. That means that they end up sleeping rough, the consequence of which is that one of the first things that they do is to reoffend.

As part of the consideration of other ways to reduce reoffending, I recognise that there will be a debate about structural change, but I think that we have the emphasis slightly wrong. Before we start to have a debate about institutional clutter, it is much more important for us to agree what works, what we need to achieve and what our objectives are. In my view, we need to broaden the scope of our search for answers on reducing reoffending. The statistics make it clear that not all the answers lie exclusively with the criminal justice system or prisons. We must realise that if we are to achieve long-term success as opposed to a short-term fix, we need to focus our attention and resources on reducing levels of reoffending.

16:10

**Mr Kenny MacAskill (Lothians) (SNP):** I assure you, Presiding Officer, that I will be judicious in my use of language in this debate.

**The Deputy Presiding Officer:** No reoffending.

**Mr MacAskill:** I will enter into the spat between Miss Goldie and Ms Baillie on the stats. A great deal of sense has been spoken. The statistics are not new. It is almost 25 years since I embarked on a traineeship as a solicitor in Glasgow in a criminal defence firm, and the statistics were as bad then as they are now. The blame does not lie with one Government, past or present. To some extent, the statistics are a mark of shame on all society.

I do not wish to exculpate the Executive, but reoffending is a major issue, and the Executive deserves credit for addressing it. However, it is not promoting any action. We stand for election to implement a manifesto. The Executive is correct to consult, because it is important to do so in a democracy—we do not wish to have tyranny by the majority—but it is important that at some stage we stop the talking and start the action, as Nicola Sturgeon said. At the end of the day, we know roughly where we have to go—it was mentioned by Jackie Baillie and others—we know what action has to be taken, and we have to have the political courage to take it.

**Hugh Henry:** A number of members, including Kenny MacAskill, have criticised the amount of consultation. Does Kenny MacAskill suggest that we should stop consulting completely and just act?

**Mr MacAskill:** Absolutely not. There is a time and a place for consultation, but there is a time

when it has to stop and action has to be delivered. We are keeping our options open regarding the single correctional agency. Consultation should take place on that. However, if we recognise that there is a fundamental problem with the number of people who are going to prison, and a failure to examine alternatives, we have to take action.

That brings me to the statistics, which are shameful. We all recognise that we have a demographic problem, in that we have a declining number of young people. With that declining number of young people, we should see a decline in the rate of offending. Any criminologist would say that. The expected decline in the rate of offending is not unusual or peculiar to Scotland; it goes with the terrain. However, the statistics are clear that, notwithstanding the reduction in the number of young people in our community, more people are going into prison. Something fundamental is wrong. One reason for that situation is drugs, which have changed matters fundamentally. I see that the Minister for Justice agrees with that. Drugs have changed the nature of the game.

I no longer practise law, but I have held discussions with criminal lawyers and people who are involved in the protection of children and children's services, and they all accept that things have moved on and that drugs are a fundamental problem. We will not solve the drugs problem in our society simply by locking up more and more people. That is not to say that, in many instances, people who take drugs should not be put in prison to protect the public and for retribution. However, the situation has changed, and we are putting far too many people behind bars who should be dealt with differently. Those people are not just female offenders or people who cannot pay their fines, but people who have a drug problem. We must address that situation, because it is a social problem, not a criminal justice problem.

I disagree with Mr Harvie when he says that retribution should not apply. I do not mean that we should go down the route of an eye for an eye and a tooth for a tooth, and replicate Saudi Arabian justice. The purpose of having community service orders, compensation orders and the ability to impose fines is to recognise that society has a right to say, "You have transgressed. You have acted in a way that is unacceptable. Not only do we wish to stop you and ensure that you do not reoffend, but we wish you to make recompense to your fellow citizens who have suffered as a result of your behaviour." I see nothing outrageous or unreasonable in that.

**Patrick Harvie:** In what way is a community paid back or recompensed, rather than protected, when someone is put in prison?

**Mr MacAskill:** I was referring to the purpose of community service orders and compensation orders. A community is not paid back when a prison sentence is given, although it often receives protection. I have had the misfortune to represent sociopathic people from whom society needs to be protected. If Patrick Harvie does not realise that some people in our society are highly dangerous and need to be incarcerated not only for our protection, but for their protection, he needs to make a deeper investigation of the social problems that exist.

My other criticism of the Executive is on the idea of a single correctional agency, on which I am not sold. As a representative of the city of Edinburgh, I am aware of the City of Edinburgh Council's proposal along the lines of, "Let's kick the social work department." I admit that, in 20-odd years as a lawyer, I gave the social work department a fair kicking at times. People frequently attack social work departments; they are seldom defended. However, the matter must be viewed holistically. I worry that if we put criminal justice social work in prisons together with the prisons agency, we may not realise the necessity for holistic social work that looks outside the prison walls to the family, drug use and so on. A single agency might replicate some of the problems that may arise in Edinburgh as a result of the Labour group's proposed changes in the social work department. Politicians frequently abuse such departments—I am as culpable as anyone—but it is about time that we had the courage to defend them and protect the broader benefits of their work.

16:17

**Colin Fox (Lothians) (SSP):** Lenin, a man who knew about spending time in prison, once advised that ours is not to laugh or cry, but to understand. However, we sometimes cannot help but cry. Scotland's record on sending people to jail and reducing reoffending is woeful. As the minister and others have said, we have record numbers of people in jail—at present, the figure is 6,400 and some estimate that it will reach 8,000 by 2012. We must not forget the terrible conditions that exist in many establishments, which include overcrowding and slopping out; Donald Gorrie mentioned that. As members have said, the reoffending rates are disappointing, with 60 per cent of offenders reoffending within two years.

Many questions arise from those figures. Why do we have those levels of reoffending? Who are we dealing with? Who are we trying to rehabilitate? Why are we failing? The minister has said today and in the consultation document that individuals are responsible for their actions. Of course they are, but that is only half the answer and half the question. I remind the minister that,

compared with the average citizen, prisoners are 13 times more likely to have been in care, 10 times more likely to have been a regular truant, 15 times more likely to be HIV positive and 2.5 times more likely to have had a family member convicted.

The Government's social exclusion unit highlights that 80 per cent of prisoners have the writing skills of an 11-year-old; that 65 per cent have the numeracy skills of an 11-year-old; and that 50 per cent have the reading skills of an 11-year-old. The figures also show that 70 per cent of prisoners have a mental disorder and 70 per cent have a drug problem. We must remember and reflect on the fact that that is the type of person with whom the Scottish Prison Service deals. The social exclusion unit's point is that the link between social exclusion and reoffending is inextricable. Unless we recognise that central point, any plans to reduce the level of reoffending will be condemned to failure.

**Hugh Henry:** Comment has rightly been made about the need to prevent crime and we have heard that in some circumstances it is right both to punish the individual and protect individuals and the community. Colin Fox describes, graphically and correctly, a tragic situation whereby too many people are in prison because they are the product of individual circumstances, family circumstances and the kind of community that they come from. I accept everything that he is saying. However, does he accept that the difficulty that we face is that the current system is clearly not delivering in the ways that he suggests it should? We are trying to find alternatives to a system that is clearly failing.

**Colin Fox:** I thank the Deputy Minister for Justice for his intervention and I will come to that point.

This is an important debate, in the context of the points that I have made. What must strike any observer is that there is a strong desire in every quarter—I include the Executive—to reduce the reoffending levels and the prison population, but that we are failing to achieve that.

This morning, I attended a protest that was held outside the City of Edinburgh Council headquarters. The protest was about plans to break up the council's social work department and separate the functions that were previously integrated; the plan is to move from a single agency to a multi-agency approach. Kenny MacAskill mentioned that. It is interesting that the criminal justice social work department has been left high and dry—people in that department believe that they are awaiting absorption into the single agency that is outlined in the Executive's document.

The timing of the debate is curious. The consultation document makes it clear that the deadline is 25 May, so there are still about four weeks to go. We are having the debate before the consultation is complete and before the submissions from other organisations have been published.

**Cathy Jamieson:** Will the member give way?

**Colin Fox:** I am sorry, but I do not have time.

I hope that the Executive is not trying to pre-empt the consultation and besmirch the democratic process. If criminal justice social work and the Scottish Prison Service are absorbed into one agency, the democratic accountability of current social work services will be lost, criminal justice social work will be separated from the rest of council social work services and another quango will be established. No wonder Unison, the Association of Directors of Social Work, COSLA and many others are opposed to the plan. Like other members, I will support Nicola Sturgeon's amendment.

Social work in Scotland has to be sold as a profession. The Executive has to do more to promote social work and to celebrate the thousands of successes that it has every day. The public perception of social work is woeful and social workers are the whipping boys for every failure, so it is no wonder that there is a crisis in recruitment. The Executive needs to celebrate and promote the successes of social work and encourage more young people and adults who are looking for a career change to go into the profession and have the rewarding experiences that it can offer.

Other members, such as Jackie Baillie, have posed the question, "What works?" The consultation document refers to the experience in Finland, which started from the same levels of custody and reoffending as us. Finland has successfully reduced both those levels to among the lowest in Europe, because it has chosen to opt for conditional and community services instead of custodial sentences. The difference between Finland and Scotland is that there is a political will in Finland to go down such a road, whereas no such political will exists here.

Matters relating to rehabilitation, such as supervision and providing every offender with a dedicated social worker, have cost implications, but the cost of failure is bigger still. It costs £32,000 to keep somebody in jail for a year and ex-prisoners in Scotland are responsible for more than £1 billion-worth of crime. The answer is to have fully funded programmes that are accountable, assessed and evaluated.



16:24

**Maureen Macmillan (Highlands and Islands) (Lab):** This is an extremely important debate, because the consultation focuses us on what society requires from our criminal justice system. I say to Colin Fox that the debate is part of the consultation process—his views have now been heard publicly as part of the consultation. We must also focus on how we deliver.

There must be punishment for those who offend—the punishment is being locked up in prison or being made to do community service. However, we need an integrated strategy to prevent offenders who have served their punishment from offending again and again. That has not been dealt with sufficiently in the past. To make that happen, we need consistent, properly evaluated and robust rehabilitation programmes and throughcare and aftercare for offenders, whether they are prisoners or people who are doing their time in the community. We need a thorough evaluation of community disposals, because although the figures say that 62 per cent of prisoners reoffend and that only 45 per cent of those who have community disposals reoffend, we do not know whether we are comparing like with like and what types of offender go to prison or perform community service.

Although we think that the programmes at Peterhead are excellent, we do not know whether they work, because we do not have an evaluation of them.

**Stewart Stevenson** *rose*—

**Maureen Macmillan:** I know what Stewart Stevenson wants to say, so I will not give way.

**Stewart Stevenson:** Maureen Macmillan can say it for me.

**Maureen Macmillan:** I know that everything seems fine so far, but we also know that the effectiveness of programmes for sex offenders must be examined in the long term.

**Stewart Stevenson:** Will the member take a brief intervention?

**Maureen Macmillan:** No, thank you. I want to move on.

Evaluation has to be done. In the previous session, the Justice 1 Committee spent months and months on examining alternatives to custody. In the end, we could not make a decision, because no proper evaluation was available of what the alternatives did. We had a gut feeling that they produced the goods, but we had no evidence to support that feeling. We could see that some good programmes were offered, but they were not consistent throughout the country.

There is strong pressure to replace all very short prison sentences with community disposals, because short sentences disrupt offenders' lives to the extent that reoffending becomes almost inevitable. However, that must be balanced against the need for appropriate punishment and community safety. We need to consider not just prison versus community disposals, but how the prison experience can rehabilitate and allow better engagement with family problems, housing problems, substance misuse and—most important—basic literacy and numeracy problems. At present, those needs are more easily addressed by multi-agency working through the community disposal route, but it should not be impossible to have something like that in prisons and certainly when an offender leaves prison.

It is difficult to understand the prison authorities' acceptance that nothing much can be achieved by way of rehabilitation for prisoners who serve sentences of under four years. There is no statutory requirement to support such prisoners on release. Four years is a long time and it is enough time to make a difference to somebody's life.

Prisons have some good programmes on anger management and very good examples of education. I would like basic literacy and numeracy to be an integral part of the prison regime. At the moment, education seems to be optional and many prisoners prefer not to follow education programmes but to earn money working—no matter how mindless the task. I would like prisoners to be encouraged to engage in education programmes, perhaps through financial incentives.

Work in prisons is hit and miss. Granted, any kind of work is better than none, but we should teach prisoners transferable skills that can be used in the outside world. It would be preferable to provide prisoners with Scottish vocational qualifications or certificates of competence in skills that can help them into employment when their sentences are over. The availability of work in prisons should not depend only on outside organisations awarding contracts to prisons.

In my visits to prisons in the past five years as a member of the Justice and Home Affairs Committee and of the Justice 1 Committee, I have become aware from speaking to prisoners that they are terrified of what lies in store in the outside world. After nine or 10 years behind walls, they worry about where they will live, how they will make a living and how they will interact with the community. Organisations can help. The Helping Offenders Prisoners Families project that I came across at Saughton aims to give excellent support, but it is not replicated throughout the country.

In Aberdeen, the Justice 1 Committee was told that men leaving prison walked straight into the

clutches of drug dealers. The police even pointed out the corner where that happened. In Inverness, an ex-prison officer who now works for SACRO told me that ex-prisoners would turn up at prison gates to ask for help from prison officers who could not help them because their job ended when the prisoner was released and they no longer had a role.

We need a seamless transition from prison to support networks. Criminal justice social workers take over from prison officers. They do a tremendous job, but they are severely overstretched and are very aware of the almost insurmountable difficulties that long-term offenders experience with integrating. One Saughton inmate who was serving his third term told me that each time he was released from prison, he went straight to the pub, got drunk, assaulted someone and went straight back to jail. We must be able to intervene between the prison and the pub and between the prison and the drug dealer.

I know from criminal justice social workers that many offenders with whom they deal have been victims of physical or sexual abuse as youngsters. We must therefore address their psychological needs and low self-esteem.

We do not have an easy task ahead. There are questions about how support will be delivered and we must be careful that we do not alienate any of the players. I know that criminal justice social workers in particular would welcome a chance to make their views known.

**The Deputy Presiding Officer:** We now move to winding-up speeches.

16:30

**Mike Pringle (Edinburgh South) (LD):** I start by addressing the SNP's amendment, which suggests inserting at the end of the motion the words:

"but is, as yet, not persuaded of the case for a single national correctional agency."

I say to the SNP that if it had put in the words "or against" after "the case for", the amendment might have been more successful.

The raw figures appear to paint a gloomy picture of reoffending in Scotland—the minister and many other members have referred to that. Some 60 per cent of young offenders and 44 per cent of adult offenders reoffend within two years of their release. That is a damning figure that this country cannot be proud of. The only glimmer of hope is that things are better than they were under the Tories, when 70 to 80 per cent of juveniles leaving prison custody reoffended.

Today's debate has been timely, as people are now beginning to realise what the Liberal

Democrats have been saying for some time. Prison is simply a training ground for criminals and does not work for a vast number of people. I repeat what Jackie Baillie said. Some 82 per cent of prison sentences are for six months or less and there is no statutory aftercare or supervision for people who have received such sentences. Margaret Smith referred to the fact that many of those people—of course, many are young people—simply do not need to be in prison. The effect of those short sentences is that victims do not get the justice that they deserve and criminals will not in any way be turned away from their behaviour.

The Liberal Democrats have consistently emphasised the need for a rehabilitative and restorative approach. Such measures would include drug treatment and testing orders, electronic tagging, acceptable behaviour contracts, supervised attendance orders and speeding up community service programmes. I entirely agree with Kenny MacAskill, who referred to people who take drugs and the number of people who are in prison for having very small amounts of drugs. Yesterday, we heard from a chief constable at the joint meeting of the Justice 1 Committee and the Justice 2 Committee on the budget that often criminals are taken to a police station with tiny amounts of cannabis on them and are then charged; many of them end up in prison. We must seriously consider that area.

It is important to discuss the management of offending, but more important is how we ensure that the victims get the justice that they deserve, that prison works for the small number of dangerous criminals and that non-custodial sentences focus on educating people away from offending and towards recompensing victims.

The work of Fairbridge, which is based in Leith in Edinburgh and to which Donald Gorrie has already referred, is a good example of what can be done. Fairbridge runs access courses in Scottish prisons involving 100 young people. Few of those young people have formal qualifications, 45 per cent have no experience of work and 26 per cent have difficulties with reading and writing. Since January, 77 per cent of those who have been released continue to engage with Fairbridge, although—sadly—20 per cent have returned to prison. For a good number of those young people, perhaps the way forward is for engagement to happen before they enter prison.

Annabel Goldie confirmed that she wanted to end automatic early release. It is sad that the Tories still want simply to lock up more people. I assume that if the policy of automatic early release was ended, we would end up with more people in prison, but surely the debate today is about keeping people out of prison. The Tories' policies

are focused on custodial sentences and punishment.

**Miss Goldie:** Mr Pringle misunderstands what I said. Automatic early release is release from prison for people who have had a sentence imposed and for whom, therefore, in the opinion of a judge, prison has been deemed appropriate. I want to get rid of the completely dishonest arithmetic that is involved in imposing prison sentences. The public overwhelmingly wants that, too, and it would not change the discretion of the court to determine when prison is suitable.

**Mike Pringle:** My point was that such a policy would mean more people ending up in prison. The overwhelming evidence shows that custodial sentences do not work for the majority of criminals. They do not act as a deterrent and mean that victims are more likely to be subject to further attacks.

I refer to Patrick Harvie's comments briefly: prisons are about retribution—prison is society's retribution, as other people have said. He might not like it, I might not like it, but it is a fact.

A topic that, sadly, is not covered by today's motion is that the best way in which to deal with offending is to make sure that it does not happen in the first place. At yesterday's joint meeting of the Justice 1 Committee and the Justice 2 Committee, I was pleased that the chief constable of Strathclyde police put it on the record that there have never been more police in Scotland than there are now. That shows the commitment that the Executive and the coalition have to policing. Although I disagree with the Tories, the issue is about more police being on the beat.

I welcome the consultation, but I remain to be convinced whether the centralisation of services is the best way forward. That approach would remove local accountability for the community-based sentences that are administered by council social work departments. We need an organisation that is locally based and which can deliver the key aims and objectives that we all want, subject to local conditions.

The idea that organisational restructuring will have a significant impact on reoffending is misguided. I hope that the consultation focuses on the real barriers to reducing reoffending, which are sentencing policy and funding, rather than bureaucracy. We all want a criminal justice system that gives victims justice and prevents the criminal from reoffending, but whether a central agency that would control all prisons and restorative justice schemes is the way forward remains to be seen at the end of the consultation process.

**Stewart Stevenson:** On a point of order, Presiding Officer. Under rule 8.2.6 of standing orders, would you be minded to accept a motion

without notice, to accept an amendment to amendment S2M-1219.1, which would substitute "of" with the words "for or against" if I provided that to you in writing before 5 o'clock?

**The Deputy Presiding Officer:** Although I appreciate the member's motivation, and I am seriously tempted, I am not minded to accept such a motion on this occasion.

16:37

**Bill Aitken (Glasgow) (Con):** This has been a good debate, predicated in part by the fact that the Executive's motion encouraged a fairly rational discussion. At the end of what has been a difficult couple of weeks for the minister, she will be relieved to hear that, like Annabel Goldie, I am not about to embrace her on the chamber floor. The Deputy Minister for Justice will be even more relieved.

A number of the points that have come out of the debate are worthy of being examined in greater detail. The minister, like Nicola Sturgeon and Margaret Smith in particular, misinterprets certain figures. It is true that the recidivism rate for those who have served custodial sentences is unacceptably high. Pauline McNeill was right to highlight that, when one compares that rate to the recidivism rates for the other disposals, it is not totally out of synch with them. Those who have been sentenced to custody are at the heavier end of the criminality scale and, in that respect, the fact that 60 per cent of them reoffend within two years is hardly surprising. That the 58 per cent who are made subject to a probation order reoffend is disturbing; it is equally disturbing that the 42 per cent who are sentenced to community service reoffend.

We should look at other figures, including one that will make disturbing reading for us all, namely that for every 100,000 of the Scottish population, 115 people are in jail at any one time. That is a depressing figure. It is equally depressing that for every 100 people in Scotland, 8.3 crimes are committed. If one compares our figures to those of some of our European partners, the picture becomes even more disturbing. In Spain, the figure is 2.3 crimes per 100 people and in Portugal, the figure is 3.6 crimes per 100 people. However, Spain locks up almost identical numbers of people as Scotland and Portugal locks up more, at 124 per 100,000. Therefore, the argument might be that prison works.

I would like to spend some time talking about the alternatives that do not work, although they could be made to work with a little more foresight and force and much more imagination. The vast majority of disposals imposed by Scottish criminal courts are fines, and the rate of non-payment of

those fines is totally and utterly unacceptable. Although the Executive has introduced the supervised attendance order as a non-custodial alternative to those fines, I do not think that that will work, as I have said before. However, what undoubtedly would work and what would remove the problem of people going to jail for unpaid fines—which nobody wants—is for those fines to be deducted from salaries and benefits. I am sorry to keep banging on about that, but until such time as the minister is prepared to do it, we will have the problem.

**Cathy Jamieson:** Bill Aitken keeps banging on about it and I keep banging on with the same answer. The courts have the power to do that at present in certain circumstances.

**Bill Aitken:** The minister is well aware of the convoluted process that the courts are required to go through. Contact must be made with the Benefits Agency in each individual case, and it is up to the Benefits Agency, not the court, to decide whether the benefit can be deducted at source.

**Cathy Jamieson:** Bill Aitken will also recall that we had an interesting discussion on the recommendations of the McInnes review. At that time, his party agreed that the process to which he refers was a wasteful use of both court time and police time, and that it would be better to have a separate agency to deal with the issue of fine collection.

**Bill Aitken:** I shall come to that later in my speech, but until such time as fines are paid, we will have a problem, because fines do not bite and they do not deter people from criminality.

I am greatly in favour of community service, because I think that it has the ability to bring firmly home to an offender the consequences of their misbehaviour, especially where the offence of vandalism is concerned. The last time that I asked the Deputy Minister for Justice's much lamented predecessor about the completion rate for community service orders, I was told that it ran at between 60 and 75 per cent. Frankly, that is unacceptable. Equally frankly, I have some difficulty in accepting those figures as totally accurate.

This may be apocryphal, but I understand that social work departments regard a 50 per cent compliance rate as acceptable, and the number of breaches reported to sheriff courts throughout Scotland indicates that that is the attitude that social work departments are adopting. Until people actually have to do community service and comply with the order of the court—which I stress is a direct alternative to custody—community service orders will simply not work either.

There is concern that there should be such a high recidivism rate and people are asking why

probation orders are not working. I have to say, frankly, that I do not know, but it seems to me that social work departments, much as they may be defended by Colin Fox, are not being nearly hands-on enough with offenders. I accept that there may be a resource problem, but that is something that must be looked at.

There have been some interesting contributions to the debate. I quite admired Stewart Stevenson's attempt to get the Liberals to make a decision. Stewart is not normally so naive. He asked Margaret Smith how she could speak for something and then vote against it. The answer is that she is, after all, a Liberal.

16:43

**Mr Stewart Maxwell (West of Scotland) (SNP):** It has been interesting to listen to the debate. I have never seen anybody look so pale as Mike Pringle looked when Stewart Stevenson raised his proposal for a motion without notice. For some reason, the Liberal Democrats have been twisting and turning on a rather pedantic point about our amendment. Let us be clear about what the amendment says and what its purpose is. It says that we are "as yet, not persuaded". That means that we are open-minded and that we will listen to the arguments and the debate. The purpose of the amendment is to push the Executive to present evidence that makes the argument for a single correctional agency, if that is what it believes in. If it produces convincing, persuasive evidence, we will back that proposal. That is what the amendment says, and it should be taken in that spirit. Given that all three of the Liberal Democrat speakers in the debate spoke against the single correctional agency, or had doubts about it, I ask the Liberal Democrats to reconsider their position and to support the SNP amendment.

**Margaret Smith:** We have an open mind and a neutral position on this issue. However, the SNP's amendment says that the party is

"as yet, not persuaded of the case for a single national correctional agency."

My point is that surely the neutral position during a consultation is to be undecided about the case not only for but against. I would have been interested in what might have happened if there had been an amendment to the amendment.

**Nicola Sturgeon:** That is just pathetic.

**Mr Maxwell:** I am sorry that the Presiding Officer did not accept the amendment to the amendment because it would have been interesting to see the Liberal Democrats twisting and turning to get out of that one. As Nicola Sturgeon says, the Liberal Democrats' position is pathetic.

Many speakers, such as Pauline McNeill, covered the issue of custodial sentences versus non-custodial sentences. I will not go over all the arguments, but I will say that it has been entirely appropriate to have this interesting debate as part of the consultation exercise—I do not agree with what Colin Fox said earlier on that point.

A number of members, including Annabel Goldie, talked about the idea of electing members of police boards. Although the idea is interesting, it is not one with which I agree. I do not think that it would have any effect on reoffending or criminality and I do not see the purpose in it.

I want to concentrate on two examples of SNP policies that could cut reoffending and were in our manifesto last year.

The idea of unit fines must be given serious consideration. Where is the justice in a system that results in someone who earns £100,000 a year paying the same fine as someone who earns £10,000? Proportionally, who pays more? Surely justice is meant to be equal for all and seen to be equal for all. The only fair way to do that is to take into account the ability to pay. We must make the fine fit the circumstances of the person so that both well-off and poor offenders feel the sentence equally. A blanket fine system penalises the poorer members of society much more than the well off. Indeed, it could be argued that fines that are not related to income levels almost completely negate the punitive effect of fining the better off. If everyone knew that the fine that they faced was going to be related to their financial circumstances, that might influence their behaviour, possibly leading to a decrease in the amount of minor offences committed and the consequent savings that that would provide.

The second issue that I want to highlight was mentioned earlier by Pauline McNeill and is strongly supported by the SNP: weekend or flexible detention for certain types of offenders. That policy has worked well in other countries and we should seriously consider it. The Executive's consultation document says that, while offenders are in custody

"their links with their communities and families are disrupted, thus making it difficult to reintegrate even after only a short period."

That is absolutely correct.

**Bill Aitken:** Will the member give way?

**Mr Maxwell:** I do not have enough time.

Weekend imprisonment would allow the offender to continue in employment, keep close contact with their family and help them to avoid falling into the crime culture in prisons. The evidence backs up the view that retaining employment and

keeping families together helps to stop people spiralling down into the role of repeat offender.

The other major benefit of flexible detention is that it keeps the offender out of society when they are most likely to reoffend. Using prisons to protect communities is entirely appropriate. On that point, I disagree with Patrick Harvie's comments. Clearly, the benefit is that the imprisoned person is out of the community and does not have the opportunity to reoffend and disrupt the lives of the people in that community. Such a payback is extremely worth while.

**Colin Fox:** Will the member give way?

**Mr Maxwell:** I am sorry, but I do not have enough time.

While that type of sentencing is not appropriate for every offender, the merits of its use must be clear to all with regard to offenders such as football hooligans and those convicted of drunk-and-disorderly offences, including breach of the peace and common assault. When flexible detention has been used abroad, football hooligans and those who are guilty of drunk-and-disorderly offences have been sentenced to spend their weekends in prison, which takes away their opportunity to get into the circumstances in which they offend.

The Executive's consultation document estimates that

"13,000 children in Scotland each year are affected by the imprisonment of a parent".

That is an horrendous and appalling figure that shames our society. Weekend imprisonment impacts on family life but not to the extent that a one, three or six-month prison sentence would; such sentences result in the loss of employment and the breaking up of family life. The introduction of weekend detention would give courts greater sentencing options without necessarily increasing prison numbers.

During the debate, we heard many good speeches from across the chamber. Kenny MacAskill's speech about the change that drugs have wrought on our society was particularly relevant.

This has been a good, open debate and I am glad that it will form part of the consultation process. I hope that members will support the SNP amendment in the spirit in which it is intended.

16:50

**The Deputy Minister for Justice (Hugh Henry):** It is important to have a debate at this stage and I reassure Colin Fox that there is nothing sinister in its timing. We are genuinely

trying to encourage a discussion on an issue that is not just complex, but troubling for our communities, for us as politicians and for many people who engage with the system.

Before I move on to the particulars, I will reinforce some of the points that Cathy Jamieson made. The context of the debate is that all members in the chamber, and too many people throughout our communities, know someone whose life has, directly or indirectly, been affected, damaged or blighted by crime, which has sometimes been committed by someone who has reoffended. Families are touched by robbery or the robbery of a family member. Houses are broken into. People are assaulted or mugged. People's lives are blighted and damaged by others who behave irresponsibly around them. Families are tragically damaged by the actions of someone who commits a criminal offence. Many parents despair because they see their child enter into a life of crime owing to drugs or drink, for example. Some families try to help the child and devote themselves and their time and money to get the child out of the problem; sometimes they fail, they despair and their health is affected. We all see the human consequences that crime and reoffending bring.

Colin Fox graphically described the tragedy that many people who end up in prison face before they get there. People enter into a life of crime for a variety of reasons. Some have come through the care system, some have reading and writing difficulties and some come from difficult family backgrounds. That is not to excuse their individual actions or to deny their individual responsibility, but it is right to try to understand what brings people to that desperate situation.

A number of members have spoken about the need for more social workers and asked whether our proposal is an attack on them. It is absolutely not an attack on social workers. It is right to consider the need for more social workers. Indeed, I have to say that, even before she was the Minister for Justice, Cathy Jamieson probably did more than anyone in the Parliament to try to increase the number of social workers who are employed in Scotland and the number of people who are training to be social workers. She has a long personal and professional commitment to improving the social work profession and its status. That fundamentally remains our approach, but we also need to recognise that to give everyone who has a criminal conviction a social worker is not the solution. The unique skills and influence that social workers can bring are imperative, but we should not underestimate a person's individual responsibility to change their life for the better and we cannot emphasise enough the responsibility that they have to the community.

In an excellent speech, Kenny MacAskill talked about a range of factors, but particularly the change that drugs have brought to our communities and to the criminal justice system. We know the damage that drugs—sometimes building on an alcohol problem—can do. That all needs to be addressed, whether in the community or in prison.

We know that, when a person ends up in prison, a link is damagingly broken between them and the community so that they are unable properly to engage with family, friends and others. They are then sometimes not properly prepared for coming back into the community. We need to address that problem and we are worried that no proper work is being done in that respect for short-term prisoners. We believe that it is necessary to do something.

Nicola Sturgeon needs to make up her mind. She said that we need action, not talk, but then she said that we need a debate. That contradiction is typical of her. In fact, we need a debate, then we need action. I say to her and to other members that COSLA and others were engaged in the preparation of the consultation document, which Stewart Stevenson described as thin, but from which Stewart Maxwell was able to quote extensively. We have made an attempt to engage a wide range of people by asking questions. We know what the problem is—we all know that there is a difficulty—but very few of us have a clear solution. What I have heard today is a general consensus. Although there are difficulties, no one is prepared to take the bold step of saying, "The system isn't working. Here is what we propose to do." COSLA and others are talking about the need for radical and bold policy changes. Well, we are anxious to hear what those bold and radical policy changes should be. What we propose in the document is a recognition that the current system is not working and that something better needs to be put in its place.

As Nicola Sturgeon said, there needs to be better integration; as Annabel Goldie said, there needs to be an improvement in rehabilitation; and, as others have said, we need to consider greater use of DTTOs as a way of ensuring that people do not go to prison.

Pauline McNeill made an excellent suggestion. We are talking about structural change, because the present system is not working; we are saying not that the criminal justice social work service is not working, but that the prison system is not working; we are saying that prisoners are not being properly prepared in prison for returning to the community; and we are arguing that something else should be put in place of prison sentences. Given all that, why, in any new agency, should there not be—as Pauline McNeill said—better local accountability and better opportunities for

local politicians and local communities to influence what goes on in our prisons? Pauline McNeill's suggestion offers us an opportunity to secure better local accountability, which will be a critical part of any proposal that we make.

Jackie Baillie's comments on the problems of providing rehabilitation for people who have short-term sentences are critical. She is absolutely right to say that, if prisons were providing the answers, we would not be having this debate. We need early intervention.

It is clear, from the comments that have been made, that some members are not persuaded by our proposals at this stage. They may not be persuaded by what we are saying just now, but no one seems to be persuaded by the system that we currently have.

I offer a challenge to every member. We want them to engage in the debate, to be political leaders and to go back to their communities and hear what is being said not just by social workers, the Scottish Prison Service and the voluntary organisations, but by the victims of crime. We want them to go back to their local communities and ask the families of prisoners what they believe is necessary. We want them to take some responsibility in this process. We want them to be leaders and to believe that they have a contribution to make.

If, at the end of the process, those members are not persuaded by what we say, they have a duty to tell us what alternatives would make the present system work better, given that they have said that it is not working. We have a duty to the Parliament, the wider community and the whole country. The present system, which is not working, needs to be improved. If we simply do nothing and go on delivering what we are currently delivering, we will have failed.

## Business Motion

17:00

**The Presiding Officer (Mr George Reid):** The next item of business is consideration of business motion S2M-1209, in the name of Patricia Ferguson, on behalf of the Parliamentary Bureau, setting out a timetable for legislation.

*Motion moved,*

That the Parliament agrees—

(a) that consideration of the School Education (Ministerial Powers and Independent Schools) (Scotland) Bill at Stage 1 be completed by 25 June 2004; and

(b) that the Justice 2 Committee reports to the Justice 1 Committee by 7 May 2004 on the Act of Sederunt (Fees of Shorthand Writers in the Sheriff Court) (Amendment) 2004 (SSI 2004/149) and on the Act of Sederunt (Fees of Solicitors and Witnesses in the Sheriff Court) (Amendment) 2004 (SSI 2004/152).—[*Patricia Ferguson.*]

*Motion agreed to.*

## Decision Time

17:01

### The Presiding Officer (Mr George Reid):

There are seven questions to be put as a result of today's business. I remind members in relation to this morning's debate on the European constitution that, if the amendment in the name of Andy Kerr is agreed to, the amendment in the name of Tommy Sheridan falls.

The first question is, that amendment S2M-1218.4, in the name of Andy Kerr, which seeks to amend motion S2M-1218, in the name of Nicola Sturgeon, on the European constitution, 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)  
 Baker, Richard (North East Scotland) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (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)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)

Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 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)  
 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)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (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)  
 Kane, Rosie (Glasgow) (SSP)  
 Leckie, Carolyn (Central Scotland) (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)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 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)  
 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)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)



Tosh, Murray (West of Scotland) (Con)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)

**The Presiding Officer:** The result of the division is: For 64, Against 54, Abstentions 0.

*Amendment agreed to.*

**The Presiding Officer:** The next question is, that amendment S2M-1218.1, in the name of Phil Gallie, which seeks to amend motion S2M-1218, in the name of Nicola Sturgeon, on the European constitution, as amended, be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Aitken, Bill (Glasgow) (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)  
 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)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

#### AGAINST

Adam, Brian (Aberdeen North) (SNP)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Fox, Colin (Lothians) (SSP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marilyn (North East Scotland) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)

Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kane, Rosie (Glasgow) (SSP)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Lochhead, Richard (North East Scotland) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Campbell (West of Scotland) (SNP)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 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)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### ABSTENTIONS

Baird, Shiona (North East Scotland) (Green)

Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Swinburne, John (Central Scotland) (SSCUP)

**The Presiding Officer:** The result of the division is: For 17, Against 97, Abstentions 4.

*Amendment disagreed to.*

**The Presiding Officer:** The third question is, that amendment S2M-1218.3, in the name of Robin Harper, which seeks to amend motion S2M-1218, in the name of Nicola Sturgeon, on the European constitution, as amended, be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Baird, Shiona (North East Scotland) (Green)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)

#### AGAINST

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 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)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Fox, Colin (Lothians) (SSP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)

Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kane, Rosie (Glasgow) (SSP)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Lochhead, Richard (North East Scotland) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 MacDonald, Margo (Lothians) (Ind)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Campbell (West of Scotland) (SNP)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 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)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 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)  
 Neil, Alex (Central Scotland) (SNP)  
 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)  
 Robison, Shona (Dundee East) (SNP)  
 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)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Tosh, Murray (West of Scotland) (Con)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**The Presiding Officer:** The result of the division is: For 7, Against 111, Abstentions 0.

*Amendment disagreed to.*

**The Presiding Officer:** As I indicated earlier, the amendment in the name of Tommy Sheridan falls, so the next question is, that motion S2M-1218, in the name of Nicola Sturgeon, on the European constitution, 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)  
 Baker, Richard (North East Scotland) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marilyn (North East Scotland) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (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)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 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)  
 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)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (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)  
 Hyslop, Fiona (Lothians) (SNP)  
 Kane, Rosie (Glasgow) (SSP)  
 Leckie, Carolyn (Central Scotland) (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)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McGregor, 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)  
 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)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Tosh, Murray (West of Scotland) (Con)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)

#### ABSTENTIONS

Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

**The Presiding Officer:** The result of the division is: For 64, Against 48, Abstentions 6.

*Motion, as amended, agreed to.*

*Resolved,*

That the Parliament calls on Her Majesty's Government to agree a Treaty that, in the context of an enlarging Union, is clearer and simpler than the existing treaties, to bring the European Union closer to the citizens of Europe; notes that the current draft Treaty simply makes explicit the European Community's exclusive competence over marine conservation as set out in the United Kingdom's Treaty of Accession, as part of the Common Fisheries Policy, which both Her Majesty's Government and the Scottish Executive are committed to reform to deliver effective regional management of, and a sustainable future for, Scotland's fishing industry; notes that the text makes reference for the first time to the role of sub-national parliaments and offers enhanced scope for collaboration to tackle international crime and the threat of terrorism, and welcomes the benefits to Scotland of EU membership, including economic prosperity, trade, environmental and consumer protection and citizens' and workers' rights.

**The Presiding Officer:** The next question is, that amendment S2M-1219.1, in the name of Nicola Sturgeon, which seeks to amend motion S2M-1219, in the name of Cathy Jamieson, on reducing reoffending and improving the effectiveness of custodial and non-custodial sentences, be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

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)  
Byrne, Ms Rosemary (South of Scotland) (SSP)  
Canavan, Dennis (Falkirk West) (Ind)  
Crawford, Bruce (Mid Scotland and Fife) (SNP)  
Cunningham, Roseanna (Perth) (SNP)  
Davidson, Mr David (North East Scotland) (Con)  
Douglas-Hamilton, Lord James (Lothians) (Con)  
Ewing, Fergus (Inverness East, Nairn and Lochaber) (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)  
Kane, Rosie (Glasgow) (SSP)  
Leckie, Carolyn (Central Scotland) (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)  
Maxwell, Mr Stewart (West of Scotland) (SNP)  
McFee, Mr Bruce (West of Scotland) (SNP)  
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)  
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)  
Sturgeon, Nicola (Glasgow) (SNP)  
Swinney, Mr John (North Tayside) (SNP)  
Tosh, Murray (West of Scotland) (Con)  
Welsh, Mr Andrew (Angus) (SNP)  
White, Ms Sandra (Glasgow) (SNP)

**AGAINST**

Alexander, Ms Wendy (Paisley North) (Lab)  
Baillie, Jackie (Dumbarton) (Lab)  
Baker, Richard (North East Scotland) (Lab)  
Barrie, Scott (Dunfermline West) (Lab)  
Boyack, Sarah (Edinburgh Central) (Lab)  
Brankin, Rhona (Midlothian) (Lab)  
Brown, Robert (Glasgow) (LD)  
Butler, Bill (Glasgow Anniesland) (Lab)  
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
Eadie, Helen (Dunfermline East) (Lab)  
Ferguson, Patricia (Glasgow Maryhill) (Lab)  
Finnie, Ross (West of Scotland) (LD)  
Gillon, Karen (Clydesdale) (Lab)  
Glen, Marlyn (North East Scotland) (Lab)  
Gorrie, Donald (Central Scotland) (LD)  
Henry, Hugh (Paisley South) (Lab)  
Home Robertson, Mr John (East Lothian) (Lab)  
Hughes, Janis (Glasgow Rutherglen) (Lab)  
Jackson, Dr Sylvia (Stirling) (Lab)  
Jackson, Gordon (Glasgow Govan) (Lab)  
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
Kerr, Mr Andy (East Kilbride) (Lab)  
Lamont, Johann (Glasgow Pollok) (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)  
McMahon, Michael (Hamilton North and Bellshill) (Lab)  
McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
McNeill, Pauline (Glasgow Kelvin) (Lab)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Morrison, Mr Alasdair (Western Isles) (Lab)  
Muldoon, Bristow (Livingston) (Lab)  
Mulligan, Mrs Mary (Linlithgow) (Lab)  
Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
Murray, Dr Elaine (Dumfries) (Lab)  
Oldfather, Irene (Cunninghame South) (Lab)  
Peacock, Peter (Highlands and Islands) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)  
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)  
 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

MacDonald, Margo (Lothians) (Ind)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

**The Presiding Officer:** The result of the division is: For 51, Against 64, Abstentions 3.

*Amendment disagreed to.*

**The Presiding Officer:** The final question is, that motion S2M-1219, in the name of Cathy Jamieson, on reducing reoffending and improving the effectiveness of custodial and non-custodial sentences, be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 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)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gorrie, Donald (Central Scotland) (LD)

Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lochhead, Richard (North East Scotland) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Campbell (West of Scotland) (SNP)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 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)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 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)  
 Neil, Alex (Central Scotland) (SNP)  
 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)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 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)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)

Tosh, Murray (West of Scotland) (Con)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### AGAINST

Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Fox, Colin (Lothians) (SSP)  
 Kane, Rosie (Glasgow) (SSP)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Sheridan, Tommy (Glasgow) (SSP)

#### ABSTENTIONS

MacDonald, Margo (Lothians) (Ind)

**The Presiding Officer:** The result of the division is: For 112, Against 5, Abstentions 1.

#### *Motion agreed to.*

That the Parliament notes the publication of *Reduce, Rehabilitate, Reform – A Consultation on Reducing Reoffending in Scotland* and recognises the need for significant improvement and change in the management of offenders serving custodial and non-custodial sentences in order to reduce reoffending and step up the efficiency and effectiveness of the criminal justice system.

## TransBus International (Jobs)

### **The Deputy Presiding Officer (Murray Tosh):**

The final item of business is a members' business debate on motion S2M-1145, in the name of Dennis Canavan, on threats to jobs at TransBus International Ltd. The debate will be concluded without any question being put.

#### *Motion debated,*

That the Parliament is gravely concerned about the fact that the Mayflower Corporation has entered administration with a resultant threat to 1,000 jobs at TransBus International in Falkirk and Larbert and believes that the Scottish Executive should contact the employees' trade union representatives, the administrator and any prospective buyers to offer assistance and advice so that everything possible is done to try to save the jobs of the TransBus workers who make a very important contribution to the Scottish economy.

17:09

**Dennis Canavan (Falkirk West) (Ind):** I am grateful for the opportunity to discuss the crisis at TransBus International, which is the biggest manufacturing industry in my constituency. TransBus International is also the biggest bus builder in the United Kingdom, with a 70 per cent share of the UK market in double-deckers. The company employed around 1,000 workers at Falkirk and Larbert until recently and has a record of exporting to places as far afield as China and the United States of America.

At the end of last month, administrators were called in after a £20 million black hole was discovered in the accounts of TransBus International's parent company, the Mayflower Corporation plc, which has debts of around £200 million. There has been no satisfactory explanation of how such a financial shambles arose. I understand that the Financial Services Authority has launched a preliminary investigation, but there are undoubtedly grounds for a wide-ranging inquiry into the scandal.

Four of the company directors of the Mayflower Corporation were apparently on the way out just before the company went into administration. However, there are reports that those directors, including John Simpson, who is the former chief executive, are sharing a £10 million ring-fenced pension fund, although there is a deficit of more than £17 million in the workers' pension scheme. Fortunately, the workers at Falkirk and Larbert are in a different pension scheme, which is not affected. The 400 or so workers who have already been made redundant, including 132 in my constituency, have still not received a penny of redundancy payment, but there are reports that John Simpson could receive a severance package

of more than £1 million and a pension of £300,000 per year.

The same John Simpson was responsible for persuading a certain John Major, formerly of 10 Downing Street, to become a non-executive director of the Mayflower Corporation. John Major pocketed more than £100,000 per year for the onerous duties of attending four meetings per year, but he must have seen the writing on the wall because he quit last year. Nevertheless, I trust that the FSA will want to grill John Major about his membership of the company's audit committee, which must have had some responsibility for the company's financial shambles.

The shambles was certainly not the responsibility of the work force. The Mayflower Corporation employed more than 3,000 people throughout the UK, including about 1,000 in my constituency. On 6 April, the administrator announced 132 redundancies at Falkirk and Larbert. There was understandable anger among the work force because the administrator did not adhere to a previous agreement between the company and the trade unions on dealing with redundancies. The redundant workers were given no notice and security guards were called in to ensure, I presume, the removal of the workers from the premises. Those workers are still waiting for the bare statutory minimum redundancy payments. That was a disgraceful way to treat employees, many of whom had given many years of loyal service to the company.

Administration is not the end of the road and there remains a fair degree of optimism that the administrator will soon be able to hand over the company to new ownership. I urge the Scottish Executive to do everything possible to ensure that any new owner will retain the existing work force and continue bus-building operations at Falkirk and Larbert, so that TransBus International is not handed over to someone who is merely intent on getting the order book and then closing the company down.

When I raised the matter at First Minister's question time four weeks ago, the First Minister pledged his "absolute support". I trust that the Deputy Minister for Enterprise and Lifelong Learning will tell us what is being done to fulfil that commitment. In particular, will he tell us what contact the Scottish Executive has made with the administrator, potential purchasers and trade union representatives of the work force, some of whom are in the public gallery listening to the debate? Will he also tell us what the Executive is doing to help the 50 or so companies that are suppliers to TransBus International? Most important, what efforts is the Executive making to

ensure the continuation of bus building at Falkirk and Larbert?

As the minister knows, Scottish Enterprise Forth Valley and Falkirk Council were very helpful in assisting TransBus International with plans to move to a new state-of-the-art location at Glenbervie near Larbert, leaving the existing site at Camelon available for retail purposes. I trust that the Scottish Executive will use its influence and assistance to ensure that a new owner is able to pursue that proposal and to increase employment opportunities in future.

Bus building has been part of Falkirk's proud industrial history since the earlier part of the 20<sup>th</sup> century. However, we are not simply talking about or living in the past. Instead, we are talking about an industry that must be very much a part of Scotland's future. There is still a need for modern buses to provide efficient and reliable public transport in this country and in other countries throughout the world. The workers at Falkirk and Larbert are capable of building the best buses in the world. All that they are asking for is the opportunity to continue to do that, not just for their own livelihood, but because of the important contribution that they make to the local economy and to the Scottish economy as a whole.

17:16

**Cathy Peattie (Falkirk East) (Lab):** I thank Dennis Canavan for securing this important debate.

Last October, Mayflower looked like a viable, successful company. Today, its corporate governance failure has raised concerns not only about the company itself, but about corporate governance in the UK. As Dennis Canavan has said, Falkirk has long had a proud tradition of coach-building. That tradition and the jobs of 1,000 workers in the Falkirk area are now under threat. Indeed, 132 workers have already been made redundant and, in spite of many years giving their skills to the company, they were out the door within an hour without a decent redundancy payment. As Dennis pointed out, they have not even received the statutory redundancy payment.

What sort of way is that to treat stakeholders in a company? We should be in no doubt that the stakeholders in a company include the workers. After all, they are just as important as the shareholders, because they create the wealth and bring about the profits. It is a shameful situation. As we know, 800 jobs are still at risk and workers in the plant have complained that they have been left in the dark. It is really not good enough and I ask the minister to do all he can to ensure that the workers who face being made redundant receive all the support that they require. At this point, I

should commend the local partnership action for continuing employment—or PACE—team for its quick action in introducing certain measures.

Many local companies in the supply chain will now be facing problems. Forth valley companies annually make £5.9 million-worth of sales to TransBus. A local joinery firm in my constituency is facing real cash-flow problems due to lack of payment for goods and services. The receiver has asked the firm to continue its work, but its workers are frustrated that the work they have already done and the goods they have already supplied are lying in the depot not paid for. That is a very difficult situation for a small company that employs a small number of people. As a result, I ask the minister to do what he can about the supply chain and the local companies who employ local people to work alongside TransBus. I also ask him to ensure that TransBus or some other company stays in Falkirk and continues the Falkirk area's proud tradition of building coaches.

17:18

**Alex Neil (Central Scotland) (SNP):** I congratulate Dennis Canavan on bringing this debate to the chamber and endorse the comments that he and Cathy Peattie have made.

Alexanders Buses, TransBus's predecessor, has been synonymous with the Falkirk area for many years. As far as production and jobs are concerned, it has always been an important part of the manufacturing base, not just in that part of Scotland but in Scotland as a whole. Indeed, the export effort of that manufacturing facility has been very important to the Scottish economy. As a result, the onus is on us all to do everything we possibly can to ensure that the facility is kept open, that jobs are maintained and that the successor company is allowed to prosper in the Falkirk area.

What is particularly annoying about what is happening—which has been caused by an Enron-type difficulty of the parent company in America—is that we are not talking about a failing enterprise. It is a very successful enterprise with high levels of productivity, high levels of exports and high levels of excellence. The people who are being penalised—the people who are losing their jobs—are people who do not deserve under any circumstances to have to make that sacrifice as a result of what has happened in the finances of the parent company.

This issue does not affect the economy of just Falkirk. About half the people who have already been made redundant are from the Falkirk area, but the other half are from Stirlingshire, Clackmannanshire and other parts of central Scotland. Everybody is affected. As Cathy Peattie

said, the impact on the company and the local economy is substantial. Cathy mentioned the £5.9 million-worth of business for the 52 Falkirk-based businesses that benefit from the TransBus enterprise. In addition, another £20 million is spent every year on materials and supplies in other parts of the Scottish economy. Already there are indications of difficulties for local companies, where unpaid invoices are putting jobs and enterprises at risk. That is in addition to the TransBus jobs and enterprise. This Parliament must speak with a united voice and tell the Executive to do everything in its power to save what is a viable and profitable business in the Falkirk area.

However, I must sound one note of dissension. I was very disappointed when the trade union movement refused to allow Michael Matheson to attend meetings. That kind of narrow view, when we should be mobilising every sector of opinion in Scotland, is quite reprehensible. I say to the trade union movement, "Do not wear a Labour hat; wear a Scottish hat. Represent every section of the community and let us have no more refusing to allow SNP or other representatives to attend meetings."

**Dennis Canavan:** On a point of information, the leader of Falkirk Council, who is a member of the Scottish National Party, was present at a meeting with the trade unions. I was there too and I am not a member of the Labour Party.

**Alex Neil:** That was the council, Dennis. Michael Matheson wanted to attend a meeting and was refused by the trade union movement. That kind of action in this situation is not acceptable. Everybody who represents that area, whether they are Tory, Liberal, SNP or any other kind of MSP, should be invited to participate in meetings. We know what these kinds of company do: they divide and rule. We should not allow that to happen. We must speak with a united voice. Every party in this chamber should say to the Executive, "Save these jobs." We should say to the trade union movement, "We all want to work with you to save these jobs and make sure that the bus industry remains a key part of the Falkirk and the Scottish economy."

17:23

**Donald Gorrie (Central Scotland) (LD):** One of my first duties as a councillor in Edinburgh more than 30 years ago was to visit what was then the Alexanders bus works, which provided the buses for the council. At the time, Alexanders was, I think, quite famous for providing buses to Cuba. That was a bit unpopular in certain quarters, but it showed excellent taste on the part of Mr Castro.



The subject has been well covered by other speakers, so I will not simply repeat what they have said. I agree that it is essential that Parliament speak with a united voice to support the workers who are involved. I would like to make two basic points. When the policy of Parliament and the Executive is to improve public transport—one way of doing that would be to build and use more buses—it is particularly daft that we should risk losing the only supplier of buses in Scotland. If we were to be at the mercy of some continental company, it would be able to hold us to ransom, which would be extremely unfortunate. The national interest demands that we keep the facility going in Scotland.

My other point is about the people who are employed by the company and the suppliers. We must get a grip on the way in which our capitalist system operates. I know that that is more a matter for Westminster than for the Scottish Parliament, but it is a major political issue. We have a market system whether we like it or not, but the way in which we operate it is entirely unacceptable. The system is antisocial in that it pays no attention to the people who work in a facility, the people who supply it or the community around the facility.

The theory is that directors are responsible only to their shareholders but, as other members have said, the system does not have a proper grip on directors. Management that is guilty of corruption, dishonesty or mere incompetence seems to be able to get away with murder, even though it can create a total disaster for a community and a country. Politicians must tackle that collectively, whether nationally, at European level or internationally.

We should certainly support the workers at, and the people who supply, TransBus in Falkirk and we should do our best to keep that excellent company going.

17:26

**Carolyn Leckie (Central Scotland) (SSP):** The absolutely disgraceful treatment of the TransBus work force is among the more horrific examples of the inequality and injustice of the society in which we live.

I received a letter from one of the 132 employees who were made redundant. Incidentally, the fact that three of the people who were made redundant were the local trade union representatives has meant that there was a 100 per cent hit on any resistance to the redundancies. I do not believe that to have been a coincidence. Those who were to be made redundant were closed in a room to be told about it by Deloitte & Touche—they were not told by TransBus. The point of the redundancies was to make the

company a wee bit more attractive to buyers and to allow the remaining work force to be ever more exploited.

William Clinton worked for TransBus for 33 years. He had terms and conditions that would have entitled him to a proper redundancy settlement, which would have provided a bit of a cushion in unacceptable circumstances, but he has been told that he is entitled only to statutory redundancy. That adds up to £6,000 for 33 years' service. The pension fund of the four directors is ring fenced and we believe that the former chief executive is getting severance payment of £1 million and an annual pension of £300,000. What a demonstration of the utter inequality of our society that is.

The truth is that our laws allow such things to happen. Tony Blair has stated that we have the most stringent anti-union laws in the western world; he is proud of that. However, if we had proper trade union legislation that protected the TransBus work force, the present situation would not have been allowed to arise. The profits that Mayflower and TransBus have secured for their directors should be taken from them and given back to the community, because they have stolen those profits from the work force. I see that Murdo Fraser is smirking. He would—he is a Tory. If there was ever in recent times a case for a company being taken into public ownership, it is surely the TransBus case, which involves a viable and successful company that, in producing the buses that we all need, fits in with our idea of increasing the use of public transport.

The situation is an absolute disgrace. The company, the buses that it produces, the workers' pensions and decent redundancy payments have been stolen by the company, by Deloitte & Touche and by the laws in our country that allow such brazen theft to take place under our noses.

I give my best regards to the existing work force and I hope that they fight and resist further redundancies. I say to the politicians that pleading will not be enough: we need to change the laws that allow such situations to happen. I hope—maybe vainly—that the Executive will understand that. We can have the debate, but the problem is the legislative framework, the political climate and the political system in which we operate.

I have a briefing paper from Scottish Enterprise Forth Valley that refers to counselling that is being offered to the work force. I am sure that they would rather have their jobs than a bit of counselling, which will not make up for getting a £6,000 so-called redundancy payment for 33 years' service.

Deloitte & Touche is not even required to let Scottish Development International know what is

happening prior to announcing where the company will end up, who will own it, who will be able to exploit further profits and what will happen to the rest of the work force. The Executive will not get prior knowledge before Deloitte & Touche decides on the future of the work force and the future of the community that the work force and the production of the buses support.

To offer counselling is an insult. I hope that the Executive will make some promises to the existing work force—I hope that it will move to ensure that those who have been made redundant at least get decent redundancy payments. I would go further and say that they should get their jobs back, that the company should be brought into public ownership and that the directors should go and sing for their pensions.

17:32

**Murdo Fraser (Mid Scotland and Fife) (Con):** I congratulate Dennis Canavan on securing this debate on an important subject that is of interest to his constituents.

I say to Carolyn Leckie that I was smiling at her proposal that the company be taken into public ownership. I admire her idealism. Her solutions, however, are quite unrealistic. Carolyn Leckie's way has been tried in this country and in other countries, and in every case it has failed.

**Alex Neil:** I remind Murdo Fraser that Ted Heath took Rolls-Royce into public ownership in the space of 24 hours in order to save it.

**Murdo Fraser:** I am sure that I do not need to give Mr Neil a list of the nationalised industries that went under or that survived only because they were subsidised with billions of pounds of taxpayers' money. I do not think that he or his colleagues behind him would wish us to go down that road.

Let us return to TransBus International, because it is an important subject. Dennis Canavan was right to highlight the history of decline and the serious concern over the circumstances that led to the TransBus situation. There was a share warning at the end of February and the value of Mayflower on the stock exchange plummeted by 80 per cent. It announced an accountancy error on 29 March, which saw its share price fall by another third, and shortly thereafter it went into administration. I echo Dennis Canavan's call for a proper inquiry into what has happened. He is absolutely right. It is a matter for the Department of Trade and Industry to investigate, not the Scottish Executive.

The slightly more encouraging news is that the administrators are looking for a buyer. As Alex Neil said, the prospects might be encouraging,

because TransBus was a successful company. We keep our fingers crossed that there is good news for the remaining 800 employees.

I will make two points, the first of which is on the wider context of the Scottish economy. We have seen a serious decline in manufacturing in recent years. Since 1997 we have had 71,000 job losses in the manufacturing sector in Scotland. The latest growth figures, which came out yesterday, show that although the Scottish economy is growing—only just, but it is growing—manufacturing continues to suffer. The sector has serious problems. The Executive is fond of talking about growing the Scottish economy, but we need a turnaround in manufacturing if there is to be a reversal of the trend of recent announcements about the manufacturing sector. As Alex Neil pointed out, it is particularly galling that even though there is a background of difficulties in the manufacturing sector, TransBus was successful and had a good future until it was brought down by corporate governance failures. We should do what we can to save the remaining manufacturing companies in Scotland.

The events at TransBus do not affect only the employees; they have a knock-on effect on suppliers and other companies and individuals throughout Scotland. I received a letter from a constituent in Fife, from which I will quote. She writes:

"my main point is the state I find myself in today, on the verge of petitioning to become bankrupt through no fault of my own ... I became one of the innocent victims of that collapse as my cleaning company was left with a debt of £138,000 with no hope of seeing one penny of this ... As a sole trader, who has worked honestly and hard, it is a very bitter pill to know that exceptional circumstances are not recognised in the eyes of the Inland Revenue or Customs and Excise ... I will carry the stigma of insolvency, aware that at the ripe old age of 56 years, it will be extremely difficult to climb the credit ratings once again. Is it right? I say NOT!"

My constituent's company is going under as a knock-on effect of the events at TransBus.

If a company goes into receivership, the Inland Revenue and HM Customs and Excise are preferred creditors, which means that they get first call on the company's assets. However, the Inland Revenue and HM Customs and Excise still chase suppliers for the money that they owe, despite the fact that the suppliers lose their income because the Government bodies have first call on any assets of the company that is in receivership. That seems to be grossly unfair. I appreciate that that is a matter for Westminster, but the concern needs to be highlighted for the benefit of our constituents. What has happened at Mayflower affects not only people in Falkirk and Larbert, but people throughout Scotland. I am grateful to Dennis

Canavan for giving us the opportunity to raise these important issues.

17:37

**John Swinburne (Central Scotland) (SSCUP):**

I thank Dennis Canavan for raising this important topic, although I am appalled that it is being discussed after 5 o'clock. The issue should be the number 1 priority for the Executive. We should have a debate in which we can make decisions that will solve the problems that are faced by the people in the former Alexanders factory, which was bought by an American company. In my working lifetime, I have seen an erosion of 80 per cent of the manufacturing base in engineering in Scotland. I have worked in various organisations for a number of years and seen them crumble and disappear.

At the age of 73, I now find myself as an MSP in a Parliament that has no bite, no teeth and no heart to fight for the workers of this country. It is appalling that we stand by and talk about this and that but do not talk about what is a life-and-death issue for 1,000 people in the Falkirk area. Their future has been torn away by an American organisation. I say to the Labour members that we simply have to reinstate the old clause 4 of the Labour Party constitution, which talked about nationalising the means of distribution, production and exchange. We do not need to do as much as that, but we certainly need to nationalise the means of production in Falkirk. The Parliament could nationalise the company—we could buy it cheaply from the administrators, who would be glad to get it off their backs, and then reinstate the jobs for people in Falkirk. If we do not do that, the company will disappear and never return.

As Donald Gorrie rightly said, we need transportation in Scotland. Disabled people can get off and on only 22 per cent of the buses in Scotland because the other buses are not modern enough. This company could produce those much needed buses and other forms of transport, but we are going to stand back and say, "No, just let it go to the wall," and pay one director £10 million for being a bad employer and another director so much for being a bad employer. It is time that the Parliament took action and it is time that the Executive got a grip and did something positive for Scotland. We could do that without going to Westminster as we have the powers here, but do we have the will? We must let the people of Scotland see that we do.

I thank Dennis Canavan for securing the debate. I am sorry for being so angry, but I have been there and so have a feeling of *déjà vu*. It is about the experience of getting thrown out the door with a minimum redundancy payment while the bosses walk away with plenty in their pocket. That is

totally unacceptable. We have the power to take action, but do we have the will to do it? Let us do it.

17:41

**Tommy Sheridan (Glasgow) (SSP):** I feel compelled to stay in the chamber and add words of support to Dennis Canavan's motion.

The comments that have been made by John Swinburne and by my comrade Carolyn Leckie should be taken seriously.

John Swinburne mentioned *déjà vu*. Some members of the Parliament—and I am sure some of the workers at TransBus—will recall a similar process taking place at the Volvo truck and bus plant in Irvine, when 550 of the most skilled jobs in the Scottish economy were lost. At that time, Volvo said that the workers made the best buses and trucks in the world. Of course, that was until Volvo was able to secure a work force in Poland that could make those buses and trucks cheaper, at which point Volvo upped sticks and sacked 550 workers and the area was devastated.

Reports from various enterprise bodies will talk about workers getting new jobs; often they will get new jobs because they have to and so will adapt. However, the evidence shows that whenever factories of such stature fall, the workers' new jobs never reach the standards of pay or the skills base of those that have been stolen from them. That is why the Parliament must say, "If we can take over a failing private hospital in Clydebanks, surely we can take over a successful bus company in Falkirk." That must be on the Executive's agenda. We cannot stand idly by any longer and allow such devastation and havoc to be wreaked throughout the Scottish economy. The minister may talk about task forces, meetings, options and retraining, but the evidence shows that that does not deliver the same value added to the economy in terms of wages and skills. When such a factory is closed—if this is the endgame for those workers—we lose not only the factory but the skills and an employment opportunity for thousands of young people in the Falkirk area.

I hope that today we can unite behind the trade unions' campaign. I hope that the trade unions at the local level will get backed up by the trade unions at a national level. Trade unions at the local level often have the guts for a fight but, unfortunately, far too often the unions at a national level tell them not to rock the boat. It is time to rock the boat; if we need to rock the boat to save the jobs, that has to be done.

I hope that the minister will tell us today not only that he will support every attempt to find a new buyer—one that will not come in and slash and burn—but that he will consider whether there is a

viable option for a workers co-operative to run the factory and maintain the wages, the skills and the job opportunities for the people of Scotland and for the Scottish economy. Let us not rule out that option.

17:44

**Robin Harper (Lothians) (Green):** Enron had corrupt auditing practices. Shell's misrepresentation of its oil reserves amounted to a corrupt practice. Pensions, asset management products and all sorts of other items have been mis-sold. From the top—not the bottom or the middle—of management in Britain and in particular in the United States, there is a cancer of greed. If it went out of control, it could destroy faith in the business community of Britain and the United States. We are dangerously close to that.

In Norway, a chief executive officer receives a salary that is about three times the average wage of middle and lower management. In Britain and the United States, CEOs receive up to 30 times that average wage. That is greed run riot and part of the problem that faces Falkirk and the bus company.

The Executive should do everything that it can to encourage an ethos of corporate social responsibility in Scotland. Conferences are held on that. The Executive should do everything that it can to encourage its further development.

I have a great deal of sympathy with what Tommy Sheridan and Carolyn Leckie said. We must have sympathy with the proposition that the Executive could, in such exceptional circumstances, step in to buy a company. I am not saying that that should be done in every case and I certainly do not subscribe to wholesale nationalisation of the private sector, but those members have made their case in this instance.

I also have a great deal of sympathy with what Murdo Fraser said about the problems that face suppliers. I have known suppliers that have gone bust through no fault of their own. One of the cruellest experiences for anybody is to have a small firm that goes bust because somebody else was corrupt or went bust and did not pay their debts before they went bust. Something must be done in law to address that. If the Scottish Parliament cannot deal with that, we must ensure that our members of the Westminster Parliament do. That has been an undermining situation for years and nothing has been done about it. Something must be done about it.

I congratulate Dennis Canavan on lodging the motion.

17:48

**The Deputy Minister for Enterprise and Lifelong Learning (Lewis Macdonald):** I, too, congratulate Dennis Canavan on lodging the motion. I acknowledge the efforts that elected representatives in the Falkirk area have made to work with the Government to secure the future of manufacturing jobs at the TransBus plant and elsewhere.

The motion talks about the important contribution that TransBus workers make to the local economy and to the wider Scottish economy, which several members mentioned. That is true in three respects, the first of which concerns manufacture and export. Dennis Canavan said that TransBus is the leading provider of buses in the United Kingdom. That is correct. It is also one of the leading providers in Europe, so it is a significant contributor to the Scottish manufacturing sector, which remains of core importance to our economy.

The orders that the company places are important. Alex Neil and Cathy Peattie talked about the company's expenditure locally and more widely. The income in the pockets of the work force and the local spend that that produces are also important. We echo the points that have been made in that regard.

Because we recognise the significance of those three matters, immediately after the announcement of administration was made on 31 March, we sought clarification of the implications for TransBus operations in Scotland. That was to help us to find ways to sustain activity and jobs. My colleague Jim Wallace, the Deputy First Minister, engaged in some of the meetings. Officials from Scottish Development International—which is the body that is responsible for dealing with the company in its international aspect—and Scottish Enterprise Forth Valley have regularly been in touch with the company, the work force through its trade unions, and other interested parties. We have stressed our commitment to work with any potential buyer and to explore whatever avenues might be available for support and assistance to a potential buyer.

There has also been close contact with Deloitte & Touche, which is the administrator. Jim Wallace met Deloitte & Touche representatives on 8 April to discuss prospects for the way ahead. Naturally, those discussions focused on potential support for any prospective buyer who comes forward with sustainable plans for the operations. Dennis Canavan referred to the long-standing commitment to support TransBus plans to create a new, modern manufacturing facility at Glenbervie. We believe that that is the right way for the company to go and to continue to make a contribution to the economy. In dealing with the

administrator, we have therefore made it clear that we will continue to support those plans and to offer support to any prospective new purchaser who comes forward.

From the discussions that we have had with the administrators, there appear to be good prospects that operations will continue under new ownership—one or two members have reflected that. There has been significant interest in the company and in the facility at Falkirk in particular, and the administrators said to us on 22 April that they hope to dispose of the company as a going concern in a matter of weeks. This week, they confirmed that they remain hopeful that the process will be completed in May.

**Carolyn Leckie:** Does the minister share my concern that the administrators seem to have accepted that the company will be broken up into smaller parts, which might have consequences in respect of further redundancies? What is the minister's view on that? Will he do what he can to avoid any redundancies?

**Lewis Macdonald:** I share the focus on seeking to reduce redundancies wherever possible. Carolyn Leckie will appreciate that our focus, and that of Scottish agencies, is on Falkirk and Larbert and that core of manufacturing jobs in Scotland, which nobody disputes is a profitable and productive part of the company. From our perspective and that of the work force, the key priority is to ensure that that unit remains in being and retains as much employment as possible. Whatever links it might have with other parts of the existing company is an issue of secondary importance compared with that larger issue.

The subject of how we have reached where we are was raised. A number of members have referred to the possibility of an inquiry. I can confirm that responsibility for that lies with the DTI and that the DTI has powers under the Companies Act 1985 to consider whether companies legislation has been properly followed in this case. I understand that the DTI is currently considering that matter.

It is clear that the first concern is to maintain economic activity, employment and the company and to allow the company's growth. It is clear that the second concern is for people who have already lost their jobs, of whom there are more than 130, as has been mentioned. That has been an enormous blow for those people, as has been reflected in a number of comments. Our top priority in that regard has been to do everything possible to help those who have been affected to find other jobs as quickly as possible. As Cathy Peattie said, support services have been put in place through the PACE initiative. A future fair was held in Falkirk on 14 April, which was attended by around 80 people who were affected. Careers

Scotland, Jobcentre Plus, the local authority, the local college and others were involved to support those individuals. As a direct result of the event, PACE partners are supporting a number of people with respect to retraining opportunities and they will continue to do so.

Concern was raised about a prospective buyer taking the assets and leaving the jobs in the lurch. Although it is certainly the case that under existing legislation responsibility for the matter lies with the administrators, the Enterprise Act 2002 makes it clear that the purpose of promoting company rescue should be given priority. Therefore, although safeguarding the legitimate interests of creditors is important, the 2003 act will encourage the administrators to make a viable sale to buyers who will maintain the firm in being.

The question of creditors is important. The question of local suppliers has been raised and the provisions of the law are clear as far as creditors of all kinds are concerned. I suggest, however, that any firm that is adversely affected, such as those to which Cathy Peattie referred, should seek advice and guidance from the local enterprise company, which I will alert to the fact that there might be one or two firms that are looking for support.

I return to the point about redundancies. The question was raised about the process that was followed. It is for the trade union to make a judgment on whether it feels that the administrators have acted properly in calling out those redundancies. Should the trade union feel that the administrators have not done so, it might wish to take the matter to an employment tribunal on behalf of its members. The employment tribunal will base its judgment on the question whether any steps taken were necessary for the survival of the company. It is not a straightforward judgment to make, but it is principally a judgment for the trade union.

TransBus matters because it is a manufacturing centre of excellence. We want to support that. I have described how we are doing that and we will continue to work with all concerned to try to secure the best possible outcome.

I do not believe that it is the endgame for bus building in Falkirk—quite the contrary. We can build on existing excellence and we will continue to work towards that end and to support the work force. The next few weeks will be critical and I hope, as a number of members have said, that we can be of one mind in seeking to support the best possible outcome for the work force and the local economy.

*Meeting closed at 17:58.*



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