

# **MEETING OF THE PARLIAMENT**

Wednesday 9 June 2004  
(*Afternoon*)

Session 2

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## Scottish Parliament

*Wednesday 9 June 2004*

*(Afternoon)*

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

### Time for Reflection

**The Deputy Presiding Officer (Murray Tosh):** Good afternoon. The first item of business this afternoon is time for reflection. Our time for reflection leader today is Mrs Margaret Clark, Roman Catholic, Action of Churches Together in Scotland and the Ecumenical Forum of European Christian Women.

**Mrs Margaret Clark (Roman Catholic, Action of Churches Together in Scotland and the Ecumenical Forum of European Christian Women):** Good afternoon. A favourite quotation from Robert Burns is:

"O wad some Power the giftie gie us  
To see oursels as ithers see us!"

I suggest that you have that gift. The decisions that you make affect the lives of people, and in the media and by letter you are told what people think of your decisions—some applauding, some ridiculing. All decisions affect someone's life, either for better or for worse.

As a Christian, I like to think that I am guided by the words of Jesus, who said that the first commandment was to love God and the second to love your neighbour as yourself. It is easy to love some neighbours, but how do we show love to those in our society who feel excluded—the homeless, single parents, asylum seekers, the unemployed, those who suffer domestic violence, the sick, pensioners and the stranger in our midst?

I like to think that we are a welcoming people and that we care for our neighbours. We want decisions and laws that take care to ensure that, as we are all created equal in the eyes of God, we all have an equal opportunity to live life to the full. We care for the vulnerable in our society and for the sanctity of life.

It is a responsible role that you hold as the people whom we have chosen to represent us in building a Scotland that we can all be proud of—one that cares for every man, woman and child. So I often wonder what goes through your hearts and minds as you debate issues and changes to legislation. I like to think that it is about building a kingdom, like the kingdom of God, where all can live at peace with their neighbour. And while

building a new Scotland, we must not forget the rest of the world: the hunger caused by third-world debt; our war-torn world; and divided countries. We have our part to play in changing world conditions and in loving the neighbour whom we see only on television.

When a group of young people from Belarus visited our Parliament, they were amazed at the access that we had to our politicians. It was quite a coincidence that, while they sat in the visitors' gallery, you debated nuclear power—something that had touched their lives quite drastically.

So I pray that we in Scotland show love to all our neighbours.

## Business Motion

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

The next item of business is consideration of business motion S2M-1433, in the name of Patricia Ferguson, on behalf of the Parliamentary Bureau, setting out a business programme, together with one amendment to the motion.

**Iain Smith (North East Fife) (LD):** On a point of order, Presiding Officer. I ask for your guidance in relation to the amendment to business motion S2M-1433. The amendment calls for the insertion of ministerial statements to the business programme. I understand that standing orders provide for ministerial statements to be made only when there has been a request or upon notice given by a minister that they wish to make a statement, at which point the bureau may make provision in the business programme. Indeed, in the case of an urgent statement, the Presiding Officer has the discretion to take it. Given that there does not appear to be a method by which a ministerial statement might be required, how can the business programme be amended to include ministerial statements if no minister has requested one?

**The Deputy Presiding Officer:** First, I thank the member for giving me advance notice of his point of order, which has just given rise to 20 minutes of most interesting discussion.

Any amendment to a business motion that receives the support of 10 or more members must be taken by the Parliament. I do not have any discretion over selection in such circumstances. In relation to the competence of the amendment, there is nothing in the standing orders to rule it out of order. However, Mr Smith is perfectly correct to point out that it is not possible under standing orders to compel a minister to make a statement to the Parliament. As a result, if the amendment were agreed to, the effect of any subsequent resolution would be unclear. I suggest that members bear that in mind for future reference when lodging amendments to business motions.

I now call Patricia Ferguson to move motion S2M-1433.

*Motion moved,*

That the Parliament agrees the following programme of business—

Wednesday 16 June 2004

|                    |   |
|--------------------|---|
| 2.30 pm            | Time for Reflection   |
| <i>followed by</i> | Parliamentary Bureau Motions  |
| <i>followed by</i> | Executive Debate on Family Matters:<br>Improving Family Law in Scotland |
| <i>followed by</i> | Business Motion   |
| <i>followed by</i> | Parliamentary Bureau Motions  |

|                    |                   |
|--------------------|-------------------|
| 5.00 pm            | Decision Time     |
| <i>followed by</i> | Members' Business |

Thursday 17 June 2004

|                    |   |
|--------------------|---|
| 9.30 am            | Parliamentary Bureau Motions  |
| <i>followed by</i> | Stage 3 of the Antisocial Behaviour<br>etc. (Scotland) Bill   |
| 12 noon            | First Minister's Question Time  |
| 1.30 pm            | Question Time—<br>Enterprise, Lifelong Learning and<br>Transport;<br>Justice and Law Officers;<br>General Questions |
| 2.30 pm            | Continuation of Stage 3 of the<br>Antisocial Behaviour etc. (Scotland)<br>Bill                                      |

*followed by* Parliamentary Bureau Motions

5.30 pm Decision Time

Wednesday 23 June 2004

|                    |  |
|--------------------|--|
| 2.30 pm            | Time for Reflection                                |
| <i>followed by</i> | Parliamentary Bureau Motions                       |
| <i>followed by</i> | Stage 3 of the Local Governance<br>(Scotland) Bill |

*followed by* Business Motion

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Thursday 24 June 2004

|         |  |
|---------|--|
| 9.30 am | Committee Business   |
| 12 noon | First Minister's Question Time   |
| 2.00 pm | Question Time—<br>Education and Young People,<br>Tourism, Culture and Sport;<br>Finance and Public Services and<br>Communities;<br>General Questions |
| 3.00 pm | Stage 1 Debate on the School<br>Education (Ministerial Powers and<br>Independent Schools) (Scotland) Bill  |

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business.—[Patricia  
Ferguson.]

14:36

**Bill Aitken (Glasgow) (Con):** Irrespective of the niceties of standing orders, the purpose of my amendment is self-evident. We seek to ensure that ministers acknowledge their responsibilities and come to the chamber to provide appropriate explanations when matters of the greatest concern that affect many people in Scotland come to the fore.

The secondary issue set out in the amendment concerns Scottish Opera's future. I say "secondary", but I am sure that it does not feel secondary to the many people in Scottish Opera whose jobs are likely to be under threat as a result of the announcements that were made the other day. It is perfectly true that the Minister for Tourism, Culture and Sport has issued a letter of explanation; however, as is frequently the case from that source, the explanation raises more questions than it provides answers. I really think that he should come to the chamber and provide a more detailed explanation in the form of a ministerial statement.

The principal issue raised in the amendment is slopping out. If we bear in mind the history of this debacle, I find it astonishing that the appeal was not lodged timeously. An explanation is required and it is up to the Minister for Justice to give it. Fortunately, this morning the Court of Session agreed to hear the appeal, which for the moment—and I stress that phrase—spares the Executive's blushes and an awful lot of taxpayers' money.

I understand that the appeal against Lord Bonyon's judgment is based only on the findings of the European Court of Human Rights, not on the position in common law. That makes a statement even more urgent.

The appeal will be determined in due course by people who are much better qualified to do so than any of us. However, the following questions need to be answered urgently. First, given the limited grounds of its appeal, is the Executive admitting liability on the common law of reparation? Secondly, is the appeal restricted only to cases that involve remand prisoners? Thirdly, have any estimates been made on the potential liabilities or the number of cases that might be involved? Fourthly, when will this particular Minister for Justice face up to her responsibilities and come to the chamber to answer for them, which is something that she has manifestly failed to do on so many issues?

Regardless of the result of this vote, the day must come when the minister will have to face up to her responsibilities. If she does not, we will certainly find a device within the standing orders to ensure that she comes to the chamber to answer for the blunders that have been the theme of her department over the past few months.

I move amendment S2M-1433.1, that after

*"followed by* Executive Debate on Family Matters:  
Improving Family Law in Scotland"

insert

"4.00 pm Ministerial Statement on Slopping  
Out

4.30 pm

Ministerial Statement on Scottish  
Opera".

14:39

**Linda Fabiani (Central Scotland) (SNP):** I wish to oppose the business motion. Indeed, I indicated my intention to do so at yesterday's meeting of the Parliamentary Bureau when the request for a statement on slopping out was refused.

On 12 May, the Minister for Justice announced her intention to lodge an appeal against Lord Bonyon's judgment on the Napier case. The Scottish National Party supported that decision, because ending the practice of slopping out in our prisons is long overdue. It is inhumane and degrading and has no place in Scotland. After all, this is the 21<sup>st</sup> century and the penal system should seek to rehabilitate prisoners as well as punish them. We should remember that prison officers, who have to supervise slopping out, also have human rights.

The Executive should be held to account for its wilful failure over several years to invest in the prison estate. The warnings have been clear and stark. That said, many members—I and others throughout the chamber—who abhor the practice of slopping out, question whether we should financially compensate convicted criminals. That is why it is in the public interest that the judgment is tested in court.

Of course, as we all know, despite the statement a month ago, appeal papers were not lodged with the Court of Session in time. We learned today that Lord Cullen deemed that that was an inadvertent mistake and that he allowed the Executive more time to lodge its appeal. The minister and the Executive must have heaved huge sighs of relief at that ruling, because the potential bill of several millions of pounds in compensation payments could exceed the cost of ending slopping out. Of course, if the appeal were lost, the Executive would find itself in the position of paying compensation anyway. However, that would happen after due process of law and not because of the Executive's incompetence.

In these circumstances, it is vital that the Executive comes before the Parliament to account for the mistake that was made. I am aware that the Minister for Justice briefly updated the Justice 2 Committee yesterday and confirmed that an internal inquiry was under way. However, the Executive must accept responsibility for its actions and those of its civil servants, and the rights of any employees concerned must be protected.

When there is already speculation in the press about how the mistake happened, it is only right that the Parliament as a whole is apprised of the facts and afforded an opportunity to question the

Minister for Justice. Therefore, in the absence of a statement, the SNP opposes the business motion.

14:41

**The Minister for Parliamentary Business (Patricia Ferguson):** I will take the issues in chronological order and begin with Scottish Opera. It is my belief, and the Executive's, that a ministerial statement at this time is unnecessary. Full disclosure of the Executive's position and the rationale behind it has already been made to all MSPs by individual letter on 7 June—as Mr Aitken was kind enough to acknowledge—and in the written reply to a parliamentary question on 7 June.

As I think that most MSPs will recognise, the needs of Scottish Opera's staff and the legal obligations of its board to inform them of any decision were paramount in the consideration of how best to inform MSPs of events. The written information to which I referred was provided to all MSPs as soon as it was possible to do so. There is no further information that ministers could provide to the Parliament that is not in the public domain and that is additional to that held by MSPs.

I now come to the Napier judgment. I can indicate to Parliament that the Lord Advocate and the Minister for Justice will jointly write to the conveners of the justice committees. In those letters, they will explain the reasons for the Executive's failure to lodge the appeal timeously; outline the action taken as a result of that failure; and describe the grounds of appeal. As the case is now sub judice, it will not be proper for me to discuss its details or the merits of the arguments.

**The Deputy Presiding Officer:** There are two questions to be put as a result of this short debate. The first question is, that amendment S2M-1433.1, in the name of Bill Aitken, be agreed to. Are we agreed?

**Members:** No.

**The Deputy 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)  
Davidson, Mr David (North East Scotland) (Con)  
Douglas-Hamilton, Lord James (Lothians) (Con)  
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
Ewing, Mrs Margaret (Moray) (SNP)  
Fabiani, Linda (Central Scotland) (SNP)  
Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
Fox, Colin (Lothians) (SSP)  
Fraser, Murdo (Mid Scotland and Fife) (Con)  
Goldie, Miss Annabel (West of Scotland) (Con)

Grahame, Christine (South of Scotland) (SNP)  
Harper, Robin (Lothians) (Green)  
Harvie, Patrick (Glasgow) (Green)  
Ingram, Mr Adam (South of Scotland) (SNP)  
Johnstone, Alex (North East Scotland) (Con)  
Marwick, Tricia (Mid Scotland and Fife) (SNP)  
Mather, Jim (Highlands and Islands) (SNP)  
Matheson, Michael (Central Scotland) (SNP)  
Maxwell, Mr Stewart (West of Scotland) (SNP)  
McFee, Mr Bruce (West of Scotland) (SNP)  
McGrigor, Mr Jamie (Highlands and Islands) (Con)  
McLetchie, David (Edinburgh Pentlands) (Con)  
Milne, Mrs Nanette (North East Scotland) (Con)  
Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
Mundell, David (South of Scotland) (Con)  
Neil, Alex (Central Scotland) (SNP)  
Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
Scanlon, Mary (Highlands and Islands) (Con)  
Scott, John (Ayr) (Con)  
Stevenson, Stewart (Banff and Buchan) (SNP)  
Sturgeon, Nicola (Glasgow) (SNP)  
Welsh, Mr Andrew (Angus) (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)  
Godman, Trish (West Renfrewshire) (Lab)  
Gorrie, Donald (Central Scotland) (LD)  
Henry, Hugh (Paisley South) (Lab)  
Home Robertson, Mr John (East Lothian) (Lab)  
Hughes, Janis (Glasgow Rutherglen) (Lab)  
Jackson, Dr Sylvia (Stirling) (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)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 36, Against 65, Abstentions 0.

*Amendment disagreed to.*

**The Deputy Presiding Officer:** The second question is, that motion S2M-1433, in the name of Patricia Ferguson, be agreed to. Are we agreed?

**Members:** No.

**The Deputy 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)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (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)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### AGAINST

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Baird, Shiona (North East Scotland) (Green)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Fox, Colin (Lothians) (SSP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Mundell, David (South of Scotland) (Con)  
 Neil, Alex (Central Scotland) (SNP)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 65, Against 37, Abstentions 0.

5.00 pm  
*followed by*

Decision Time  
Members' Business.

*Motion agreed to.*

That the Parliament agrees the following programme of business—

Wednesday 16 June 2004

2.30 pm                      Time for Reflection  
*followed by*                Parliamentary Bureau Motions  
*followed by*                Executive Debate on Family Matters:  
Improving Family Law in Scotland  
*followed by*                Business Motion  
*followed by*                Parliamentary Bureau Motions  
5.00 pm                      Decision Time  
*followed by*                Members' Business

Thursday 17 June 2004

9.30 am                      Parliamentary Bureau Motions  
*followed by*                Stage 3 of the Antisocial Behaviour  
etc. (Scotland) Bill  
12 noon                      First Minister's Question Time  
1.30 pm                      Question Time—  
Enterprise, Lifelong Learning and  
Transport;  
Justice and Law Officers;  
General Questions  
2.30 pm                      Continuation of Stage 3 of the  
Antisocial Behaviour etc. (Scotland)  
Bill  
*followed by*                Parliamentary Bureau Motions  
5.30 pm                      Decision Time

Wednesday 23 June 2004

2.30 pm                      Time for Reflection  
*followed by*                Parliamentary Bureau Motions  
*followed by*                Stage 3 of the Local Governance  
(Scotland) Bill  
*followed by*                Business Motion  
*followed by*                Parliamentary Bureau Motions  
5.00 pm                      Decision Time  
*followed by*                Members' Business

Thursday 24 June 2004

9.30 am                      Committee Business  
12 noon                      First Minister's Question Time  
2.00 pm                      Question Time—  
Education and Young People,  
Tourism, Culture and Sport;  
Finance and Public Services and  
Communities;  
General Questions  
3.00 pm                      Stage 1 Debate on the School  
Education (Ministerial Powers and  
Independent Schools) (Scotland) Bill  
*followed by*                Parliamentary Bureau Motions

## Smoke-free Environments

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

The next item of business is a debate on promoting choice and good citizenship: towards more smoke-free environments. The debate will be concluded without any question being put.

14:46

**The Deputy Minister for Health and Community Care (Mr Tom McCabe):** I am pleased indeed to have the opportunity to open this important debate, which, while focusing on increasing the number of smoke-free environments, actually centres on issues close to the heart of this Parliament: personal choice, good citizenship and a desire to improve Scotland's poor health record. I want to set out more fully our approach to the consultation on smoking in public places, which we launched on Monday and which will run until the end of September this year. I also want to reflect on some of the key facts and figures around smoking and passive smoking, and I want to try to dispel some of the myths that have been perpetrated.

Let us look at some of the facts. Though it is improving, Scotland's health is poor by United Kingdom and European standards. That is a fact. Smoking kills and debilitates, and that is a fact. Smoking is a major factor in health inequalities, with smoking rates in our poorer communities being twice as high as those in our better-off communities. On average, smokers can expect to live 16 years less than a non-smoker, and that is a fact. Exposure to second-hand smoke increases a non-smoker's risk of heart disease and cancer, and that is a fact. Exposure to second-hand smoke is also a cause of respiratory illness and asthma in children.

I could go on and on. The health impact of smoking and passive smoking is now a given. Even the tobacco industry is beginning to acknowledge that fact.

### **Mr Stewart Maxwell (West of Scotland) (SNP):**

Given that even the tobacco industry now accepts that its own product kills people, does the minister wish to comment on John Reid's comments about smoking actually being a pleasure for those in our poorer communities, when smoking is, in fact, not a pleasure but a killer?

**Mr McCabe:** It may well be a pleasure, but it is a misguided pleasure. There are many misguided pleasures and it is the purpose of Government to try to ensure that citizens do not engage in habits that will restrict their life journey and life expectancy.

I remind members that we are holding this debate about the effects of passive smoking

because we have a devolved Parliament. We are here today to find Scottish solutions to Scottish problems. It is our health outcomes and our lifestyle choices for a healthier Scotland that we debate today. Ministers south of the border are held accountable for their comments by the Westminster Parliament, not by this Parliament.

I would like to share a few quotes with members. One states:

"Smoking is dangerous and addictive."

Another states:

"There is no such thing as a 'safe' cigarette."

A third states that

"the conclusions of ... health officials concerning environmental tobacco ... are sufficient to warrant measures that regulate smoking in public places."

Members could be forgiven for thinking that those are the words of the chief medical officer or of a surgeon who has to deal day in, day out with the consequences of smoking, but they are not. They are the words of a major tobacco manufacturer, Philip Morris, and they can be viewed on the company's official website. If they do nothing else, they demonstrate that that company is facing up to the truth about its products and their consequences.

When each and every one of us in the chamber takes a moment to ponder the indisputable evidence on the dangers attached to smoking; when we ponder the friends and loved ones who have suffered the ill health that can go with smoking; and when we remember lives cut short and the indignity of a lingering death from cancer, we should ask this question: is there a greater service that we as an Executive—and we in this Parliament—can do for our people than to take clear and firm action to reduce the toll that smoking and passive smoking take on our society?

**Dr Sylvia Jackson (Stirling) (Lab):** Will the minister join me in congratulating Stirling Council, which at a meeting last night decided to ban smoking in all the public places that it owns?

**Mr McCabe:** I am more than happy to join in the member's congratulation of that council. Its decision will lead to better outcomes and to the citizens of that area thinking longer and harder about the lifestyle choices that they make. That can only be good—not only for those individuals but for the community in general.

The debate that will rage over the next four months will force all of us—parliamentarians as well as every woman and man in Scotland—to face up to the challenge of revolutionising life journeys and life expectancy in Scotland. The first ever tobacco control action plan designed

specifically for Scotland—"A Breath of Fresh Air for Scotland", which we published in January—is aimed at doing just that. The comprehensive programme of action under the plan ranges from a major rethink of the current approach to prevention and education, through to support for those wishing to quit—with an injection of an additional £4 million from 2005-06 for smoking cessation services—through to protection and control measures to reduce the availability of cigarettes, especially to children and young people. The plan also addresses the issue of second-hand smoke and confirms our intention to sponsor a major public debate on measures to increase the number of smoke-free environments in Scotland. The health impact of second-hand smoke is clear and irrefutable.

**Mr Duncan McNeil (Greenock and Inverclyde) (Lab):** In May 2003, the *British Medical Journal* published the results of a study that said that the link between environmental tobacco smoke and coronary heart disease and lung cancer may be considerably weaker than generally believed. What is the minister's comment on that?

**Mr McCabe:** The use of the word "may" is very interesting. I point out to the member that the *British Medical Journal* is a vehicle for the expression of various strands of opinion within the medical community. Some people have said that there is no link and eminent people in the medical community have said emphatically that there is a link. I am happy to debate that here or at any other time.

**Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD):** I totally agree with what the minister says about the link. My father died of lung cancer, but I am a smoker, as is John Farquhar Munro. When the minister talks about things that might be rolled out, does he include doctors and nurses targeting people like me who need to kick the weed? They might lean on us rather more strongly than they do at the moment.

**Mr McCabe:** That is a very important point. The evidence tells us that 70 per cent of people who smoke want to give up, but only 2 per cent manage to do so without specific help. That is why we have allocated considerable additional finance to enhance smoking-cessation services, to help as many people as possible to kick the habit and improve their life expectancy and their life journey.

Tobacco smoke contains about 4,000 different chemicals, including more than 50 that can cause cancer. Long-term exposure to second-hand smoke increases the risk of lung cancer and heart disease by between 20 and 30 per cent. Babies and children who are exposed to second-hand smoke are at particular risk, because of links to asthma and other respiratory disorders. Thus, the case for protecting employees and members of

the public from breathing tobacco smoke in enclosed public places is strong. Smoke-free workplaces and public places are therefore clearly the ideal. Make no mistake; this is the direction of travel. The question to be resolved is how and when we get there.

In spite of the speculation, let me make it clear that, in the consultation, nothing is ruled out and nothing is ruled in. This will be a genuine debate. We enter it with an open mind. We promised the people of Scotland an opportunity to contribute to the debate and that is what we are doing. Of course an extension of the current voluntary charter, which involves partnership with business interests, remains an option. We will welcome constructive ideas on how that can be made to work. However, progress so far has been disappointing.

**Christine Grahame (South of Scotland) (SNP):** I seek the minister's guidance. I am trying to find out what has happened to a document called "Smoking Epidemic" by Laurence Gruer, who gave evidence to the Health Committee yesterday. The Executive was doing a survey with the Public Health Institute for Scotland. It commissioned research, which it was said would result in the production of an atlas showing the estimated prevalence of smoking and smoking-related mortality rates by postcode sector and at local authority, parliamentary constituency and NHS board levels. That work was due for completion in the autumn of last year. I have been unable to trace what happened to that. I wonder whether the minister can assist.

**Mr McCabe:** I can certainly write to the member with the exact details. I know that more work had to be done on the data to ensure that they were properly focused on those areas. As the member can imagine, that is a very precise piece of work. It is still the intention to produce the smoking atlas of Scotland.

Statutory controls are also an option and, if the overwhelming strength of evidence and public opinion point to such a move, the Executive will not shrink from its responsibility to legislate.

There is everything to play for in the consultation; it is designed to ensure the widest possible public response and to complement wider evidence gathering. People will be able to pick up copies of the consultation, which will take only a few minutes to complete, from doctors' surgeries, pharmacists, a variety of health board and local government outlets, including libraries, and as many other public outlets as we can reach. They will also be able to make known their views through the internet.

In addition to the public consultation, we are undertaking a number of pieces of research to

help us form a view on the best way forward. That work will include examining the international experience, evidence about health, and the economic impact of action to reduce exposure to second-hand smoke. The experience in Ireland and New York, where high-profile statutory bans in public places have recently been imposed, will of course be considered.

During the consultation period, in conjunction with the Scottish Civic Forum, we will hold a series of public forums to allow local communities to have their say. There will be events targeted specifically at children and young people, the first of which I will attend next week. I will also attend a number of the public forums. In September, we are hosting a major conference with international speakers to enable us to hear about the experiences of other countries at first hand.

Today's debate is a good opportunity to provide some context for our considerations. I have mentioned the stark facts and I will now deal with some of the myths.

I am conscious that, during the debate, we will hear much about the right to choose and civil liberties. Those values are close to the heart of the Parliament and the Executive. Nothing that we do will run counter to personal choice or civil liberty. However, the debate needs to be balanced; we need to recognise that we all have rights and freedoms. We are not talking about banning smoking but, just as smokers have the right to smoke, non-smokers have the right not to be exposed to someone else's smoke. More than anything, the debate is about good citizenship and respect for others.

We will hear scare stories about businesses—pubs in particular—being under threat from smoking bans and economic disaster. Research into the international experience will help us to assess the potential impact.

**Margaret Smith (Edinburgh West) (LD):** Some members of the Equal Opportunities Committee were lucky enough to spend yesterday and the day before in Dublin on parliamentary business. Purely in the interest of research, I went into a couple of pubs, which was a very pleasant experience all round. We have been hearing that banning smoking in public places would cost a lot of money, but the anecdotal evidence in Dublin suggested that the pubs were booming because of greater food sales and so on. A ban on smoking in public places is not all bad news.

**Mr McCabe:** That was a timely intervention.

There is no doubt that evidence is beginning to emerge about the economic benefits to business. Our research will ensure that balance is injected into the debate when necessary. Seventy per cent of the population does not smoke. As awareness

grows, we are seeing a mood swing towards smoke-free environments. We should not automatically assume that all is gloom and doom. The restriction or banning of smoking in a public place can and should be viewed as a positive business opportunity.

In direct response to Margaret Smith's comment, on Monday of this week we launched our consultation in the Phoenix pub in the centre of Glasgow, which started its smoke-free life three months ago. Since that time, the pub has seen a 6 per cent increase in drinks sales, a 30 per cent increase in food sales, and an overall increase in trade of 12 per cent.

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

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

**Mr McCabe:** In conclusion, I am confident that the comprehensive approach to the consultation will allow all the relevant issues and shades of opinion to surface and to be debated. Despite the SNP's claims to the contrary, the consultation, which is wide-ranging and fully inclusive, is the first that the Executive has undertaken on smoking in public places.

I want to be clear that the Executive is determined to improve the health of the people of Scotland. For too long Scotland has featured near the top of the tables for the incidence of major health conditions such as heart disease and cancer. Smoking, actual or passive, is the main cause of premature death and ill-health in Scotland. We are committed to taking action to reverse this and we want to take the people of Scotland with us when we do so.

The consultation can be a catalyst for change and for lifestyle choices. The prize for success is enormous, but the cost of failure would be poorer life journeys, lower life expectancy and a nation that had become expert in managing serious preventable disease while it ignored what could be done to prevent it.

I hope that everyone in Scotland takes the opportunity to participate in the consultation. I urge all MSPs to do so and to encourage their constituents to do so too.

I apologise for running over time, Presiding Officer.

15:01

**Mr Stewart Maxwell (West of Scotland) (SNP):** I was disappointed that the minister did not take the opportunity to distance himself from the reprehensible remarks of John Reid, the so-called Secretary of State for Health. It is totally abhorrent

that a Secretary of State for Health should try to discuss a ban on smoking in terms of class warfare.

**Kate Maclean (Dundee West) (Lab)** *rose—*

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

**The Deputy Presiding Officer:** Minister.

**Mr McCabe:** I repeat the point that I made earlier. The debate is taking place in a devolved Scottish Parliament. Members should concern themselves with the actions of the two ministers who have responsibility for health in Scotland. We are the people who can make the decisions about health for the people of Scotland.

**Mr Maxwell:** It is obvious that the minister is embarrassed by John Reid's remarks and that he does not want to comment on them. I appreciate that.

I thank the Executive for at least bringing to the chamber a debate on an issue that I believe to be the single biggest public health issue that faces Scotland today. However, the issue is not new. This year marks the 400<sup>th</sup> anniversary of the first anti-smoking publication, "A Counter-blaste to Tobacco", which was written in 1604 by James VI. Contrary to what members might think, smoking bans in public places are also not new. In 1641, the country of Bhutan banned smoking in government buildings. The argument and debate on the subject and the knowledge about what smoking can do have been around since smoking first appeared in Europe and elsewhere.

Although most other parts of the world have only recently started to catch up, the movement for change is gathering pace, with bans being introduced in Australia, New Zealand, Canada, all over the United States of America—including California and New York—and, most recently, in Ireland and Norway. The idea is one whose time has come and Scotland should join the growing ranks of places around the world in which the protection of public health is the top priority.

At the moment, Scotland has a voluntary charter, but it has failed. After four years, seven out of 10 pubs allow smoking throughout and a mere one in 10 premises meets all four of the targets in the charter. The voluntary charter was never going to reduce exposure to second-hand smoke. That is because it is possible to comply with the charter without doing a single thing to protect people from environmental tobacco smoke. In fact, all that those who are responsible for a premises need to do is to put up a very small sticker that says "Smoking Allowed Throughout", which protects nobody.

I welcome the fact that something is finally being done, but it is almost unbelievable that it has taken the Executive and its army of civil servants six

months to draw up what can only be called a flimsy survey document; it is a document that a secondary school pupil could have knocked out in an afternoon. The consultation document has a total of six questions on smoking. The fact that it took the Executive six months to think up six questions does not seem like a high work rate to me.

At a time when we need action, all that we are getting from the Executive is delay and prevarication. Scotland needs a smoking ban in public places. Every year, there are somewhere in the region of 13,000 smoking-related deaths in Scotland. More premature deaths result from smoking than are caused on the roads or by alcohol or by any other avoidable cause.

Of course, what is at issue is not only the number of people in Scotland who are dying, but the number who are being made ill. In Scotland, 35,000 hospital admissions every year are as a result of smoking-related diseases, of which the annual cost to the health service is approximately £200 million. Executive members are fond of continually asking, "If you want to spend money on something else, tell us which schools and hospitals you are going to cut to fund it." I ask the Executive, if it does not take the necessary steps to tackle the problem by banning smoking in public places, whose children will not get the education they deserve and which patients will not be treated because £200 million a year is being wasted by having to be used to deal with smoking-related ill health?

Maybe—just maybe—an argument could be made for people's right to self-harm, were it not for the fact that smoking does not just harm those who smoke. Many non-smokers are made ill and killed by other people's smoke, as the minister acknowledged. They are the victims of passive smoking, but they are also the victims of inaction by this Parliament when it comes to protecting their right to not have their health damaged by others. Make no mistake about it: passive smoking damages people's health and kills them.

This is not the first consultation on the topic that we have had in this Parliament; it is the fourth. Kenny Gibson had a consultation, I had a consultation, the Health Committee had a consultation and the Executive is carrying out the fourth consultation.

It is no surprise that passive smoking damages people's health. Tobacco smoke contains 4,000 chemicals, including 47 regulated hazardous wastes, 5 regulated hazardous air pollutants, more than 50 known cancer-causing agents, and chemicals that increase blood pressure, damage the lungs and cause abnormal kidney function. The World Health Organisation has classified environmental tobacco smoke as a human

carcinogen. The United States Environmental Protection Agency has classified it as a class A human carcinogen for which there is no safe level of exposure. That puts it in the same class as asbestos, arsenic, benzene and radon gas, yet those who are opposed to a public places smoking ban claim that environmental tobacco smoke does no harm—a claim that, quite frankly, defies all logic and evidence.

In children, passive smoking has been linked to cot death, ear infections, respiratory infections, the development of asthma and asthma attacks in those who are already affected, as well as low birth weight and premature birth. In adults, passive smoking is involved in a range of cancers, particularly lung cancer, as well as heart disease, bronchitis, asthma and stroke.

**Mr McNeil:** That is all very interesting and is all clearly disputed by other evidence. We have had two or three minutes of Stewart Maxwell's speech. Is he seriously suggesting that we will have no diseases, no asthma and no children with ear ache when we ban smoking?

**Mr Maxwell:** Duncan McNeil should listen, because I said no such thing. I said that smoking is linked to all those diseases. That is all I said. If we take away smoking in public places, we will reduce the effect of those diseases. Most lung cancer cases are linked directly to smoking.

**Mr McNeil:** To passive smoking?

**Mr Maxwell:** I did not say that either. I said that they are linked directly to smoking. Duncan McNeil should open his ears and listen to the scientific evidence of Asthma UK, the British Lung Foundation and all the other groups that work in the field, which shows the damage done by smoking and passive smoking.

Numerous scientific studies from around the world show the damage to health that is caused by passive smoking, but I will outline just one that starkly illustrates what passive smoking does and the effect that a ban can have on public health. In a place called Helena, in Montana, a public places smoking ban was in place for just six months. Heart attack rates in Helena in the months and years before the ban ran at a constant rate but, during the period of the ban, heart attack admissions to hospital fell by 40 per cent. When the ban was lifted, the heart attack rate returned to the pre-ban level. The evidence of research such as that is clear: passive smoking kills and maims, while smoking bans save lives and protect health.

Part of the debate rightly centres around promoting choice, but it is not the deceitful concept of choice for the few that the tobacco companies push that is important; it is choice for all. As things stand, smokers have a choice, but non-smokers have no choice. What choice is there for a family

with children or for those who suffer from asthma, a heart condition or a chest or lung illness? The reality is that there is no choice for the 70 per cent of the adult population in Scotland that does not smoke. If they wish to go out for a drink or a meal, they must decide whether to go out and breathe in second-hand smoke, with all that that entails, or to not go out at all. If Scotland followed the example of other places around the world and banned smoking in public places, there would be genuine choice for all, because smokers and non-smokers could enjoy a night out and staff would not be faced with the stark choice between risking their health on the one hand and facing unemployment on the other.

**Murdo Fraser:** Does Stewart Maxwell accept that there are already restaurant chains, such as Pizza Hut and others, that have introduced a voluntary ban on smoking? Is not that the way to go? Why do we not let the market decide whether we should have smoking and non-smoking places, so that people have a real choice?

**Mr Maxwell:** Is Murdo Fraser really saying that, if a family wants to go out, their only choice should be to go and get a pizza? I do not think that it should be the only choice; people should have a genuine choice to go where they wish.

Of course, the tobacco industry and its supporters claim that choice can be provided for everybody by using ventilation in enclosed premises and bars. I will tackle that claim head on, because it is, to be frank, nonsense. The Scottish and United Kingdom Governments do not endorse ventilation as the answer, and the European Commission's view is clear from its September 2003 statement, in which it said:

"Changes in ventilation rates during smoking do not have a significant influence on the air concentrations of tobacco components. This means, in effect, that efforts to reduce indoor air pollution through higher ventilation rates in buildings and homes would hardly lead to a measurable improvement of indoor air quality."

Ventilation manufacturers themselves put disclaimers on all their products saying that they do not protect from the effects of passive smoking.

All great leaps forwards in public health have come about through enlightened legislation. In the 19<sup>th</sup> century, it was legislation on clean water; in the 20<sup>th</sup> century, it was the clean air acts; and in the 21<sup>st</sup> century, it should and must be a ban on smoking in public places. We can make a real difference. If members came into politics to try to make things better, this issue gives them a chance to do just that. We must all show that we put the protection of public health at the top of our agenda, and by voting in favour of banning smoking in public places when we get the chance later this year, we will strike the biggest single blow against ill health that we possibly could.

Together, we can make a difference, so let us get on and do it.

**The Deputy Presiding Officer:** Before I call the next speaker, I advise members that we lost 12 minutes in the exchanges that took place before the debate and, to ration the time equitably, I propose to reduce the speaking times in the open debate to five minutes in the hope that I will be able to call everyone.

15:11

**Mr David Davidson (North East Scotland) (Con):** I congratulate the Executive on initiating the debate, even though no vote will be taken, because it is important that we welcome the consultation. Some people are concerned about the quality of the consultation, but the most important thing is that we all go through and encourage the consultation process, and I am happy to do that in the north-east of Scotland.

I am a passionate non-smoker—I have never smoked—and I am also a health professional, so I recognise some of the points that the minister and Stewart Maxwell made about the damage that can be caused by smoking directly or passively. Many illnesses, such as asthma, which Duncan McNeil mentioned, are triggered but not necessarily caused by smoking. We cannot run around saying that smoking causes all the problems, but it certainly exacerbates them.

It is not illegal to smoke. The minister started off talking about personal choice and defending civil liberty, and although we accept that smoking can cause damage to health and is an irritant to many people, we still have to balance those facts with the ideas of civil liberty and personal choice. What should government do? We must change the culture about smoking. People jump up and down and say that the Irish have done it overnight, but the Irish have spent 14 years developing legislation, and it was through the surprise action of the Irish Minister for Health and Children that the ban came into pubs. At the moment, it seems to be working, although there are disputed figures from different organisations about what the effect on trade is and how long it will last.

There is a risk in the idea of a ban instead of control. There is a world of difference between having control and having a ban, because control can allow people to have choice within premises. I agree with Stewart Maxwell, as I have done in the past, that if we are to have separate places in which to smoke, they must be physically distinct—there is no point in having an open door or a wide open space, because that is not the same thing. I find that smokers are usually happy not to smoke when they go into a restaurant, so that is not a major issue.

Scotland would be a better place if we had proper education and gave decent cessation support to those who give up what is a physical and psychic addiction. One of the first talks that I gave after I qualified was to 250 ladies in a women's union in London who wanted to know how they would recognise whether their children were on drugs. I asked, "Does anybody know what a drug addict looks like?" Everyone replied no. I asked those who smoked to put their hands up and then asked those who did not smoke to look at the people with their hands up. I then explained what addiction was about. We must grasp the facts.

Addiction services are poor in Scotland, regardless of whether the problem is the use of alcohol, tobacco or illegal drugs. We need to provide rehabilitation services. Ultimately, we must accept the fact that people make lifestyle choices, and we should try to ensure that people make educated and informed lifestyle choices. Government has a role in that and I do not believe that enough effort is being made. I hope that that comes out in the consultation process.

**Brian Adam (Aberdeen North) (SNP):** The member argues that we should leave it to choice, that we should have designated smoking places and so on. He suggests that, somehow or other, smokers' rights might be infringed by a ban. We already have publicly accepted bans on smoking in aeroplanes, in cinemas and on buses and, although that last ban might not always be completely honoured in some parts of the country, they are honoured by and large, and people know that they cannot smoke for a limited time. Why should there be a distinction between those examples and visiting pubs and restaurants?

**Mr Davidson:** Because they are private properties that are owned, managed and run by people who make a choice about what product they wish to offer in the marketplace.

**Mr Maxwell:** What about aeroplanes?

**Mr Davidson:** The airlines happily got involved. However, we not arguing over that point—although I do not like being on an aeroplane on which smoking is still allowed, which is the case in some parts of the world.

We come from a voluntary perspective. There is undoubtedly a niche market for non-smoking establishments. There are not too many of them around, but their number is growing day by day. Industry representatives have said that they would rather have a total ban on smoking than a set of partial bans, as there would then be a level playing field.

At the moment, an opportunity exists in the marketplace for non-smoking establishments to be developed or for clear areas to be set up within

establishments, which people may choose to go to. I accept the fact that those who run a one-room pub in a village, where there would be no opportunity to have anything other than a total ban, might find it difficult, but I know that some publicans have contacted their customers about the issue, have carried out polls and so on. That shows active management. I gather that the Federation of Small Businesses has indicated that its members are actively seeking to improve choice and facilities and that some of them will make a total change in what they do, although that is a slightly different argument.

I ask ministers to recognise the success of the Scottish voluntary charter on smoking in public places. The figures are not perfect on all fronts, but why can we not move to a second stage, at which bigger targets are set? People are becoming involved, and I think that the minister himself admitted that to an extent. It is an awfully sad day when we are deciding by law what people will or will not do when their actions are not necessarily an offence against society. Rather, passive smoking might be viewed as an offence against an individual. It is sad that we are not approaching the issue by going down that route.

I worry a wee bit about the fact that the consultation clashes with the passage of Stewart Maxwell's Prohibition of Smoking in Regulated Areas (Scotland) Bill. There seems to be an element of pre-emption there. There could be some good debate on the subject—I do not know—but the Government should be very careful before it comes out with blanket bans on anything without good evidence and public acceptance.

15:18

**Nora Radcliffe (Gordon) (LD):** I apologise to the Parliament for the fact that I will have to leave for part of the debate, because I have a previous commitment that I made before realising that I would be speaking this afternoon.

The consultation that the Executive has launched this week says that about 19,000 premature deaths are caused by smoking each year in Scotland. Successive Governments have been far too slow and far too timid in tackling the huge amount of ill health, misery and death that are caused by smoking. Why is it that, as a society, we have so far failed in our efforts to make a real difference on smoking? Is it because too many of our citizens are hooked on the drug nicotine? Is it because big business has too much invested in it? Is it because we do not want to interfere in people's rights to do what they want to do with their own lives?

I want to be clear that no one is talking about banning smoking. The Executive's consultation is

about smoking in public places. No one is considering stopping people who choose to smoke doing so; we are considering only whether to take legislative action to tackle passive smoking.

Passive smoking means breathing in other people's tobacco smoke. Surely people have the right to breathe clean air. As a Liberal Democrat, I am a strong defender of individual rights, as long as they are not exercised at someone else's expense. Do not non-smokers—the majority of the population—have the right to breathe clean air that is unadulterated by tobacco smoke? I believe that they do. Evidence of the harm that passive smoking does is clear. The Scientific Committee on Tobacco and Health concludes that exposure to second-hand smoke is a cause of lung cancer and heart disease and represents a substantial public health hazard.

**Helen Eadie (Dunfermline East) (Lab):** One of the issues around Stewart Maxwell's Prohibition of Smoking in Regulated Areas (Scotland) Bill is that it proposes to prohibit smoking in public places where people eat food and undertake other activities voluntarily. However, it does not address the fact that people who have to go to work to earn a living could be subjected to passive smoking there in the same way as they could be in public places. Does the member agree that perhaps that is an area of controversy, as people might say, "I can choose whether to go to a restaurant—I can use market forces for that—but I cannot choose where I go to work"?

**Nora Radcliffe:** Helen Eadie makes a good point, which I was about to cover.

The chief medical officer has made it clear that smoking is the single biggest cause of preventable and premature death and ill health in Scotland. Employers have a duty of care to their employees and, under section 2(1) of the Health and Safety at Work Act 1974, they have the duty to ensure, as far as is reasonably practicable, the health, safety and welfare at work of all their employees. I suggest that that could be interpreted to mean that employers already have a legal duty to act to prevent their employees from suffering the effects of passive smoking, but it seems that the courts do not believe that that is the case; otherwise we would already have a workplace smoking ban.

It is for Westminster to legislate to clarify that duty of care. Although we in the Scottish Parliament do not have the authority to legislate on employment law, we have the authority to take action on smoking in public places outwith the workplace. When my colleague Mike Rumbles welcomed on behalf of the Liberal Democrats the Executive's tobacco control action plan back in January, he said that banning smoking in public places can become a realistic option only if there is widespread support for it. I welcome today's debate and the Executive's consultation.

Since January, we have had the opportunity to study the many responses that the Health Committee has received to Stewart Maxwell's bill. Fears about a lack of support from the public for enforcing a ban on smoking in public places where food is served have proved to be groundless. I believe that there is widespread support for moves on this issue and that, for once, we politicians are lagging far behind the Scottish public.

**Christine Grahame:** Do I take it that Nora Radcliffe, like her colleague Mike Rumbles, supports Stewart Maxwell's bill?

**Nora Radcliffe:** I support the fact that Stewart Maxwell has introduced it and I would like to see the results of the consultation. We will proceed in the way that the Parliament does so well by taking all the input into account and acting accordingly. If the public response to the Executive's consultation is anything remotely like the response to Stewart Maxwell's bill, I am sure that the time for action will not be far off.

For Liberal Democrats, three key issues need to be taken into account. First, it is undoubtedly the role of government to promote good health, to which the coalition Executive is committed. Secondly, there needs to be public support for action taken. Thirdly, we must acknowledge that people have the right to smoke as long as they do not harm others. Perhaps we should add a fourth: that we must acknowledge that smoking is an addiction that needs to be treated. As far as I am concerned, those three tests—the promotion of good health, public support for a ban on smoking in public places and recognition of the rights of the individual—have to be met. Once it is clear that they have been met—and the Executive's consultation should provide us with the answer that we are seeking—swift action will be required, for all our sakes.

15:25

**Johann Lamont (Glasgow Pollok) (Lab):** First, I confess that I come to this issue as a sceptic, and a recently converted one. That is a dangerous mixture and I will explain my position. Originally, I resisted the idea of banning smoking in public places because I thought of some of the people in local communities that I represent who smoke and the reasons why they smoke. It might sound glib but, for some people, the fact that they smoke is the least of their worries. Even if that is an uncomfortable fact to deal with, we have to accept that it is the case. We must not dismiss that argument; we must confront it and think about its implications.

We know that there are people for whom smoking is a habit that is woven into their lives and who live in difficult circumstances. I believe that

we cannot change those lives by talking about a smoking ban and that we have to confront the reality of the lives of those who smoke and the reasons why they do so. However, in my conversion, I have had to accept the need for political consistency. It is true that there is a need to educate people and to support and work with people in difficult circumstances who smoke, but there is also a need for enforcement measures to encourage a drive in the right direction. The balance between the rights of smokers and the rights of communities and individuals to live and work in smoke-free environments is important.

To those who feel able to support that balance of rights and enforcement measures in relation to smoking, I say gently that they should do so in relation to other aspects of antisocial behaviour that impact directly on people's lives. In discussions that we have had about measures to combat that sort of antisocial behaviour, many people say, "We have to understand more," "We don't want to criminalise people" and "We don't want to make it difficult for them." There is a balance to be struck in relation to all of the issues that we are discussing.

I support measures to ban smoking in public places, not least because of having seen the ban in action in the north of Donegal in Ireland. I know that we cannot legislate by anecdote and, as an illustration of my suggestibility, I point out that, the last time I was in Ireland, I came back in favour of the euro. However, it struck me that the smoking ban seemed to be accepted without difficulty and with a sort of joking manner in even the most remote local pubs. Only when I saw the ban in action did I realise what is possible and what it is like to be in a completely smoke-free hotel, public house or other public place. Speaking to people who work in those places, I realised what a difference it makes to their lives.

The banning of smoking in public places is sometimes characterised as being a hugely radical step, but we must recognise that there has been a huge culture shift over time from the days when I was a smoker. I used to see nothing wrong in not only smoking at the table but smoking between courses. We have to accept that smoking is pleasurable for some people. I stopped smoking not because I did not like it but because it became socially unacceptable. Again, that is why I am in favour of moves towards a ban on smoking in public places.

The debate highlights huge differences in some of our communities and raises difficulties of which the whole of Scotland must take ownership. We have to recognise that anyone who smokes has an individual problem and that our health strategy must support them in their efforts to stop. However, in some of our communities, smoking is

a symptom of a far deeper problem. While smoking happens across communities, the reality is that those in poor, deprived communities disproportionately resist the health messages and die in disproportionate numbers. If we do not recognise that, the important issue of health inequality, which the smoking debate could focus on, will not be addressed. The issue is general, but it is also extremely particular.

There also needs to be an understanding of why some of the statistics in constituencies such as mine have come about. With that understanding, there must be a commitment to drive money into those communities and to address health issues in their broadest sense and the broader issues that make some people reckless with their health.

We need the broadest definition of public health. We need our rhetoric to be accompanied by hard resources. A commitment has to be made to those communities. The Arbutnott formula needs to be applied more rigorously in health, local government and across the Executive's spending in order to prioritise those communities and people who smoke due to conditions and experiences that do not enable them to prioritise stopping smoking.

By using that approach, in parallel with a general approach that makes it difficult for all of us, including our children, to smoke and which makes smoke-free places a pleasure to be in, we will make a real change. That would be the really radical step that the Scottish Parliament could take as a result of the consultation. As well as a general approach to smoking, there should be a specific approach to the communities that suffer most from it.

15:30

**Nicola Sturgeon (Glasgow) (SNP):** Politicians should be prepared to take the lead on this issue. They should be prepared to take a principled stand and then to try to win people over instead of consulting continually in the hope that some sort of public consensus will emerge behind which we can safely shelter. The big irony about the timidity that sometimes exists around the issue is that many surveys show that majority support already exists for a ban on smoking in public places. Smoking kills.

**Helen Eadie:** The policy memorandum for the Prohibition of Smoking in Regulated Areas (Scotland) Bill states that, of the responses that were received to Stewart Maxwell's proposal, only

"Twenty one (54%) of the respondents supported legislation to regulate smoking."

However,

"Sixteen (40%) of the respondents wanted legislation to be accompanied by a clear public information campaign".

Does the member agree that public information and education are vital?

**Nicola Sturgeon:** The member is misquoting the survey's findings. I can quote the member a BBC survey that shows that 77 per cent of people in Scotland want a ban, and an Office of National Statistics survey that shows a figure of 88 per cent. The point is that politicians should sometimes lead from the front and not simply follow timidly behind.

**Mr McCabe:** Will the member take an intervention?

**Nicola Sturgeon:** Not now—I want to make some progress. I will take an intervention from Tom McCabe later.

Tom McCabe rightly said that smoking kills—it kills 13,000 people in this country every year. I heard and understood Johann Lamont's comments about what John Reid said, but when John Reid says that smoking is the only pleasure that working-class people have, he should be thoroughly ashamed that that is still the case for so many people in this country after seven years of Labour government. He should also reflect on the fact that, every year, people who live in our most deprived communities, more than any other group in our society, have their lives cut tragically short by smoking-related illnesses.

**Irene Oldfather (Cunninghame South) (Lab):** Will the member take an intervention?

**Nicola Sturgeon:** Not now.

The tobacco industry ruthlessly and cynically targets those people to boost its sales, as its internal marketing strategies will show. That is not an argument for leaving things well alone—it is an argument for shaking ourselves out of our complacency and for doing something about the problem. I agree with Johann Lamont that strategies must deal with complexities and that they must be about health improvement and closing the health gap. To do nothing is simply not an option.

The chief medical officer's 2003 report stated:

"Smoking is the single biggest cause of preventable premature death and ill-health in Scotland."

My view is simple: we should do anything we can to cut smoking rates in Scotland. That is why three years ago I introduced a bill to force action to ban tobacco advertising and why I support Stewart Maxwell's bill. I congratulate him on taking the initiative, although he knows that I think that his bill does not go far enough. I think that the case for completely banning smoking in public places is overwhelming. International evidence suggests that that would cut smoking rates by up to 4 per cent. Many other countries throughout Europe, as

well as parts of the States and Canada, have already gone down that road and the sky has not fallen in on any of them. Compliance rates in respect of bans are exceptionally high.

Those who disagree with that argument will cite the rights of smokers. I have no problem with smokers' rights, but what about the rights of non-smokers? One fact that is sometimes overlooked in the debate is that non-smokers form the majority in this country. We are not a minority—we are the majority, so what about our rights? Every time somebody lights up a cigarette in a pub, in a restaurant or in any other public place, the rights of non-smokers are infringed. We have heard about the horrific effects of passive smoking. The chances of a non-smoker getting lung cancer are increased by 30 per cent by passive smoking.

There is another important point to make. Many people who smoke support a ban on smoking in public places. Surveys show that a majority of people who smoke—the minister told us that it was 70 per cent—want to give up. I know many smokers who say that they would find it easier to give up smoking if they were not surrounded by people smoking every time they walk into a pub or restaurant. Many people say that pubs and restaurants will face economic ruin if we go down the road of a ban. That is absolute nonsense—there is no evidence to suggest that that will be the case. I make the point again that non-smokers are the majority. I presume that people will not give up going to their local pub just because it no longer allows smoking. Trade might be increased rather than decreased.

I finish on the point with which I started. Some people say that we should not proceed to a ban until there is public consensus. As I have said, there are already signs that that public consensus exists. This last point is fundamental. Politicians sometimes—even if only occasionally—have a duty to lead public opinion, not just follow it. A change in legislation can change attitudes, and it is time to take action.

15:36

**Irene Oldfather (Cunninghame South) (Lab):** Normally, I do not agree with anything that Nicola Sturgeon says because we usually meet in European debates; however, I agree with a great deal of what she said today. I agree that politicians have a duty to take the lead, although that does not necessarily preclude our taking the opportunity to consult and debate to allow people to discuss the serious issues.

**Nicola Sturgeon:** Does the member accept that there has already been extensive consultation in the context of Stewart Maxwell's bill, Kenny Gibson's draft bill in the previous session and in

other forms, and that there is already a wealth of evidence about public opinion? There comes a point at which we have to stop talking and get on with it.

**Irene Oldfather:** The minister stated clearly today when that point will be: it will be in September. We are in a fluid and changing situation. I will speak about that a bit later.

The facts about smoking and ill health are now irrefutable. I doubt that if previous generations—our parents, grandparents and great-grandparents—had known about the dangers, tobacco would be as widely available as it is today. Tobacco is a drug; it is addictive and it kills. People of previous generations smoked at a time when it was cool, suave, grown up and—I suppose for women—sophisticated. To be frank, they did not know the facts. Smoking accounts for 13,000 deaths and 33,500 hospital admissions a year and costs the NHS £200 million a year. Between 20 per cent and 23 per cent of all deaths are the result of direct or indirect smoking. During this debate, several people in Scotland will die because of smoking. Such deaths are preventable, so we need to take action.

I agree with Stewart Maxwell that the voluntary charter is not enough. We must make progress on that, although some has been made. The culture that surrounds smoking is changing. People are—rightly—less tolerant of smoking in restaurants and, in my experience, non-smoking areas in restaurants that operate the voluntary code are far more popular.

We talked earlier about airlines. I recall the debate about smoking on airlines that took place some time ago. People said that if a smoking ban was introduced on long-haul flights, people would not travel by air, but that has not happened. Most people nowadays would be astonished if they were exposed to cigarette smoke on an aeroplane. The culture is changing and that is a good thing.

I respect the right of individuals to smoke if they wish to do so. However, seven in 10 of us do not smoke, and I believe that those who do not—in particular, our children—should not have to put up with something that unarguably affects their health and may even kill them. I recognise the difficulty that many people face in trying either to quit or to stop smoking for long periods—it is not easy to do. An 84-year-old constituent of mine gave up smoking at the age of 79, having smoked for 60 years. That was my mum, and I am proud of the fact that she found the willpower to do that. The message is that it is never too late to give up smoking.

I am sympathetic to points that were raised by my colleague, Nora Radcliffe. I noted similar points in relation to employers and their legal

duties. It is only a matter of time before litigation forces action in relation to employment law. It would be so much better if the Governments in Scotland and at Westminster acted instead of reacting. That is something that we should bear in mind. We will have to give careful consideration to enforcement and the messages that will be sent out during the first weeks of a ban will set the tone for the future.

I am running out of time, so I urge people the length and breadth of the country to respond to the consultation. I have no doubt at all that the overwhelming weight of opinion will be in favour of a ban; the only question will be about how far it should go. I will be interested to read and hear the views of others but, at the moment, I am persuaded that the road that has been taken by Ireland and Norway is a sensible way forward.

In putting a ban in place, we would have the opportunity to change for the better the lives of future generations, to increase average life expectancy and to use the money that would be saved by the NHS for research, new technology and new drugs so that we can treat illnesses for which there is no help available such as Huntington's chorea, multiple sclerosis and motor neurone disease. There are lists of such diseases that that money could be put into.

I look forward to welcoming the minister to my constituency on Tuesday, when he will meet young people from Kilwinning Academy. I am confident that the message that he will receive on Tuesday will be reflected throughout Scotland.

15:41

**Mark Ballard (Lothians) (Green):** I welcome this debate on an important matter that affects smokers and non-smokers. I will put my contribution in the wider contexts of polluted air, health and safety at work and environmental justice. For those whose health is affected by their unwitting and often unavoidable exposure to polluted air—whatever its cause—it is a simple matter of environmental justice.

The health of many people in Scotland is being harmed by air pollution, including by smog that is caused by traffic fumes, toxic emissions from power stations and incinerators and inhaling of pesticides among farm workers. There is a long list. In a member's business debate last week, we heard and spoke about the serious problems that have been caused by working with asbestos, and we heard about the legacy of ill health and painful death that many workers have faced, and continue to face, as a result. In my speech in that debate, I mentioned how workers on Clydeside were showered with killer asbestos as they worked. The wives of shipyard workers also died because of

exposure to the dust on their husbands' clothes. When asbestos was first used, no one seriously considered the future health of those who were working with it. Now that its devastating effects on health are understood, it is universally accepted that no one should work or live in such an environment, and rightly so.

We should learn the lessons from asbestos. There are strong parallels between passive smoking and working with asbestos. The health of many non-smoking members of the public and the work force is threatened by being around people who smoke. As we have heard today, that is especially true for people who work in the hospitality industry, so we should not allow that to continue.

It took many years to establish that asbestos is the killer that we now know it is. The real scandal lies in the 30 or so years that we took before we started to protect the people who worked with it. In the case of cigarette smoke, no such uncertainty exists. We know—we have heard today—that it causes serious illness and premature death, so we must act to protect people. That is why Green party policy is to impose a ban on smoking in all enclosed premises that are used by the public and why we support Stewart Maxwell's bill.

In a way, I hope that that ban will have a major economic effect on one industry. I hope that it will seriously damage the profits of tobacco producers and multinationals, who I believe have been responsible for selling ill health and misery here in Scotland and around the world. I hope that banning smoking in public places will in part help to reduce the profits of that industry, but I also believe that it will help the hospitality industry and contribute to improved health and safety at work, which is why we should welcome such a ban.

Today we have heard many statistics about the impact of smoking on Scotland's health. We have heard many ideas about how to spend the money that we currently spend on treating tobacco-related diseases. We know that smoking is the biggest single cause of preventable death in Scotland, which is why I believe that it is vital that the Scottish Parliament fulfil its duty by ensuring environmental justice for those who are exposed to the cigarette smoke of others in enclosed public spaces.

I hope that the public will respond to the Executive's consultation and I hope that they will state that public spaces should be free of smoke. Workplaces and pubs should be enjoyable environments where nobody faces the risks that are caused by passive smoking. I feel confident that public opinion will mirror that of the experts. Smoke-free public places are vital and must be legislated for.

15:45

**Murdo Fraser (Mid Scotland and Fife) (Con):** I declare an interest in that, despite my racking cough today, I am not a smoker and I do not like being in smoky environments. When I go into a restaurant or pub, I go to the no-smoking section. If no such facility is available in the establishment and if I am bothered by the smoke, I simply go elsewhere.

I am perfectly happy with that situation. It is called having a choice. Unlike some members in the chamber—for whom the word “choice” is an expletive—I think that choice is a wonderful thing.

**Stewart Stevenson (Banff and Buchan) (SNP):** Will the member give way?

**Murdo Fraser:** I will in a moment, but let me develop this point.

Choice is a wonderful thing and it must be protected. That is why I oppose utterly a ban on smoking in public places.

What constitutes a public place is another important issue that I must address. Contrary to what many members believe, pubs and restaurants are not public places but private places. They are owned by people who, at their discretion, allow customers entry to their premises. A restaurant or a bar is no more public than somebody's house, so let us put that myth to bed right away.

**Kate Maclean:** Will the member give way?

**Stewart Stevenson:** Will the member give way?

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

The owner of a pub or restaurant should have the right to choose their own smoking policy without interference from the state—many do so already. Figures related to the 2003 Scottish voluntary charter on smoking in public places show that three in five businesses already make provision for non-smokers. Indeed, many businesses have banned smoking altogether. As has been mentioned, the Pizza Hut chain has banned smoking and the Federation of Small Businesses in Scotland, representatives of which I met this morning, says that many of its members are considering extending provision for non-smokers and no-smoking areas.

McKirdy's Steak House in Edinburgh is experimenting with a smoking ban. I am very happy with that situation, but others who like to have a cigarette with their fillet steak will be unhappy. McKirdy's might lose a few customers, but it will probably pick up some new ones. That is called having a market. That nice concept, which was developed by Adam Smith many years ago, has provided untold benefits throughout the centuries and around the world and I am happy to champion it.

**Stewart Stevenson:** I am sure that John Reid, who said this morning that he is not in favour of instructing adults on how to make choices, will be extremely grateful for Murdo Fraser's support.

As an arch-privatiser, Murdo Fraser will no doubt have welcomed the opening of a private motorway in the vicinity of Birmingham. No doubt he wishes that all motorways in the UK were like that. Does he accept that there would be an increase of some 500 road deaths per annum if we then removed speed limits from private motorways? Would that be an acceptable thing in a private place of that kind?

**Murdo Fraser:** Mr Stevenson wants to start a very interesting intellectual debate, but I would need to get my head round the idea that he has mentioned. I would rather deal with why he wants to remove people's choice whether to smoke.

I have never had problems finding a pub or restaurant that meets my needs as a non-smoker. If I had a problem, there would doubtless be others like me who would create a demand that would be met in due course. That is how the market operates. In his opening remarks, the minister highlighted how the Phoenix bar had been a great success because it had banned smoking. We do not need a law banning smoking in order to make a success of pubs that have non-smoking areas. I hope that we will see many more non-smoking pubs throughout the country as a result of the success to which the minister referred. We do not need legislation.

The reality is that the proposed ban on smoking is just another excuse for the politically correct people in Parliament to boss around ordinary people and tell them how they must live their lives.

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

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

I have some sympathy for one thing that John Reid said. We are not natural bedfellows, but I agree that there are too many people in this country who seek to tell others how to live their lives. He is right: those who disapprove of fox hunting want to ban it for everyone; those who disapprove of parents smacking their children want to make criminals out of those parents who do so; and those who are concerned with obesity want to ban or tax fatty foods. The nanny state is alive and well.

I am sure that it is only a matter of time before the Executive appoints a smoking tsar to go with the tsars that we already have for children, transport, discipline, culture, racism in football, equality, food and even berries.

**Mr McCabe:** The member mentioned the nanny state. On the first day of the consultation, we received 950 responses—950 people in Scotland

enjoyed the opportunity to engage in the process of making public policy. That is not the nanny state; that is modern politics.

**Murdo Fraser:** I have no problem with the minister consulting people; I am more interested in what he will do with the consultation. We cannot legislate by referendum because we would then have capital punishment and birching for antisocial hooligans. I suggest that that is not something that the minister is about to propose.

We in Parliament should speak up for individual responsibility. I do not smoke and I do not like sitting next to smokers, but that should not give me any more right to ban smoking than I have to ban "Big Brother" from our television screens because I regard it as puerile and morally degrading entertainment.

If ever there were a time that we should remember what it took and what it means to be free, it is now. In the week in which we have been celebrating the 60<sup>th</sup> anniversary of D-day, what would Winston Churchill, that great champion of freedom, have made of a ban on smoking? I do not think that he would have had much time for it. In a week in which we have seen the death of that other great champion of freedom, former President Ronald Reagan, let us remember that freedom is hard fought for, hard earned and hard kept. I value the freedom that the people of this country enjoy, but I wonder why so many other people in the chamber are so desperate to give it up.

15:51

**Kate Maclean (Dundee West) (Lab):** As a bit of a "Big Brother" fan, I do not feel morally degraded—Murdo Fraser makes a trivial point when we are discussing a subject as serious as whether we should allow people to be exposed to second-hand smoke in public places.

Unlike Nicola Sturgeon and Stewart Maxwell, I welcome the consultation. As the minister said, there have already been a great number of responses. I sit on the Health Committee and I have seen some of the information that is already available. I hope that more members of the public will respond to the consultation so that we get a good idea of what they think about their right to be able to go into smoke-free places. I am fortunate to have seen much of the evidence on Stewart Maxwell's bill that has come before the Health Committee.

Predictably, there are entrenched opinions on both sides of the argument, some of which we have heard today. Somewhere in the middle of that argument, the majority of people are confused because there are lots of conflicting advice, information and scientific reports. However, the one thing that everybody—including the tobacco

industry—accepts is that direct smoking is dangerous to health. Even the tobacco industry accepts that second-hand smoke causes some health problems. The real argument is about whether the risk is significant enough to merit a complete or even a partial ban on smoking in public places.

In the evidence from the tobacco industry, it is stated that the relative risk of smoking-related disease in non-smokers is so low that it does not merit the imposition of a ban. The industry bases its evidence on studies that it likes to quote, but there are probably more studies that come to the opposite conclusion. At the Health Committee yesterday, it was interesting that although the representative from the Tobacco Manufacturers Association said that he did not think that there were risks of smoking-related illness from second-hand smoke, he did say that it would be unwise to take babies or children into smoky areas. He admitted that the two points of view were inconsistent and that he could not explain them. That shows that, although the tobacco industry has a pecuniary interest that it wants to protect, most people in the industry have enough common sense to see that the scientific evidence supports their being dangers in second-hand smoke.

Murdo Fraser spoke about choice. What choice do employees who work in the places that he mentioned have? In Glasgow or Edinburgh, for example, the hospitality industry offers great choice of places to work, so someone could choose to work in a bar that permits smoking or in a non-smoking bar. However, if one goes to rural or remote areas, there might be only one establishment. People who need to work there do not have a choice and are forced to breathe in other people's smoke.

Many comments have been made about the economic impact that a ban would have on the hospitality industry. However, although we can measure the effects of the smoking ban in New York only over a short timescale, evidence is piling up that it has had a positive impact on the economy.

I know that Stewart Maxwell and Nicola Sturgeon are impatient about how long the consultation will take, but things have changed tremendously over the years. For example, I can remember being able to smoke in cinemas and theatres and on aeroplanes. In fact, when my daughter was born 24 and a half years ago, the babies were taken away from the ward at seven o'clock at night and ashtrays were handed out so that people could smoke. The babies had to come back into that ward the next day. As I have said, things have really moved on.

Although I do not necessarily agree with the way in which John Reid articulated his comments, I

absolutely agree with the sentiment behind them—he was simply stating a fact. Some people who live in deprived communities probably see smoking as their only pleasure, so if we make it impossible for them to buy packets of 10 cigarettes, they will simply buy packets of 20 cigarettes. I believe that if we seek to impose a ban—even a partial ban—on smoking in order to protect people from second-hand smoke, we should also seek to protect people from first-hand smoke. As a result, we must ensure that any policy is fully funded so that people in the most deprived communities are helped to stop smoking. After all, we do not want to make people's lives more difficult. The tobacco industry in Scotland and around the world receives far more income from deprived communities than it does from other communities. We should do what we can to stop that.

As for the question whether I support Stewart Maxwell's bill, I am beginning to lean towards a full smoking ban in public places. However, as I said, there must be fully funded policies in place to ensure that we do not make people's lives worse instead of better.

15:57

**Brian Adam (Aberdeen North) (SNP):** Smoking is entirely a matter of personal preference; I respect that principle. However, the purpose of any smoking ban in public places is to protect the health of people who choose not to smoke. Just as surely as the 30 per cent of Scots who smoke cannot be forced to quit, the 70 per cent of Scots who do not smoke cannot be forced—as they are at the moment—to inhale second-hand smoke. Far too often, active smoking in public places forces second-hand smoke on others.

We must remember that smoking is the most preventable cause of death. I am glad that the tobacco industry now recognises that that is the case. Indeed, on its website, the major American cigarette manufacturer Philip Morris states that it

"agrees with the overwhelming medical and scientific consensus that cigarette smoking causes lung cancer, heart disease, emphysema and other serious diseases in smokers. ... There is no safe cigarette."

Although the company might be some way from agreeing with the overwhelming scientific evidence that passive smoking also causes the major health problems that it lists, it has condemned itself out of its own mouth.

It is clear that there is no safe cigarette in public places because substantial evidence shows that exposure to other people's smoke is dangerous to health. A study by Professor Konrad Jamrozik of Imperial College London estimates that domestic exposure to second-hand smoke in the UK leads to 3,600 deaths a year from a variety of causes.

We should not forget that other people find smoking unpleasant and we should not minimise the unpleasant aspects of the habit. Although much is made of the fact that those who smoke get pleasure from it, we should bear in mind that they also cause a lot of discomfort and make things unpleasant for other people when they smoke in public places. Many people object to others' smoking nearby because of the unpleasant smell. The smoke makes clothes smell, it affects people's breathing, it makes them cough, it gets in their eyes and it creates an uncomfortable atmosphere. It might be just a question of comfort, but many people find that it is a real problem. We should not minimise that.

Second-hand smoke harms not only patrons, but is dangerous to employees. Restaurant and pub employees work in smoke-filled atmospheres. Professor Jamrozik estimates that 49 deaths a year occur from exposure to smoke at work in restaurants and pubs. Non-smokers who are exposed to smoke in their workplaces have an increased risk of between 16 and 19 per cent of contracting lung cancer. In 1994, which is some time ago, the state of California banned smoking in all public places. Since then, the respiratory health and lung capacity of its bar employees have improved significantly.

Apologists for the tobacco industry suggest that we should have designated places for smoking that have ventilation. However, the fact is that ventilators only disperse and dilute the smoke. To get rid of the smoke would require an airflow equivalent to a hurricane. The smoke is only 15 per cent particulate; it is 85 per cent gas. Filters may well remove a substantial part of the particulate matter, but they do not remove the gas. The only way the gas—the bulk of the smoke—is dealt with is by dispersal. Voluntary bans and ventilators in designated areas do not help.

**Johann Lamont:** I understand the argument about passive smoking and how important it is to make the case against it. However, does Mr Adam agree that there is a strong case for a smoking ban in public places in that it would make smoking unattractive for people who smoke or who might smoke because they might not want to stand outside to smoke? A ban would make smoking a less normal habit that would not be a part of everybody's normal discourse. We can sell a ban better not just by recognising the rights of those who do not smoke but by recognising that bans actively discourage smokers from smoking and young people from being impressed by those who smoke.

**Brian Adam:** Absolutely. I also agree with Johann Lamont's earlier point that deprived communities have a greater prevalence of smoking and that health inequalities come as part

of that. We need an education process that makes smoking even more socially unacceptable. However, I believe that legislation can help in that process; it would not prevent smokers from smoking, but would merely restrict the opportunities for people to smoke where they can harm others. Other arguments relate to economic activity and the current evidence is that, when smoking bans are introduced, economic activity rises.

16:02

**Donald Gorrie (Central Scotland) (LD):** As other members have said, ideas are changing and the flood of world public opinion is moving towards having more regulation on smoking. During my national service, when we were stood at ease for a bit, that was officially described as a smoke break. When we went to the cinema, we could hardly see the screen because of all the smoke; moreover, the people on the screen were incessantly smoking. Things have changed a lot, but it is important that we consult people properly. I do not adhere to the position of those who criticise the minister. On a major social issue such as smoking, it is important that we carry public opinion with us.

In my view, we made a mistake in the way in which we started handling the section 28 debate a few years ago by not preparing public opinion and sounding people out properly; instead, the debate was bounced on to them. Consulting people is the right thing to do. The criticism that there are few questions in the Executive's document is misplaced. A similar Government document that is going around on another subject has 60 or 70 questions. I have put the document aside because I am not going to answer 60 or 70 questions. It is better to have a few well-targeted questions.

**Stewart Stevenson:** Would Donald Gorrie have supported the introduction of the breathalyser for drink-driving, which was opposed at the time of its introduction by the great majority of people in our society?

**Donald Gorrie:** I do not know; I might have done. We do not live by plebiscite, but it is important to be guided by public opinion. It is difficult to foist something like a smoking ban on people if public opinion is hostile to it. I do not think that public opinion is hostile to such a ban, but we should find that out.

Johann Lamont and other members have raised the important question of class and the despondency and unhappiness of lots of people. The experience in the former Russian empire was that everyone smoked, because life was so hellish that that was about the only entertainment that people had. Figures show that people in poorer social groups smoke much more than those in

better-off, professional or middle-class social groups. It is important that any progress on a ban is linked to strong educational and support systems to help people to give up smoking. A specific target group is girls. Mostly, boys cause more mayhem than girls, but girls smoke far more than boys do and they are a target group that needs to be addressed.

I now understand the media a bit better than I did before. I never quite understood why the media are totally depressed and take a negative view of everything, but I see that a report has shown that smokers are more likely to be pessimistic than other people are—as most people in the media smoke, I have cracked that mystery.

I went on a visit to New York with three colleagues, including Michael McMahon, who is in the chamber today, to promote Scotland. We took the opportunity to have several sessions with New York city officials and police officers. The officials were enthusiastic about the success of their smoking ban in pubs, restaurants and places of work. They had been considerably concerned about putting the ban into effect, but the success of the ban and its acceptance by the public had exceeded their expectations.

One question is whether we should ban smoking only in restaurants and where people are eating or whether we should go for pubs as well. I am sorry that Murdo Fraser has left the chamber, because I wanted his advice. When socialising with people who have respiratory problems, I have yet to find a smoke-free pub in Edinburgh. I have obviously been looking in the wrong place, so if anyone can advise me, their recommendations would be most welcome. There are partially smoke-free restaurants, but not pubs, in my experience.

I think that we have to go for protecting people. People have the right to kill themselves through smoking, but they do not have the right to kill other people through smoking. I support a ban. The issue is exactly how the ban is put into effect, how far it goes and to what extent we can educate people to give up smoking.

16:07

**John Swinburne (Central Scotland) (SSCUP):** I support 100 per cent what Tom McCabe is trying to do in the consultation that he has launched. We have been bombarded with statistics today, but one fact that I found interesting is that only 2 per cent of people give up smoking without help. I smoked my first cigarette at the age of 13, about 60 years ago, and I stopped at the age of 27. If someone is smoking 20, 40 or 60 cigarettes a day, giving up is not easy, but I was one of the 2 per cent who succeed.

Since then, I have taken a more relaxed attitude towards tobacco and I enjoy the occasional pipe or cigar. I am what I would term a civilised smoker; I do not smoke in any area where my smoking will offend anyone. I smoke outside. I do not smoke in my car or at home and I do not smoke in public places, but I enjoy the occasional cigar or pipe. I see nothing at all wrong with that and I would consider it an infringement of my civil liberties—and I am not a politically correct person—if someone were to ban tobacco from sale. By the way, tobacco is a lucrative source of income for any Government. If that were not so, tobacco would have been banned years ago, but it is an extremely lucrative source of income and we should never forget that.

A few years after stopping smoking, my brother-in-law contracted lung cancer and died at the age of 40. That was many years ago, before a genuine link was established between tobacco smoking and cancer. I said to the surgeon who operated on him, "What was the cause of this?" He said, "Well, put it this way. I've been cutting out 10 lungs a week for the past 20 years but I have yet to operate on a non-smoker." I do not know what that says about the argument about passive smoking, but that surgeon had cut out thousands of lungs and had not operated on a single non-smoker. That makes me a trifle sceptical towards those who get uptight about passive smoking in its various forms.

As a legislating body, we would be better to consider alcohol, which is a tremendous killer and a tremendous strain on the national health service. I have yet to hear of anyone being beaten to death with a wet Woodbine, but anyone who goes into a pub in Glasgow and gets smashed over the head with a pint measure will be in a bit of a mess, I imagine. One cannot kill someone by smoking, but one can kill someone if one is a drunk driver. Therefore, when we consider all the issues, we should take a more balanced view.

Irene Oldfather's old mother gave up smoking at 80—probably because her pension was not keeping pace with the price of cigarettes as the chancellor put it up. Very many eminent people have been smokers and no doubt there will be eminent people who are smokers in future, so the argument that the only people who smoke are poor or of inferior intelligence is a lot of rubbish. Nothing could be further from the truth and that argument is not a good way of persuading people that smoking is wrong.

16:11

**Christine Grahame (South of Scotland) (SNP):** I want to talk about delay and then about freedom of choice. A calculation of the possible impact of a ban on smoking in workplaces in

Glasgow suggests that up to 1,000 fewer people would die each year of heart disease, respiratory diseases and cancers. The source of that figure is the chief medical officer's annual report of 2003. Therefore, if on the inception of this Parliament in 1999 legislation had been introduced, 5,000 more people might still be alive in Glasgow alone. Delay is an issue. I look forward to being informed of the progress of the smoking atlas that the minister referred to. Many members would find that very useful.

When we consider freedom of choice, we have to place the arguments on health against the arguments on personal liberty. Individuals' freedoms function within the context of the greater public good—unless one lives on a desert island and can do what one likes. I wish to drive my Mazda at 128mph. That would be my choice. However, evidence revealed that speed kills and maims on our roads, so we made prohibitive laws, redesigned our roads and made regulations to deter speeding. I concur with those laws and regulations, partly because of the deterrent effect of penalty points or, indeed, a criminal conviction, partly because of consideration of the greater public good and partly because I know the facts.

The situation is similar with drink-driving. I remember when society was opposed to any interference with the individual's right to drink socially and then to drive. Over time, statistics exposed the reduced competence to drive of anyone who was under the influence of drink or drugs. Not only is legislation now firmly in place as a regulatory and a preventive measure, but there has been a culture change. Those who drink or take drugs and then drive—whether or not they cause an accident to themselves or others—face the opprobrium of society. If caught, they face an immediate one-year ban, at least, for being over the limit.

Against the background of those two issues, I will move on to discuss smoking. Like John Swinburne, I am an ex-smoker. I was a heavy-duty smoker. I am also a libertarian who is pretty tolerant about the choices and pleasures of others as long as they do not inflict harm on society. I am therefore sympathetic to the addictions of smokers. I have trudged through a Fife blizzard for a packet of 10. When I found that there was one packet left in the ciggie machine, I was thrilled—it was the highlight of my year. I have since stopped smoking but I am still an addict. Even now, after 30 years, I have to resist the urge to "borrow" a cigarette from a friend.

I support a ban—at least in public places where people eat. Stewart Maxwell knows that I did not always hold that view. However, recent statistics have revealed the impact of passive smoking. On heart disease, passive smoking has led to an

increase in acute coronary event by 25 to 35 per cent. I will give just one more statistic; I do not want to provide too many. It is estimated that, each year in the United Kingdom, more than 17,000 children who are under the age of five are hospitalised because of the effects of passive smoking. That is a disgraceful figure, given that the children concerned have no choice. That said, I acknowledge that such situations are not necessarily the parents' fault—I accept what other members have said about the social reasons for smoking in certain areas. The evidence and the facts are there, as my examples have shown.

Asthma UK Scotland made an interesting comment on the balance between the freedom of the individual and health. It said that it believes

“that the overwhelming health arguments outweigh these personal liberty arguments put forward by smokers”—

or, indeed, by people in the commercial sector. I agree with that.

I welcome Stewart Maxwell's bill, which I foresee producing a culture change of the kind that happened with drink-driving. Although smokers might continue to contaminate their own lungs, they will not contaminate the lungs of others. The time for change is short. That is why I urge the minister to support Mr Maxwell's bill as a first step. If he cannot do that but, instead, intends to introduce an Executive bill, I ask him to advise the Parliament when that legislation will be in place.

16:16

**John Farquhar Munro (Ross, Skye and Inverness West) (LD):** I am pleased to represent the other side of the argument in what has been an interesting debate.

Although I first started smoking at a very young age, it does not seem to have done me any harm. My family all smoked: my dad smoked a pipe and, remarkably, my mother smoked Capstan Full Strength all her life. She lived to the ripe old age of 90 and was not taken away by one of the ills that we are hearing about today. When I went to school, my teacher smoked and I had the great pleasure of going to get her cigarettes every day—she smoked Kensitas cigarettes. Members who are old enough will remember that “Four for your friends” was written on the side of Kensitas packets; I used to get them when I delivered the 20 back to the school. I have had a long apprenticeship.

The medics now seem to promote ideas about the damage that tobacco does to people's health, although some are more enlightened. Some 15 years ago, I decided that I was going to stop smoking. I do not know why; it seemed to be the fashionable thing to do at the time. I stopped for six months until one night, at about 2 o'clock in the

morning, I started gasping for breath in bed. My wife asked whether I was going to take a heart attack. When I said that I did not know, she said that she was phoning the doctor. The doctor came along, examined me and could not find anything wrong. He asked me whether I smoked—a standard question for the medics these days. I said, “No.” He said, “Did you ever smoke?” I said, “Yes.” He said, “What did you smoke?” I said, “A pipe.” He said, “Where is it?” I said, “Through in the house.” He told me to go and get it. I lit it up and here I am—I smoke the pipe on doctor's advice.

I do not support the view that we are hearing today, which is that there should be more restrictions on smoking. Extending the current restrictions on smoking would be a severe imposition on the civil liberties of smokers such as me, to say nothing of our freedom of choice, which several speakers have mentioned. It would also call into question the laudable principle of social inclusion. Nowadays, smokers seem to be pushed to the fringes and regarded as a major health hazard to the general public. Well, I ask you! People say that smoking is a plague on society.

I suggest that, given all the traffic congestion and bus and diesel fumes, we inhale far more pollution in the 10 minutes that it takes to walk up the bridges or the Royal Mile than we would do—

**Mr Maxwell:** Is the member aware of the evidence from New York, where the department of health measured the amount of smoke in the atmosphere in pubs and compared it with the concentration of fumes in the atmosphere at the entrance to one of the busiest tunnels in the city at the height of the rush hour? It found that the fumes were 50 times worse in the pub than they were at the entrance to the tunnel in rush hour.

**John Farquhar Munro:** I wonder what they were using to monitor the pollution. Coming up the Mound in the morning or walking back down it in the evening, I would say that there is far more pollution from the traffic than there is from smoking.

As we heard today, the Treasury needs the revenue that it draws in from taxes. Unless we have a tax on tobacco, how will the chancellor raise his revenue? He might put further tax on fuel or—worse still—put tax on alcohol, which would be dreadful. I am sure that that would not be welcomed by my parliamentary colleagues—smokers and non-smokers—who I see are getting scarcer in the chamber by the minute.

**Mark Ballard:** Will the member give way?

**John Farquhar Munro:** Sorry, but I cannot.

I have no wish to inflict my simple pleasure of smoking on any individual. I respect the no-

smoking zones that have been established. However, let us draw a line in the sand—we have gone far enough. As we have heard, the public have to be with us. Unless that happens, no one will win. If we change someone's mind against their will, they are of the same opinion still.

I want to say something to all the people who have spoken about the terrible problems that smoking causes and have said how proud they are to be non-smokers. In my book, it is no honour for them to boast that they abstain from something to which they are not addicted.

16:21

**Scott Barrie (Dunfermline West) (Lab):** I come to the debate neither as a zealot for a smoking ban—as some former smokers are wont to be—nor, under the guise of freedom of choice, as an apologist for the tobacco industry. I come to the debate as someone who wants to hear what the Scottish people wish to say in the consultation that was launched last week. I welcome the consultation and the opportunity for parliamentarians to contribute to the debate today.

The debate about smoking is not new. In the late 16<sup>th</sup> century, Sir Walter Raleigh brought back tobacco from Virginia and proclaimed it to be a pleasant, sweet-tasting weed. As Stewart Maxwell said, that event was followed a few years later by the publication in 1641 of James VI's pamphlet "A Counter-blaste to Tobacco", in which he lambasted those who smoked and even the taste of tobacco. The sort of debate in which we are indulging this afternoon has been going on for the past 400 years.

If we were to take a snapshot of what members have said in the debate, we would think that the situation is very bad indeed and that we are still living in a society in which the vast majority of people are smokers. That is not the case, however, as the vast majority of people no longer smoke. Over the past few decades, our smoking record has improved. I agree that the number of young people and, in particular, the number of young women who take up smoking is an issue. If we look at the figures in a historical context, however, we see that far fewer people smoke nowadays than in the past.

I am perhaps not as discriminating in my drinking habits, or my viewing habits, as Murdo Fraser is. My choice of pub is determined not by whether it has an extensive no-smoking area, but by the quality of the beer—I am opposed to that ghastly chemical lager. Over the past few years, I have noticed the complete absence of smoke in a number of pubs that allow smoking. Pubs are not like they used to be when I first started drinking 20 or so years ago. I find that I do not come home

from the pub absolutely stinking of smoke as I used to do. In fact, I find that it is possible to sit in a pub nowadays in which few—if any—people are smoking. The issue is not quite as extreme as some members have suggested.

That said, we should not underestimate the effects of passive smoking. I remember when my former employer, Fife Regional Council, banned smoking in its workplaces in the mid-1990s. The ban caused a huge problem for a lot of staff who were addicted to tobacco. It was also a bit discriminatory: it would have been okay for me—if I had still been smoking—to continue to smoke, because I was in a room on my own, as supposedly befitted my status at the time. People who shared rooms, however, were not allowed to smoke in that room. The council's two-tiered approach created a lot of resentment at a time when it was trying to improve workers' health.

We need to consider where we are going on the issue of workers' rights. As Murdo Fraser and other members said, it is all very well to talk about choice—about people being allowed to smoke if they so choose—and even about the market deciding, but some employees have no choice about the environment in which they have to work. We must recognise that. It is too easy for people to say that the issue is just about avoiding going into an establishment where smoking is allowed to eat or drink, because people still have to work in such environments. We have to take their rights on board as well.

**Johann Lamont:** Does Scott Barrie agree that there is an issue about the protection that we give to certain kinds of workers? As a schoolteacher, I was protected by the decision that people were not allowed to smoke in public places. Local authority workers often had such protection, too. However, people in low-paid jobs in public places may not have that protection. It can be argued that those of us who are in professional jobs are protected, but people in low-paid jobs are more vulnerable, which is a further argument for extending a ban.

**Scott Barrie:** I concur with Johann Lamont. However, the point that she makes applies not only to low-paid jobs. In my former occupation in social work, staff were required to visit the homes of people who smoked, which exposed the staff to a risk.

If we are serious about curtailing people's habits and encouraging them to live healthier lifestyles, we must talk seriously about smoking cessation services. We need to ensure that they are available when people need them. I do not know what the situation is like in other parts of Scotland, but in my part of Fife the demand for such services far outstrips the local health service's ability to deliver them. A member of staff in my office was

looking to stop smoking earlier this year, but when she contacted the local health service to find out about a smoking cessation class she was told that she would have to wait 15 weeks. Anyone who has successfully given up smoking knows that it cannot be planned in that way. People want to stop when they want to stop. We cannot have a situation in which people want to stop and want to receive assistance but cannot do so.

A number of members referred to the comments made yesterday by the UK Secretary of State for Health. A number of things that John Reid said were perhaps taken out of context. I will finish by echoing what Johann Lamont said in her speech and put some of what John Reid said into context. He said:

"We want everyone to live a healthy lifestyle but not everyone lives in the same circumstances ... If we wish to change people's habits we will ... have to help change the circumstances in which they live."

We have to take that on board if we are to be serious about changing people's smoking habits.

16:27

**Robert Brown (Glasgow) (LD):** Before I came into the debate, somebody said to me that it was terribly boring, that it had no motion and that it would be full of platitudes. In fact, it has been one of the Parliament's best debates. The quality of speeches, which have been largely non-partisan, has been high.

I was going to wax lyrical about the Liberal Democrat commitment to health promotion until my colleague John Farquhar Munro spoke; then I thought I should tone down the moralistic bit just a little. Nevertheless, the Liberal Democrats have had a considerable commitment to health promotion. Cigarette addiction and smoking is a key target in health promotion. The fact that in the partnership agreement there is a commitment to move forward on that issue has a good bit to do with our involvement.

Public opinion is crucial, as many speakers have commented. As Donald Gorrie rightly said, it is important to carry public opinion. I am well aware that if one goes on the top deck of a Glasgow bus—this does not seem to apply to other parts of the country to the same extent—three people or so will normally be found smoking. That is despite all the signs around the bus that say that smoking is not allowed. The cultural change that is required with regard to smoking on public transport has only been half achieved.

Nora Radcliffe set out three tests in her opening speech for my party. She talked about the need to promote good health, about public support and about the right to smoke if there is no harm to other people. Her subtext was the problem of

smoking being an addiction, which a number of members on various sides of the argument also mentioned. We have to take that issue on board. I do not think that people's rights in this matter—as some of the Conservative speakers have suggested—are equally balanced. The right of people to have a smoke-free atmosphere is not the same as the right of other people to smoke when and where they choose, which is a different sort of right, because it has effects on other people.

Before I was elected to the Parliament, I was involved in a number of claims by miners who had worked down the mines for many years and suffered from lung ailments of various sorts—I am sure that members read about the settlements in the papers. During the investigations into those cases, the fact came out that smoking 20 or 30 cigarettes a day is broadly equivalent to spending 20 years down the mines inhaling dust and carcinogens from coal. That is a stark reminder of just how serious and difficult are the problems that smoking and tobacco cause.

I was interested to see, in the evidence that various lobby groups gave to the Health Committee yesterday, some of what the tobacco manufacturers said. Simon Clark, the director of the Freedom Organisation for the Right to Enjoy Smoking Tobacco—FOREST—which is described as the smoking lobby group but is in fact a front organisation for the tobacco manufacturers, claimed that the effects of passive smoking had not been proved. He said:

"We would say the studies that have been undertaken are not conclusive proof that passive smoking causes disease".

Mr Clark, who, I think, directly represented the Tobacco Manufacturers Association, also said:

"I do not accept people in urban industrial society have a right to breathe clean air."

Really? Is that the approach that we should take on the matter?

On the facts of passive smoking, I do not think that FOREST has the matter right at all. The Government's Scientific Committee on Tobacco and Health demonstrated clearly that passive smoking is a cause of heart disease and increases the risk of lung cancer by 20 to 30 per cent. The committee spoke in graphic terms of the risk to passive smokers, who may face 25 per cent of the risk that active smokers face, even though they take in only 1 per cent of the smoke—that is another interesting aspect of the matter. Passive smoking also increases the risk of stroke in non-smokers by 82 per cent in men and 66 per cent in women, and Asthma UK said that tobacco smoke is a common trigger for asthma attacks for 80 per cent of the 3.4 million people with asthma in the UK.

Are we really saying that the right to smoke in so-called public places and the right to have smoke-free environments are equivalent? I do not think that we are; we are talking about two different situations. Who do we believe: the vested interests of the industry and its front organisation, or the British Medical Association, the Royal College of Nursing and organisations such as Asthma UK Scotland? That is not much of a choice.

I did not think much of the private place argument that the Conservatives used. We are talking not about private places, but about public places or places to which the public have access, which is a different matter. Nobody seriously suggests that because a restaurant is a private place, we can poison people who eat there by giving them adulterated food or by allowing health hazards. Society is entitled to regulate matters in the interests of the majority of people if there is an appropriate reason to do so, and I do not think that the market argument stands up. As Nora Radcliffe and other members said, nobody is proposing to ban smoking. People have a perfectly free choice to smoke if they wish, but that is not the same as saying that they have the right to smoke in public places. We must make progress on those issues.

We are going through a consultation process. There are issues about effects on businesses—marginal businesses in some areas, such as rural areas—and those issues must be examined. There are also issues about the public acceptability of a ban, which is an important point. I detect a shift of public opinion on the matter, as evidenced by Johann Lamont and other members who have changed their minds on the matter over time, as I have to a degree.

My final point concerns smoking and culture. Young people probably go into pubs more than other age groups, and if there are smokers among them, the non-smokers will, on the whole, go with the smokers. The smokers will continue to smoke during the lengthy period that they are in pubs and the non-smokers with them will be exposed to the public effects of the smoking. The end result is that there is a cultural acceptance of people smoking and of exposure to smoke. If we had many more non-smoking areas, the culture would change and it would be normal not to have smoking in pubs.

Let us move on with the consultation and gather public opinion, but let us make a significant difference on this important issue.

16:35

**Mr Ted Brocklebank (Mid Scotland and Fife) (Con):** It was Mark Twain who said that stopping smoking was the easiest thing he ever did—he

had already done it thousands of times. As somebody else remarked, cigarettes are killers that travel in packs. Perhaps the most sobering smoking anecdote is that when CBS radio announced the death—reportedly from lung cancer—of the American broadcaster Ed Murrow, the announcement was followed by a cigarette commercial.

I agree with Robert Brown that we have had a good, wide-ranging debate this afternoon. The issues of health, choice and civil liberties have been well aired. Few of us can be unaware of the direct links between smoking and various cancers. It is not just a matter of the harm that smokers do to themselves; there is also the effect of so-called passive smoking on others, as many members have described.

The Executive approach seems to involve sending a mixed message about second-hand smoking. Despite Tom McCabe's dire warnings of the dangers, Jack McConnell appeared to rule out an all-out passive smoking ban when he and Jim Wallace gave a joint briefing on the subject, saying that such a ban was "impractical". Today, Tom McCabe tells us that nothing is ruled out and nothing is ruled in. The Executive is clearly struggling to find a way of squaring business realities with the demands of the health lobby.

If the Labour Party is sending out mixed messages, so are the Liberal Democrats, especially to Scotland's children. The party of Donald Gorrie and Robert Brown has a national policy of non-prosecution for the possession, cultivation for own use and social supply of cannabis. At the same time, it wants to ban smoking in public places. During his tenure as Minister for Justice, Jim Wallace abandoned the just say no policy, changing it to know the score. Well, what is the score, Jim? Are we really saying that the consequences for a licensee who tolerates tobacco use in a pub might at some point be worse than the penalty for possessing and blatantly smoking a joint outside that pub? As a lifelong non-smoker, I defend the rights of individuals to smoke. As David Davidson rightly pointed out, smoking is not illegal. Scotland has an age-old tradition of live and let live. Sadly, in the case of smoking, that often turns out to be live and let die. Murdo Fraser is right: it is a matter of personal choice.

I had sympathy with John Farquhar Munro's recollections as a lifelong pipe smoker.

**Mark Ballard:** Following the logic of the libertarian argument that Murdo Fraser advanced, why is smoking a joint not a matter of personal choice if it is done in a way that does not harm others?

**Mr Brocklebank:** I was talking about a matter of degree. Why should only one be espoused by the Liberals as being subject to freedom of choice? They decided that smoking was to be banned.

As Nicola Sturgeon and others have pointed out, there is a world of difference between defending the rights of smokers and allowing their actions to damage the health of others. Personally, I am broadly in favour of Stewart Maxwell's Prohibition of Smoking in Regulated Areas (Scotland) Bill, and I have sympathy for its aims. Like Stewart Maxwell, David Davidson, Brian Adam and others, I believe that smoke and food should not mix and that, eventually, pubs should declare themselves either smoking pubs or non-smoking pubs. Similarly, in private clubs and entertainment venues, smoking should be banned where food is served.

Conservatives accept that we live in the real world. Our beleaguered hospitality industry is one of the most regulated in the world. The last Conservative Government had a good record on reducing smoking through a combination of the price mechanism, education and voluntary controls on advertising. Scott Barrie rightly drew attention to the fact that, between 1971 and 1996, the United Kingdom was one of the most successful countries at reducing tobacco consumption—it did so by nearly 40 per cent. We welcome progress made under the voluntary charter approach.

Stuart Ross of the Belhaven Group recently gave evidence to the Finance Committee. Belhaven is currently working towards a non-smoking policy where food is served. I believe that its approach is the right one. Let us proceed with the voluntary charter until it has had time to deliver meaningful results. If the industry fails to meet its targets in persuading smokers that their habit is antisocial, legislation should set tougher targets.

We have heard much about the Irish example this afternoon. Ireland has a different drinking culture from Scotland. Regrettably, Scots no longer go out to socialise in the numbers that the Irish do. More than 40 per cent of all beer sold in Scotland is consumed off the premises. In Scotland, a ban on smoking would simply exacerbate an existing couch-potato syndrome. Moreover, the impact of a total smoking ban on small businesses, jobs and the civic purse could be enormous. Kate Maclean and others tried to minimise the effect on businesses but, according to the Irish Licensed Vintners Association this week, Dublin pub revenues have been hit by the ban by between 12 and 15 per cent. Donall O'Keefe, the association's chief executive, said:

"Make no mistake about it the smoking ban is having a serious financial impact ... which has clear implications for jobs and the Exchequer ... the Ban is hurting."

**Kate Maclean:** Does the member accept that people will quote whichever statistics suit their case? I will quote another piece of evidence, as it suits my case. In New York a year after the ban, business tax receipts in restaurants and bars were up by 8.7 per cent, despite the fact that 150,000 fewer New Yorkers were exposed to second-hand smoke at work, and there was an increase in jobs.

**Mr Brocklebank:** I accept the broad thrust of Kate Maclean's argument that different sides will present different arguments, although there is evidence that the statistics to which she referred might have been affected by the aftermath of 9/11.

Although I am in broad agreement with the broad aims of Stewart Maxwell's bill, I oppose it at this stage for the following reasons. First, its timing is not good. There is little point in the bill going through its first stage when the Executive's major consultation is being undertaken simultaneously. Secondly, although I have said that I agree with many of the bill's objectives relating to food being separated from smoke, I believe that it is hugely naive in relation to the costs of implementation. Thirdly, I believe that the bill would have a serious effect on small businesses that might be able to make the necessary changes over time, but which would not be able to do so in the short term.

Many people talked about the difficulties around smoking in the workplace. However, that is a reserved matter and although the UK Government has had ample opportunity to address it, it has failed utterly to do so. In principle, the Conservatives believe that everyone, including bar staff, should be able to work in a smoke-free environment, although we acknowledge the difficulties that that poses for the hospitality sector.

16:41

**Stewart Stevenson (Banff and Buchan) (SNP):** This afternoon we have heard from the moderates on the smoking issue, but there will be no more Mr Nice Guy, because I am not moderate on this subject. The Government has told us a number of things in its consultation on reducing exposure to second-hand smoke, such as that exposure to second-hand smoke is a cause of heart disease and represents a substantial public health hazard. It has also told us that exposure to second-hand smoke is a cause of lung cancer and can cause childhood asthma. However, colleagues should not imagine that those insights are anything new.

I will share with members some other quotes. First:

"smoking is dangerous to the lungs."

Secondly, it is

"hurtful and dangerous to youth."

Thirdly, it is

“very pernicious to the heart.”

Those quotations were published respectively in 1604, 1606 and 1637, by James VI, Eleazar Duncon and Tobias Venner.

James VI got it spot on when he wrote in “A Counter-blaste to Tobacco”, to which my colleague Stewart Maxwell and our friend Scott Barrie referred,

“This filthy smoke makes a kitchen oftentimes in the inward parts of men, soiling and infecting them with an unctuous and oily kinde of soote, as hath bene found ... that after their death were opened.”

He did not just know about the effect of smoking in theory; he went to dissections and examined the state of the inner man after exposure to this pernicious evil. Are we so short of knowledge that our deliberations must begin anew 400 years after James so correctly described smoking as “lothesome to the eye” and “hateful to the nose”?

At the heart—and lungs and brain—of the issue is addiction. I do not criticise addicts; they are captured by their addiction. As James VI said, the smoker is “piece by piece allured” until he craves it like

“a drunkard will have as great a thirst to be drunk.”

However, James was wrong to compare smoking to alcohol, because drink is addictive to a small minority of its users, albeit that the abuse of alcohol is one of our most widespread social ills. By contrast, smoking is generally thought to be as addictive as heroin, which I imagine the free marketeers on the Conservative benches would, like the SSP, liberalise and make available to anyone with the money to buy it. Like heroin, smoking captures the majority of its users in its deadly embrace.

I find it baffling that, after 400 years of knowing the evils of this wicked weed, we are still supporting the evil tobacco companies who prey on the addictive misery of our citizens. We are faced across the chamber by a Government that wants to listen rather than lead. We should be absolutely aware that, if tobacco were a new product today, there is not the faintest chance on earth that permission would be given for it to be sold freely across any counter in any shop in any country in the world. We have heard about personal choice, but the tobacco companies, with their pernicious recruitment of new generations of addicts, remove choice from the people whom they ensnare.

During the two and a half hours of this debate, five of our citizens have died as a result of tobacco addiction. Our lack of urgency does us no credit. Every day that we postpone engaging in a meaningful response to what is one of the great

issues of modern times, we all share responsibility for 52 deaths. We view Iraq as a dangerous place. We see turmoil and death there nightly on our televisions. However, tobacco kills at a far higher rate in Scotland than is being experienced in Iraq, even in these dangerous and turbulent times.

James VI recognised the evils of tobacco. In 1603, when he took over from Elizabeth as the monarch in England, one of his first acts was to increase the taxation on a pound of tobacco from 2d to £6 10/—41 times more. If we had the same level of taxation that James introduced to discourage the consumption of tobacco, a pound of tobacco would cost—by comparing the then average earnings with today’s—between £30,000 and £40,000. In that case, price would be a bit of a discouragement. *[Interruption.]* As the minister has just observed, discussion of the issue of tobacco taxation is academic because we are denied the powers that a normal country has to take the action that would enable us to exercise fiscal powers to reduce the consumption of this pernicious weed. That is why I support my colleague’s excellent Prohibition of Smoking in Regulated Areas (Scotland) Bill. I was delighted to see support from other members, such as Scott Barrie and Helen Eadie, and I look forward to their stage 2 amendments, which will strengthen its implementation, extend its remit and deliver cleaner air for people in Scotland.

In the 20<sup>th</sup> century, with 13,000 people dying every year as a result of tobacco addiction, we have lost—pro rata—1 million Scots to this pernicious addiction. That is more than were killed in all the wars in the millennium from 1000 to 2000. We might soon run out of tombstones for those killed by our tobacco barons. After 400 years of relative inaction, we are quite simply out of time to fail to engage meaningfully with this scourge on our society.

16:49

**The Minister for Health and Community Care (Malcolm Chisholm):** In this important debate, we have heard passionate and important speeches from all sides of the argument, such as those who favour legislation and those who want to see a more voluntary or market-based approach.

The debate has reinforced my conviction that we were right to commit ourselves to a policy that stimulates and welcomes an open and informed discussion on passive smoking, right to look at the evidence through the fog of claim and counter-claim, right to look at international experience and right to look at the facts.

Those facts, which were outlined so passionately by Tom McCabe and others during the debate, make us begin to appreciate the

importance of action to reduce exposure to second-hand smoke and the role that such action can play in improving Scotland's health and tackling the health inequalities that continue to scar our nation.

We must acknowledge the fact that second-hand smoke contains more than 4,000 chemicals, many of which are known to cause cancer; that exposure to second-hand smoke can be a cause of asthma and respiratory disease in children; and that exposure to second-hand smoke increases the risk of heart disease as well as the risk of cancer. Faced with those facts, I assure Nicola Sturgeon that I entirely agree with her that doing nothing is not an option. Smoke-free workplaces and public places are the direction of travel, but the process of getting there and ensuring that action that we take is effective are important.

Action on Smoking and Health—ASH—is the leading campaigning charity in the field. It passionately believes in action to tackle passive smoking and it has clearly said:

"The process of reaching entirely smoke-free workplaces requires broad-based public support and increased awareness of the dangers of passive smoking. Resources must be allocated to building awareness of the risks and showing that the economic consequences would be minimal".

That is what ASH has said and that is what we are doing. It is therefore wrong for Stewart Maxwell to complain about delay and prevarication. We will make our proposals before the end of the year and they will be better and more effective proposals as a result of the consultation.

**Christine Grahame:** I asked whether, if the Executive was moving towards legislation, the minister could give an idea of the timetable for when legislation might be in place.

**Malcolm Chisholm:** I have already said that we will come forward with proposals before the end of the year.

Tom McCabe outlined the process of consultation that will take place over the next few months. I hope that that process will prove to be the most successful and engaging public debate in the history of the Parliament. As we have heard, there were 950 responses in one day. With all due respect to Stewart Maxwell, his bill's policy memorandum mentions 39 responses.

**Mr Maxwell:** I think that the minister is referring to Kenneth Gibson's consultation rather than mine.

I wonder whether the minister could explain to me and other members what the thought processes were behind the design of the Executive's consultation document, which uses a picture of a young, glamorous, attractive and well-dressed woman lighting a cigarette. Is that really

the message that the minister wants to send out about smoking? The advertising industry is not allowed to use such images because they promote smoking in young people. Why was that image put on the front of the document?

**Malcolm Chisholm:** I was referring to the policy memorandum for Stewart Maxwell's bill. I understand that the second point that he made can be debated. I imagine that the reason for the image was the prevalence of smoking among young women, but I understand the point that he is making.

We will encourage responses to our consultation through our website and hard copies of consultation documents will be distributed through surgeries, libraries and other places throughout Scotland. We will encourage employers from the public, private and voluntary sectors to raise awareness of the consultation process among their staff and we will welcome action by pubs and other businesses to encourage their customers to send us their views.

We are also putting a strong emphasis on research. We will consider public opinion in Scotland and conduct research among Scottish businesses in a variety of sectors. We have commissioned an expert look at the impact of passive smoking on mortality and morbidity in Scotland and we are taking time to have an in-depth look at the experience of other countries. We will consider the emerging evidence from Ireland. Johann Lamont's speech was one of the most interesting speeches in the debate. As she said, she is a converted sceptic as a result of visiting Ireland. We will also consider the experience of Canada, in which 11 out of 13 provinces now have byelaws that deal in some way with passive smoking. We will consider the experience of New York city, where smoke-free-air legislation was introduced in a blaze of publicity in March 2003.

**Mr Davidson:** The minister talks about research on the effects of passive smoking. Will that research also cover the effects of smoking in the home?

**Malcolm Chisholm:** No—I think that it will concentrate on public places.

The process of gathering international evidence will culminate in a conference that will be held in Edinburgh on 9 September.

Murdo Fraser simplified and distorted the issue of freedom. By contrast, Nora Radcliffe said that there were issues relating to individual rights, but that those rights should not be at someone else's expense. We are not going to force people to stop smoking, but we want them to recognise the potential impact that their decision has on others. We want them to think about how they can modify

their behaviour to reduce the harm that is caused to those around them; to recognise the importance of good citizenship; and to play their part in promoting the cause of health improvement in Scotland. Good citizenship involves respect for the right of smokers to smoke and the right of everyone to have their health protected from second-hand smoke. It is about recognising the health risks from passive smoking and taking action to ensure that we minimise those risks.

This is a genuine and open debate in which nothing is ruled out. Ted Brocklebank focused on that and suggested that there was a conflict between health and business interests in this matter. However, we also heard several remarks about the positive business opportunities that flow from smoke-free environments. There may not be the conflict that Ted Brocklebank identified.

There are a number of options. We have the ability to legislate to protect public health and we will consider all the options. We will look at the potential for a total, Scotland-wide ban and whether we should consider exemptions for places such as residential care homes. We will consider the option of a more targeted ban, as is proposed in Stewart Maxwell's bill. Several interesting comments were made about that bill. Nicola Sturgeon said that it did not go far enough. Helen Eadie also felt that it was partial and did not deal with the whole issue. There were also issues of timing to which Ted Brocklebank referred. We need to wait until the end of the consultation process before we take a view on the issue as a whole and on Stewart Maxwell's bill in particular. I hope that that is widely accepted in the Parliament.

Another option is to put the onus on local action and local decision making by local authorities. Whether that can be achieved without the kind of confusion and market distortion that many in the licensed trade seem to fear is very much an open question. Mention has also been made of the voluntary charter on smoking in public places. Progress on that has been disappointing, but we are prepared to listen to ideas for reinvigorating the voluntary approach.

The Executive's action plan on tobacco control signalled a new determination to tackle smoking throughout Scotland. Since its launch in January, we have made new money available to support services for those who want to give up smoking. David Davidson emphasised the importance of that, but he should have acknowledged the considerable resources that are already being invested and the big increases in resources for that effort that will come on stream soon. We fully support helping individuals to give up smoking. That is a key part of our strategy. No one is saying that smoke-free environments in themselves will

solve the problem; nevertheless, moving towards smoke-free environments has an important contribution to make.

We have worked with NHS Health Scotland to launch new and powerful advertising to raise awareness of the dangers of second-hand smoke and we have put together the comprehensive programme of public consultation that we have heard about today. Back in January, we committed ourselves to providing a breath of fresh air for Scotland and we now have our best-ever opportunity to demonstrate that commitment. I know that there are different opinions in Parliament and in the country; that is right and understandable. However, I ask everybody—whatever their opinion—to commit themselves to taking part in the national discussion on smoking in public places.

This is not about delay or prevarication. I was disappointed that Stewart Maxwell and several of his colleagues made that charge. This is about taking more effective action to move towards smoke-free places. The conclusions of the consultation will be announced before the end of the year—nobody can seriously call that delay or prevarication. This is about ensuring that the action that we take is effective and that we make progress on this important issue.

## Business Motion

16:59

**The Presiding Officer (Mr George Reid):** The next item of business is consideration of business motion S2M-1426, in the name of Patricia Ferguson, on behalf of the Parliamentary Bureau, which sets out a timetable for legislation.

*Motion moved,*

That the Parliament agrees—

(a) that consideration of the Tenements (Scotland) Bill at Stage 2 be completed by 25 June 2004;

(b) that the timetable for consideration of the Prostitution Tolerance Zones (Scotland) Bill at Stage 1 be extended to 23 December 2004;

(c) that the Justice 2 Committee reports to the Justice 1 Committee by 11 June 2004 on the Victim Statements (Prescribed Offences) (Scotland) Amendment Order 2004, (SSI 2004/246); and

(d) that the Environment and Rural Development Committee reports to the Justice 1 Committee by 27 June 2004 on the Scottish Outdoor Access Code: Proposed Code, (SE/2004/101).—[*Patricia Ferguson.*]

*Motion agreed to.*

## Parliamentary Bureau Motions

**The Presiding Officer (Mr George Reid):** The next item of business is consideration of five Parliamentary Bureau motions. If any member wants to speak against any of the motions, they should press their request-to-speak button after the motion is moved.

*Motions moved,*

That the Parliament agrees that the Justice 1 Committee be designated as lead committee in consideration of the Victim Statements (Prescribed Offences) (Scotland) Amendment Order 2004 (SSI 2004/246).

That the Parliament agrees that the Justice 1 Committee be designated as lead committee in consideration of the Scottish Outdoor Access Code: Proposed Code (SE/2004/101).

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (Orkney) (Scotland) Order 2004 (SSI 2004/221) be approved.—[*Patricia Ferguson.*]

17:02

**Mr David Davidson (North East Scotland) (Con):** On several occasions in the chamber, we have made it clear that the Executive's proposed method of control of amnesic shellfish poisoning is overkill. It is clear, and we have given the evidence, that the European Union is satisfied with end-product testing. Why then does the Executive continue with this illogical system? The safety margins in end-product testing are identical to the safety margins in the system for which the minister is arguing. We will move against the Executive on this again and hope that it might pay attention one day.

17:03

**The Minister for Parliamentary Business (Patricia Ferguson):** I will explain to the chamber exactly what was in the mind of the Parliamentary Bureau when it arrived at the formulation in motions S2M-1437 and S2M-1439, but first I will refer to Mr Davidson's contribution. Having heard my colleague Mr McCabe expound the arguments so many times before, I would have thought that Mr Davidson would now understand that the orders on amnesic shellfish poisoning are necessary. It is the fact that we have the regime that we do that has prevented difficulties from arising.

Motions S2M-1437 and S2M-1439 are procedural motions that will allow additional time for consideration of amendments at stage 3 of the Antisocial Behaviour etc (Scotland) Bill next week. The proposed timescale is in line with information that we have received from the clerks about what might be required. Motion S2M-1437 seeks to

move next Thursday's decision time to 5.30 pm. As a result, proceedings next Thursday might extend into the evening. The bureau therefore agreed to recommend that members' business on that day be dispensed with, and that is what motion S2M-1439 seeks to do.

During the debate that the bill be passed, the Executive will request that that debate be extended if required. In addition to the two procedural motions before members, that will allow a maximum of an extra one and a half hours to deal with amendments and the debate to pass the bill. I hope that that is helpful to the chamber.

I move,

That the Parliament agrees under Rule 11.2.4 of the Standing Orders that Decision Time on Thursday 17 June 2004 shall begin at 5.30pm.

That the Parliament agrees that Rule 5.6.1(c) of the Standing Orders be suspended for the duration of the Meeting of the Parliament on Thursday 17 June 2004.

**The Presiding Officer:** The questions on all five motions will be put at decision time.

## Decision Time

17:02

**The Presiding Officer (Mr George Reid):** There are five questions to be put as a result of today's business. The first question is, that motion S2M-1427, in the name of Patricia Ferguson, on the designation of a lead committee, be agreed to.

*Motion agreed to.*

That the Parliament agrees that the Justice 1 Committee be designated as lead committee in consideration of the Victim Statements (Prescribed Offences) (Scotland) Amendment Order 2004 (SSI 2004/246).

**The Presiding Officer:** The second question is, that motion S2M-1428, in the name of Patricia Ferguson, on the designation of a lead committee, be agreed to.

*Motion agreed to.*

That the Parliament agrees that the Justice 1 Committee be designated as lead committee in consideration of the Scottish Outdoor Access Code: Proposed Code (SE/2004/101).

**The Presiding Officer:** The third question is, that motion S2M-1429, in the name of Patricia Ferguson, on approval of a Scottish statutory instrument, be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballard, Mark (Lothians) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fox, Colin (Lothians) (SSP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (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)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 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)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

That the Parliament agrees that Rule 5.6.1(c) of the Standing Orders be suspended for the duration of the Meeting of the Parliament on Thursday 17 June 2004.

#### **AGAINST**

Aitken, Bill (Glasgow) (Con)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Johnstone, Alex (North East Scotland) (Con)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mundell, David (South of Scotland) (Con)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Tosh, Murray (West of Scotland) (Con)

#### **ABSTENTIONS**

Grahame, Christine (South of Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)

**The Presiding Officer:** The result of the division is: For 51, Against 14, Abstentions 7.

#### *Motion agreed to.*

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (Orkney) (Scotland) Order 2004 (SSI 2004/221) be approved.

**The Presiding Officer:** The fourth question is, that motion S2M-1437, in the name of Patricia Ferguson, on the change to decision time, be agreed to.

#### *Motion agreed to.*

That the Parliament agrees under Rule 11.2.4 of the Standing Orders that Decision Time on Thursday 17 June 2004 shall begin at 5.30pm.

**The Presiding Officer:** The fifth question is, that motion S2M-1439, in the name of Patricia Ferguson, on suspension of standing orders, be agreed to.

#### *Motion agreed to.*

## Turning the Tide against Nazism

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

The final item of business is a members' business debate on motion S2M-1302, in the name of Trish Godman, on turning the tide against Nazism. The debate will be concluded without any question being put.

#### *Motion debated,*

That the Parliament wishes to place on record its abiding gratefulness to those fellow Scots who, some 60 years ago along with their comrades from the allied nations, turned the tide and destroyed the evil of Nazism and fascism in Europe and, in bringing an end to that terrible war, assisted with the new accord within Europe that has eventually, and not without struggle of a different kind, led to the European Union of 25 nations, based upon equality and fraternity that has, as one of its major aims, the elimination of poverty within its member states and elsewhere in the world.

17:05

### **Trish Godman (West Renfrewshire) (Lab):**

I am genuinely pleased to lead tonight's debate on turning the tide against Nazism. The debate enables the Scottish Parliament to offer its sincere tribute to the Scots who were part of the allied victory over Nazism all those years ago. Many of those young Scots and others who served in that war died before they were in their twenties.

Consider this. On Saturday 6 December 1941, Nazi soldiers ordered the Wolf family on to a train. From their home in Hamburg, two-year-old Dan, his mother and his maternal grandmother were transported 600 miles to a concentration camp in Riga, Latvia, where they were put to death. They were just three of the 6 million Jewish citizens who were put to death just for being Jewish. Such was the evil regime that was destroyed by the millions of courageous men and women who took part in that war. However, let me say that I thought that it was wholly inappropriate and inept of President Bush to draw a parallel between the war against the Nazis and his invasion of a weak but oil-rich Arab nation.

The veterans who were in Normandy this week helped to bring about the beginnings of a new democratic Europe. Whenever I visit Erskine hospital in my constituency—apart from spending a small fortune in the garden centre—I am always deeply impressed by the innate modesty of those who contributed to the defeat of Nazism in Europe. Many of the younger veterans tell me that they never believed that they would live to see the demolition of the Berlin wall and the reunification of the two Germanies.

What a different Europe we see today. We have a Europe of 25 member states, some of which until recently were oppressed satellites of the Union of Soviet Socialist Republics. In the 60

years since the Normandy landings, Europe has witnessed the destruction of Nazism, the immense bravery of President Tito and his compatriots standing up against that monster Stalin, the Hungarian uprising of 1956, the Prague spring of 1968 and the transformation of Germany into a major democratic nation that is at peace with France and its neighbours. We must also remember the many outstandingly brave German socialists, trade unionists and others who were put to death by Hitler.

It is important that we do not forget that, from its inception, the guiding principles of the European Union were of peace and friendship among European nations. That was the aim of the men and women who defeated fascism. It will be interesting to see the turnout in the new member countries in tomorrow's elections. All indications are that the turnout may be low. There is a serious disillusionment with Parliaments, political institutions and parliamentarians. Hence, I believe, comes the emergence of political extremists who seek to exploit that alienation.

I sincerely hope that Scots everywhere will reject the racist British National Party. It is a matter of deep regret to me that that loathsome bunch have set up their election headquarters in Port Glasgow in my constituency. I readily endorse the view that was expressed in last Friday's *Greenock Telegraph*:

"The fact that the British National Party are using Port Glasgow as their Scottish campaign headquarters for the European election does not necessarily mean that they have a lot of support in Inverclyde—but it is worrying nevertheless ... Mainstream political parties must re-double their efforts to fight poverty and other issues which are exploited by the BNP for their own racist ends."

I thoroughly agree with those comments.

Why should we vote for an institution that is seen by many as unaccountable and as having few powers to check and balance decisions that are made by ministers? I believe that it is much better to stay in and fight to change the new, democratic European Union. We will get nowhere by standing on the touchline and whingeing. We must engage more actively with partner states. We should reject once and for all the xenophobic and racist appeals of the BNP and the UK Independence Party, which would take us out of Europe. I urge members to place their legitimate reservations on hold and to vote tomorrow to defeat xenophobia and racism, and to show our European neighbours, especially the new member states, that we are European.

**The Deputy Presiding Officer:** I have received eight requests to speak, so I would be grateful if members could restrict their speeches to four minutes each.

17:10

**Tricia Marwick (Mid Scotland and Fife) (SNP):**

I congratulate Trish Godman on securing this evening's debate and on the very eloquent speech that she made in support of the motion. As Trish Godman said, this is our opportunity to pay our respects and offer our thanks to those who helped to defeat Nazism and fascism in Europe.

My generation has not recognised enough the sacrifices that the previous generation made. Our parents lived through and fought in the war, but I bet that few of us are even aware of the horrors that they endured to ensure that we would live in a free, democratic Europe. My father was a Bevin boy and did not fight in the war, but I did not become aware of the level of commitment that had been shown by all my other relatives until I was much older. That says something about the generation that fought in the war. The Europe that has now been created is a union of 25 states and is truly that generation's legacy.

I watched some of the television coverage of the D-day events, which was extremely moving. I was struck by the dignity, humility and courage of the veterans. It is astonishing how they managed to return from the war to pick up their lives and to create a better society for themselves, never mind their children, to live in. These days, counselling is given as a matter of course to people who have experienced minor traumas. It is staggering that when the veterans came back, filled with the horrors that they had experienced, they got on with creating the kind of society that we have now.

Another point that struck me forcefully was the certainty of the veterans' belief that they were fighting a just war. Like Trish Godman, I was appalled by George Bush's attempt to link the second world war to what is happening in Iraq. The people who fought in the war believed that they had a part to play in ridding Europe of the evils of Nazism and fascism. Nazism killed millions throughout Europe in concentration camps—not just Jews, but communists, socialists, Gypsies, homosexuals, the mentally ill, the homeless and beggars. As a democratic Scottish Parliament and democratically elected politicians, we have an opportunity to ensure that at all times we argue for democracy and participation, as Trish Godman has done. We, the fortunate generation, must take a lead in rejecting fascism in all its forms today.

17:13

**Lord James Douglas-Hamilton (Lothians) (Con):** I congratulate Trish Godman warmly on her success in securing a debate on the motion.

It is worth our recalling that although it is a tremendous virtue to fight to the last ditch, it is not always a virtue to be in the last ditch in the first

place. After his arrest by the Nazis, Pastor Niemöller made the famous statement:

"First they came for the Jews, and I did not speak out—because I was not a Jew. Then they came for the Communists, and I did not speak out—because I was not a Communist. Then they came for the trade unionists, and I did not speak out—because I was not a trade unionist. Then they came for me—and there was no one left to speak out for me."

It is right that this evening we should remember the countless sacrifices that were made in the cause of freedom, justice and humanity. We remember the young men in the battle of Britain, when Britain and the Commonwealth stood alone against the Third Reich and Churchill said:

"Never in the field of human conflict was so much owed by so many to so few."

We remember the suffering of the Russians at Stalingrad, where they lost 2 million men in their costly victory. We remember the sacrifice of the Americans at the battle for the Midway islands, when they won their first overwhelming victory over the Japanese navy. We remember the turning of the tide in the Mediterranean and north Africa in 1942, with the victories at Malta and El Alamein. We also remember the British agents behind enemy lines, many of whom were tortured and killed, and all those who participated in D-day and in subsequent campaigns.

We are proud that at Culzean castle, which is owned by the National Trust for Scotland, there is a small museum in honour of General Eisenhower, the commander-in-chief of all the British soldiers who were involved in the D-day landings. Through earphones, one can hear his D-day message to the oppressed people of Europe that their liberation was at hand.

As Trish Godman emphasised, we should remember not only the courage of the combatants but the plight of the involuntary martyrs. It is right to recall that, at a time when millions of civilians of Jewish origin, among countless others, were being murdered in circumstances too horrible to contemplate, a German of Jewish origin who had renounced his German citizenship and gone to America appealed directly to President Franklin Roosevelt. He recommended

"watchfulness and, if necessary, quick action"

by the USA in its research on the atomic bomb. His letter resulted in the Manhattan project and ultimately pointed the way to the end of the second world war. That man's name was Albert Einstein.

The motion mentions "abiding gratefulness" to

"comrades from the allied nations"

who "turned the tide" and brought

"an end to that terrible war".

It can truly be said that Albert Einstein, in his own quiet and modest way, played a significant part in securing that outcome.

I am now three times the age of many of the young men and women who lost their lives around the time of D-day, either on the beaches or behind enemy lines. Although I have been spared their ordeal, I can at least express intense gratitude that for our democratic freedoms, which we will exercise in tomorrow's elections, and for our tomorrow, they gave their today.

17:17

**Donald Gorrie (Central Scotland) (LD):** I congratulate Trish Godman on securing the debate. The members who have spoken so far have risen to the occasion.

One lesson that we can learn from the second world war is that its outcome was far from certain. We tend to think that those in history who won a war or triumphed in some way were bound to do so. However, any bookmaker would have laid odds on Britain losing the war in 1940. Although it became more likely that we would win once the Russians and the Americans entered the war, even an operation such as D-day might well have failed. To be brutal, I should point out that it succeeded only because the Russians had killed off a lot of the Germans already and had suffered enormously in the process. Whatever we might think of Stalin, we should acknowledge the vital contribution of individual Russians.

The second world war can be seen as probably the last just war, by which I mean that everyone recognised that certain people were on the side of goodness. Subsequent wars, such as the war that has just finished, have been more ambiguous and questionable. That said, we should acknowledge that sometimes there are clear-cut issues and that people are fighting for the right cause.

We have failed totally to generate the wartime spirit in peacetime, and we must learn how to do so. Perhaps Mr Bush tried to capture that idea when he began his war on terror, which was quite a good idea. However, he got diverted by starting a war on Iraq, which was a different issue. As I said, we have not succeeded in generating in peacetime the kind of inspiration and dedication that become apparent in wartime. Perhaps we need enemies in order to get really steamed up about something. For example, we might be able to create that spirit by making poverty the enemy at home and abroad; our failure to give adequate help to poorer countries is lamentable. We could make war not only on poverty, but on sorting out the inequalities and lack of opportunities in our own country, which would be much more difficult to do. We suffer greatly from a horrific and

negative media that runs down everything and does not recognise any of the good things in our society.

In my view, we have timid political parties. That is not a party-political point—all parties are too timid because they are afraid of being gutted by the unfair media or by their opponents. The result is that, in order not to say anything that might be criticised, people do not say anything at all. We are letting down the democratic process, for which people fought and died in the second world war. We should have the courage of our convictions more and express them, excite people and together create a better society. I know that that is easier said than done, but I hope that we can generate the sort of spirit that won the war to help us win the peace.

17:21

**Mark Ballard (Lothians) (Green):** I congratulate Trish Godman on securing the debate and on her eloquent opening speech.

We must recognise that every war represents a tragic failure in diplomacy. The sight of men marching off to war should always be a cause of profound regret. Nazism had to be defeated on the battlefield because it had not been confronted politically. In the decades that followed the first world war, the European allies were desperate to avoid a repeat of the conflict. However, in the way that they treated Germany and the restrictions that they put in the Treaty of Versailles they ensured that further tragic conflict was almost inevitable. That is a lesson for us in how to deal with the debt of countries around the world in order to avoid conflict.

I recognise the massive debt that we all owe to the young men and women who fought and died to rid the world of Nazism and fascism. However, we must also recognise the fundamental lesson that war takes place because politics and politicians have failed. Europe has been a battleground since time immemorial. Virtually every generation has known the misery and hardship of war, its financial cost and the cost in lives lost. My generation has been spared that misery because of organisations such as the European Union and the United Nations, which grew out of the failures of the League of Nations and the determination that wars like the second world war should never happen again.

Such a war has not happened because of the growth of the peace movement and because organisations such as the Campaign for Nuclear Disarmament and Scottish CND have resisted the spread of weapons of mass destruction—the awful legacy of the second world war—and campaigned for peace. That is why I am concerned about the

way in which the United Nations, which in many ways has been the guarantor of peace, has been ignored. Unilateral action in Iraq has taken place without proper UN support, which is a very worrying precedent for the UN system that I believe has protected the world from war during the past 60 years.

We should recognise the roles of the European Union, which is mentioned in the motion, and of the Council of Europe in building solidarity in Europe. As we know, the United Kingdom came late to the European club. Our previous attempts to join were scuppered, particularly in 1963 by the French, who believed that we were too close to the United States. Some things do not change.

In 1969, we were able to join the European Community. According to some commentators, particularly those on the Tory seats, it has all been downhill ever since. However, we must recognise the virtues as well as the problems of the EU. In the United Kingdom, all too often we regard the EU as simply a bunch of meddling Eurocrats who seek to regulate our bananas and outlaw the British banger. The view from continental Europe, where people recognise Europe's role in building collective solidarity and cultural and social unity, is very different. In many ways, that has been more important than the economic unification that has taken place.

The recent commemorations of D-day showed that the sacrifices that were made 60 years ago have not been forgotten. The presence of the German Chancellor at a service of remembrance in Normandy was significant. As Herr Schroeder pointed out, the allies liberated not only German-occupied Europe, but Germany, too. The enemy was Nazism, not the German people. The embrace between the French and German leaders demonstrated that and demonstrated the new European unity.

War between European Union member states is now, I would say, inconceivable, but urgent reforms are needed in Europe. We all recognise that, but the social and cultural unity that the European Union has brought is a vital guarantee of peace, and that social and cultural unity must be our mission in the world.

17:26

**Colin Fox (Lothians) (SSP):** I offer my sincere tribute, as other members have done, to those Scots who fought Nazism and fascism in the second world war. I extend that tribute to all Europeans, and to people all over the world, who took part in that fight against Nazism and fascism. Although I recognise that enormous contribution and the important part that D-day played, I agree with Donald Gorrie that it is perhaps fitting to

mention in passing the fact that the battle of Stalingrad also played a key part in the way that the course of the second world war developed.

The Europe that we see today, although it is certainly democratic, is not yet a Europe worthy of the heroes and the people across the world who fought in the war—those who died and those who survived—and there is a great deal to be done to make it a Europe fit for heroes. I know that the convention in members' business debates is to offer the Parliament constructive points of view, but I must say that I find it curious that this debate has been scheduled for this evening, on the eve of the European Parliament elections, and I sincerely hope that that will not be construed in any quarters as an attempt at electioneering. That would not be fitting and it would not be what the veterans of D-day deserve.

I was disappointed, as I am sure that other members were, by the fiasco surrounding the First Minister's attendance at the D-day celebrations. I am also disappointed to hear that that is now the subject of some scrutiny and debate, and that it is being suggested that the First Minister had been ordered by Downing Street not to attend the celebrations in Normandy for fear that he might represent Scotland, just as the Welsh First Minister would represent Wales, and upstage or deflect attention from the British Prime Minister. I hope that that was not the case. I hope that there is no grain of truth in that.

**Trish Godman:** When a member lodges a motion, they never know whether it will be selected for debate. I had no indication that my motion would be selected for this evening. Colin Fox has made comments about the First Minister, but that business is over and done with and we must move on. I do not think that a members' business debate is the place in which to raise such issues. If Colin Fox has any concerns about the First Minister's decisions, he should deal directly with the First Minister.

**Colin Fox:** I shall deal with the First Minister. I thank Trish Godman for her contribution and, as she suggested, I shall move on to the substance of the issue.

I agree with large parts of Trish Godman's motion, which suggests that the evil of Nazism and fascism across Europe has been destroyed. I agree entirely that Nazism and fascism were evils and that they had to be confronted; millions of people across the world made the ultimate sacrifice in confronting them. However, I am sure that members would also agree that it is necessary to be ever vigilant. Trish Godman, rightly, mentioned the BNP, but there is also the Front National in France and Jörg Haider in Austria, so the peoples of Europe have to be vigilant.

I do not agree that the European Union is based on equality and fraternity and I do not think that its record on the elimination of poverty has been anywhere near worthy of the people who fought in the war. Unfortunately, we do not have a European Union that is based on equality and run by the peoples of Europe; rather, we have a centralised, faceless European bureaucracy that represents the interests of global corporations. Who elected them? Who fought a war to allow them to take over?

The most appropriate way of respecting those who made the ultimate contribution would be to eliminate poverty. Tens of millions of people throughout Europe live daily with the continuing scourge of poverty, and they feel let down by the European Union.

My grandfather was a veteran of the second world war. He was not in Normandy but was captured and forced to work on the Burma railway. The best way to honour the veterans—my grandfather and other people's grandfathers—would be to lift them out of poverty and to allow them dignity in retirement. As Trish Godman and other members have said, there is a challenge tomorrow in the European Parliament elections. There is a choice between, on the one hand, a Europe that is based on a desire for employment and a desire for dignity for veterans and others, and, on the other hand, a bosses' Europe. The bosses seem to be in charge at the moment.

17:31

**John Swinburne (Central Scotland) (SSCUP):**

I want to thank Trish Godman for securing this debate. Nazism was despicable. Lord James Douglas-Hamilton eloquently took us over the course of the second world war and I am very grateful for the way in which he did so.

The D-day commemoration ceremonies were the main focus of media attention on June 6, and rightly so. It is only right and fair that due credit was paid to the veterans who have survived the 60 years since that momentous event, which proved to be a turning point in the war, along with the battle of Stalingrad. However, on that day of national remembrance, I found myself taking a different stance from many others. I became increasingly angry as all the dignitaries and politicians lavished thanks and praise on those of that generation who had so selflessly made our future secure by their own sacrifices.

Sadly, with most politicians, it was nothing more than empty rhetoric. That may sound a bit harsh, but I ask members to stop and consider exactly how a D-day survivor—or indeed his wife or children—is being treated by a thankful nation 60 years later. He receives a meagre pension that,

with pension credits, can be increased to £105 a week. That equates to a miserable £2.62 an hour for a 40-hour week—about £2 below the minimum income. A quarter of a million pensioners in Scotland live below what the Government regards as being the poverty level. At 75, they get a free television licence and at 80 they qualify for an increase in their weekly pension of a princely 25p. Yes—I am angry; I am very angry. This is certainly not a land that is fit for heroes to live in, far less for them to retire in. Those figures show exactly how much our pious politicians value the sacrifices of all the D-day heroes.

If a veteran is living in his own home and finds himself facing spending his remaining years in a retirement home, the first visitor at his bedside will be a social worker. That visit will not be to inquire about his health, nor will it be to inquire about what his requirements might be. No way. The veteran will simply be required to answer the question, "Do you own your own home?" If the answer is yes, the wheels will be set in motion to enable the social work department to sell that home to pay for the veteran's residential care.

The D-day veteran has probably worked hard all his life since being demobbed, and has scrimped and saved to pay his mortgage. Now, when he is at his most vulnerable, the system is geared up to sell his home to pay for his residential care. However, he will also be offered the much-publicised delayed option, whereby he can sign over his property. It will remain in his ownership until he dies, when the state will get the first option on his estate after the house has been sold to pay for his residential care. How is that for a grateful nation thanking a D-day hero?

Tony Blair and his Government should hang their heads in abject shame. They have let down the D-day generation in the most deplorable manner. Unless public opinion forces these uncaring and hypocritical politicians into doing something for the 1939-45 veterans, the survivors of the Iraqi war will fare no better 60 years down the line.

All that it would take to remedy the situation would be for the Government to provide a weekly pension of £160, which could be financed by the vast savings that would be made by abolition of all means testing. That is down to the Westminster Government. As for the Scottish Parliament, the best thing it could do to thank the D-day generation would be to abolish the council tax and to replace it with a fairer local income tax that is based on ability to pay.

I repeat that, in my view, our country and its politicians—who were all so fulsome in their praise of the gallantry of the heroes of the last war during the D-day ceremonies—are treating those same heroes despicably. The politicians have

completely failed a whole generation, many members of which paid the ultimate price as they served their country from 1939 to 1945.

17:35

**Mr Kenny MacAskill (Lothians) (SNP):** Like other members, I congratulate Trish Godman not simply on the motion that she lodged, but on the terms of her speech.

In Parliament, there are occasions on which matters transcend narrow party interests and a national position is achieved. In this evening's debate, we are not talking only about a national interest, because the second world war was fought between the forces of democracy and decency and those of evil and darkness. We should not forget that. We can criticise present and, indeed, past actions of the Governments of the United Kingdom, of the United States or of any other democracy, but at least they are democratically elected and we can take measures to deal with them; they most certainly never perpetrated the Holocaust. We should remember that, if the sacrifices in question had not been made, the world would have been vastly different and that that would have been to the detriment of all humanity, not just of those people who, tragically, fell under Nazism.

There are other factors that we must remember as D-day fades into memory and as people pass not just into history, but from this life. We must remember that, with the Holocaust, the motto is never forget. We must remind ourselves continually of what happened because—as history says—those who forget it are bound to commit such actions again. We must take that on board.

We must acknowledge that there were two specific reasons for the sacrifices that were made on D-day. That generation made sacrifices not just to win the war, but to win the peace. At the end of the day, the war was not fought simply to defeat Nazism; it was fought to defeat Nazism and to create a better world. Mark Ballard's point was valid—it was symbolic that the German Chancellor was at the events to mark the 60<sup>th</sup> anniversary of D-day, because the war was not just about winning the battle; it was about winning ultimately by creating a better world.

It is correct that people should say that the battle of Stalingrad was probably of greater importance than D-day was in turning the tide but, if we look back on history, it is clear that had the allies not been prepared to land, the Russian forces would have moved onward. When the Red Army came, many countries would not have experienced liberation day; the iron curtain that came down might have extended from the Elbe to the English channel. Many people who would have lived under

a changed tyranny, whether in Latvia in Poland, would have lost out.

The D-day sacrifices were made to ensure that our ally fighting on the eastern front did not exchange one form of totalitarianism for another. Those sacrifices had to be made. That is not to underestimate or downplay the significance to the second world war of the battle of Stalingrad, but it was important that the allies made the D-day landing. Their sacrifices were made to ensure that many people in central and western Europe avoided exchanging one form of totalitarianism for another.

Sacrifices were also made in winning the peace. The D-day generation was prepared to forsake its present for a better tomorrow. There was no clamouring for continual tax cuts, because there was investment in infrastructure, health care and education. As a child of the 1960s, I am a product of what my parents' and my grandparents' generation delivered. They ensured that every school that I went to was ultimately a new school, even if it was in an old building when I enrolled. They ensured that the health facilities that I used were modern and were always being upgraded. They did that not by clamouring continually for themselves, but by seeking to create a better world for future generations.

That state of affairs has not been rolled back by any one particular party; to some extent, all of us are culpable in what we have allowed to happen. The generations that follow the D-day generation have a duty to remember the sacrifice that was made, not just in war but in peace.

The only comment that I will make about the elections is that I do not advocate a vote tomorrow for new Labour under Tony Blair. I do not forget, however, that I am a product of what was created by Clement Attlee and his Labour Government following an historic victory back in 1945. I acknowledge the debt of gratitude that I owe them. Neither should we forget the sacrifices that were made in war or in peace in respect of the blood that was spilled or the work that was done to bring the country back together for the future of our children and their children's children. We must never forget.

17:40

**Tommy Sheridan (Glasgow) (SSP):** I congratulate Trish Godman on securing the debate. It is appropriate that all of us show our sincere gratitude to the generation who gave up so much: if not their lives, then their limbs, families and hearts. I am thinking of all those who were involved in the war; not only those who fought but the families who supported them.

At times such as this, on the 60<sup>th</sup> anniversary of D-day, it is vital that we remember not just the significance of that landing but the whole period of the second world war and the need for the world at that time to engage in military action against fascism. As Donald Gorrie said, very few wars are justified. Unfortunately, the second world war was one of them and it is vital that we pay our utmost respects to all those who were involved in it.

I want to raise one other point to which I hope the minister might respond. Last night, I had the great privilege of attending the unveiling in London of a plaque that was paid for by the National Union of Rail, Maritime and Transport Workers. The plaque lists all the members of the former National Union of Seamen who left the shores of Britain in 1936 to join the fight against fascism in Spain. At the time, most of the world did not realise that what was happening in Spain was the dress rehearsal for the second world war. Most of the world refused to recognise that Franco's military coup was the beginning of the march of fascism across the whole of Europe. Unfortunately, because the rest of the world ignored what was happening in Spain, Hitler and Mussolini were emboldened to begin their march across Europe.

Those from Scotland who volunteered in 1936 to fight against the fascist coup in Spain and who, in so doing, gave their lives deserve proper recognition of their sacrifice. The 70<sup>th</sup> anniversary of the conflict in Spain will take place in two years' time. I appeal to the minister to consider whether the Scottish Executive and the Scottish Parliament could erect a plaque to list the names of the volunteers who saw the writing on the wall that other people did not see and gave their lives in the fight against fascism in Spain.

The debate is neither the place nor the time for any of us to electioneer for tomorrow's election. I hope, however, that all members can unite in saying categorically that the best way for people to honour those who fought and fell would be for them to use their vote tomorrow, even if they go to the ballot box and mark "none of the above" on the ballot paper. Those who fought 60 years ago fought in order to give people the right to write that on their ballot paper, and it would be better if people did so than for them not to use their vote at all. I appeal to the people of Scotland to honour the memory of those who fought in the second world war by at least using their vote, but they must not give their vote to the latter-day 21<sup>st</sup> century fascists in the shape of the British National Party. It would completely dishonour the memory of those who fought and died 60 years ago if people were to vote tomorrow for the very forces that want to reintroduce fascist and Nazi ideology in the 21<sup>st</sup> century. I appeal to the people of Scotland to vote tomorrow but to ensure that they do not vote for the fascists.

17:45

**The Deputy Minister for Communities (Mrs Mary Mulligan):** It is customary on these occasions to congratulate the member on securing the debate. That is more appropriate on this occasion than on some others. I welcome Trish Godman's motion.

Sixty years ago this week, thousands of Scottish soldiers, side by side with their allied comrades, bravely participated in one of the largest single invasion forces in history—the D-day landings at Normandy, which saw the beginning of the end of world war two and with it the scourge of Hitler's Nazi regime across Europe.

Many Scots—not just then, but throughout the war—made the ultimate sacrifice to protect their families and loved ones, yet more survived to see the liberation of Europe and the beginnings of a new Europe built on co-operation, consensus, dialogue and peace. It is perhaps difficult today to speculate about the Europe that might have emerged were it not for the bravery, courage and sacrifices of Scottish soldiers, sailors and airmen around the globe and, lest we forget, their brothers in arms from the allied forces, not just in Normandy but in other battles such as Monte Cassino, Stalingrad—which was mentioned by other members—Okinawa and Burma.

We owe a great debt of gratitude to every Scots man and woman who played a role in the defeat of Nazism. The Executive is happy to place on record, on behalf of the nation, the recognition, respect and gratitude that we all have for those Scots who gave of their utmost in defeating fascism, both in Europe and further afield.

The First Minister represented the Scottish nation at the commemorative events in Arromanches last weekend. I attended the commemorations in a private capacity, accompanying my father, a D-day veteran, so that he could pay his respects. It was his first time in France, apart from a brief visit to Lourdes, since that day 60 years ago when he was aboard HMS Roberts off Juno beach. Like many veterans, he does not say much about his experience: one can only imagine the horrors that were witnessed by an 18-year-old youth. However, I know from his countenance on Sunday just how deeply he—and, I am sure, many others—was affected by his D-day experiences. Without the efforts of those thousands of men and women—people like my father—60 or more years ago, this Parliament might not be here now and our understanding of a European union would be drastically different.

The defeat of Nazism in Europe paved the way for conciliation and co-operation between nations and, eventually, to the 1957 Treaty of Rome and the creation of the European Community, the

precursor to the European Union. The peoples of western Europe have put centuries of conflict behind them in a successful economic and political community, membership of which over the past 30 years has benefited the UK and Scotland. Those benefits are manifest all around us in our constituencies throughout Scotland.

Enlargement of the European Union this year is a particularly significant milestone and a notable achievement, as it reunites east and west after half a century of division and conflict and echoes the co-operation during the war of allies from Poland, the Czech Republic and the Slovak Republic. The European Union has provided the context for closer co-operation across a wide range of subjects. It has encouraged members to negotiate solutions to difficult issues where the gains of working together are greater than the sum of the individual parts.

The adoption of the Lisbon agenda in 2000 saw a firm commitment being made to the economic reform agenda and to the goal of creating millions of jobs throughout the EU by 2010. It was recognised that a strategic and collaborative approach was the route to solving Europe's problem of high unemployment, which is one of the most significant causes of poverty and exclusion that we in Scotland are firmly committed to eradicating.

The motion refers to the elimination of poverty, to which Donald Gorrie and others referred. In Scotland, the UK and Europe we have made significant inroads into tackling poverty, but we cannot and will not rest on our laurels in fighting to eradicate poverty and exclusion from our society. Neither should we forget that poverty is only one strand of social exclusion and that people can suffer exclusion as a result of discrimination, ignorance and fear and on many other grounds, such as gender, race, sexuality and xenophobia.

Scotland can rightly be proud of its dynamic, multifaith and culturally diverse society, which makes our nation stronger. The religious, ethnic and racial intolerances that Hitler's regime promoted are wholly unacceptable in a modern society like ours, and we are determined to promote equality of opportunity and social justice for all our citizens so that they can live free from fear and discrimination.

Germany in the 1930s saw the rise of a tyranny that was based on fear and in which ignorance, hatred and discrimination led to a society that was torn apart on the grounds of race and religion. That tyranny was the Third Reich, and the advent of world war two provided it with the opportunity for the extreme manifestation of its ignorance, fear and xenophobia in places such as Auschwitz and Dachau. The invasion of Europe by allied forces 60 years ago and the beginning of the end of the

Nazi regime can therefore be seen as a truly momentous turning point for the history of the European continent. We now live in a Europe that is built on freedom, trust and tolerance and we can work together within the European Union to target society's problems.

I agree with the concerns that other members—particularly Trish Godman—raised about the rise of the extremist right wing and especially the BNP in our country. I also agree with Tommy Sheridan when he says that, tomorrow, people have an opportunity to use their votes—the votes that our predecessors fought hard for us to have—but they should not support those who would discriminate against others, such as the BNP.

Our freedom to discuss openly in this Parliament and other Parliaments the problems that we face daily owes a lot to the men and women who gave up their lives on the battlefields of Europe, Africa and Asia 60 years ago, and to them we simply say thank you.

*Meeting closed at 17:52.*



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