

# **MEETING OF THE PARLIAMENT**

Wednesday 22 December 2004

Session 2

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## Scottish Parliament

*Wednesday 22 December 2004*

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

### Time for Reflection

**The Presiding Officer (Mr George Reid):** Good afternoon. The first item of business today, as every Wednesday, is time for reflection, which is led today by His Eminence Cardinal Keith O'Brien, Archbishop of St Andrews and Edinburgh.

**Cardinal Keith O'Brien (Archbishop of St Andrews and Edinburgh):** Just a few days ago, I was in Edinburgh's Saughton prison for the annual Christmas service of carols and prayers. Leading the celebration were the songsters and band of the Salvation Army, and I was asked to give the final blessing.

An address was given by a Salvation Army officer, and he began by asking everyone to think of three words that, for them, summed up something of the joy and happiness of Christmas. He himself gave a few examples. His examples included: turkey and stuffing; the Queen's broadcast; mince-pie and cream; Morecambe and Wise; and so on. He then asked his congregation to think of some similar examples involving just three words. There was quite a silence from the congregation until one of the prisoners put up his hand rather slowly and then shouted out, "My three words are, 'Let me oot.'" The officer did not ask for any further examples but quickly concluded his message by saying that the three words that summed up for him something of Christmas were, "Jesus is born."

However, on thinking of those words of the prisoner at Saughton, I thought that in many ways they did really sum up the message of Christmas. "Let me oot!" "Let me go free!" For that is the message of the prophet Isaiah in the Old Testament before the coming of Christ. We are told that Jesus stood up in the synagogue in Nazara and quoted Isaiah, saying:

"The spirit of the Lord has been given to me, for he has anointed me. He has sent me to bring good news to the poor, to bind up hearts that are broken; to proclaim liberty to captives, freedom to those in prison; to proclaim a year of favour from the Lord."

The message of Isaiah—the message of Jesus—was that of bringing good news to the poor and of proclaiming liberty to captives and freedom to those in prison. That message, I think, should be in the minds of those of us in positions of responsibility in our country at the present time.

There are indeed many around us who are poor, some materially and many spiritually. There are in our midst so many who have broken hearts for whatever reason—perhaps quite simply because they cannot cope with living life as it is expected of them at present. There are many in our communities who are captives in some way or another—captives to an addiction to drink, drugs, sexual aberrations or whatever.

In some ways, so many around us are all crying out like that prisoner in Saughton to be set free, to be let out, to be free from whatever is burdening them. Each one of us in our positions of responsibility must surely try to bring freedom to those who are in any sort of need, to those for whom we have such heavy responsibility.

May the good news from Isaiah and the good news from Jesus filter through us to all who are expecting a message of hope at this time. May members of the Parliament have a very happy Christmas and every blessing in the year that lies ahead.

## Business Motion

14:34

**The Presiding Officer (Mr George Reid):** The next item of business is consideration of business motion S2M-2201, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Emergency Workers (Scotland) Bill.

*Motion moved,*

That the Parliament agrees that, during Stage 3 of the Emergency Workers (Scotland) Bill, debate on each part of the proceedings shall be brought to a conclusion by the time-limits indicated (each time-limit being calculated from when the Stage begins and excluding any periods when other business is under consideration or when the meeting of the Parliament is suspended or otherwise not in progress):

Groups 1 and 2 – no later than 30 minutes

Groups 3 to 5 – no later than 55 minutes

Motion to pass the Bill – 1 hour 40 minutes—[*Ms Margaret Curran.*]

*Motion agreed to.*

## Concessionary Fares

**The Presiding Officer (Mr George Reid):** The next item of business is a statement by Nicol Stephen on concessionary fares. The minister will take questions at the end of his statement and there should be no interventions.

14:35

**The Minister for Transport (Nicol Stephen):** Presiding Officer, with your permission I will make a statement about concessionary bus travel for older and disabled people.

The partnership agreement commits the Executive to three national travel initiatives: first, the introduction of a new free bus scheme for older and disabled people; secondly, a new concessionary fares scheme for young people; and, thirdly, a full review of public transport support for disabled people. I will concentrate today on the first of those commitments: the national scheme for free bus travel for older and disabled people.

We are now, as a result of our very successful discussions with the bus operators, in a position to make today's statement, which goes beyond our original commitment. We will announce the details of the scheme for young people in the spring of next year. Our work to assess improved travel support for disabled people will continue throughout 2005. That work will involve major research and consultation and our conclusions will be announced at the end of next year.

Our progress on free bus travel for older and disabled people is one of the major successes of devolution to date. Since September 2002, there has been an increase in bus use of more than 40 per cent, in only two years, by more than a million older and disabled people in Scotland—there were 45 million extra journeys in 2003-04 alone. Concessionary travel has delivered real change in the lives of older people. It has opened up opportunities and provided greater access to vital health and community services.

We now want to do more to build on the scheme's outstanding success. The local concessionary fares scheme has made a big difference to people's everyday lives; a national scheme offers the opportunity to go further. That is why our two parties—the Liberal Democrats and Labour—made a joint commitment in our partnership agreement. We agreed to deliver a national off-peak scheme to allow older and disabled people to travel anywhere in Scotland. That decision built on the success of policies such as free personal care and the warm homes deal as part of our determined effort to improve the quality of life for older people.

Today, I can confirm that we will sweep away the local scheme boundaries. Older and disabled people will be able to travel free by bus, anywhere in Scotland. Passengers will be able, as at present, to travel free in their local area; they will also be able to travel free by bus to anywhere else in the country and to travel free on local buses at their destination. The new scheme will open up exciting new opportunities and it will dramatically improve the quality of life of those involved. The scheme will connect people and communities throughout Scotland.

Our partnership commitment was to free off-peak travel and the current national minimum standard provides for travel only after 9.30 am. Today, I am able to announce that we will also sweep away the morning peak-time restriction. That will allow older and disabled people to travel free by bus anywhere in Scotland, at any time of day.

As well as receiving many representations about allowing peak-time travel, to which I have been able to respond, I have been asked to consider the position of older and disabled people who live on Scotland's islands. It is important that the scheme benefits older and disabled people in every part of Scotland. I am therefore pleased to announce that, for islanders, we are now also introducing a minimum entitlement of two free return journeys by ferry to the mainland each year. That will be a new benefit and will not affect any entitlements to ferry travel under existing local schemes.

Much has to be done to ensure that the national scheme is introduced smoothly. The scheme must be underpinned by procedures and rules that pay bus operators fair compensation and safeguard the Executive from fraud. To assist in the achievement of that aim, the intention is that the scheme will, for the first time, use smart cards throughout Scotland. That will be of major benefit in our drive to make public transport easier to use and more accessible for everyone. The introduction of smart cards for more than a million people to use on all Scotland's buses will create significant opportunities for flexible ticketing and integrated travel. Everyone in Scotland will benefit from those new opportunities.

The new national scheme will be introduced in April 2006. Until then, the current 16 schemes will continue unchanged. The new scheme will provide the same entitlement to card holders, wherever they live, and to ensure that that happens the scheme will be run nationally by the new national transport agency, using powers that are proposed in the Transport (Scotland) Bill. The current local schemes are being delivered through the commitment and professionalism of the bus operators and the transport authorities and that

approach will stand us in good stead as we move to the national scheme.

The Convention of Scottish Local Authorities has been positive about the changes and has agreed to hold detailed discussions about the new administrative and funding arrangements that will be required. Local authorities will continue to provide concessionary travel on other types of public transport, for example on rail or through taxicard or dial-a-bus and dial-a-taxi schemes, as they consider appropriate for their areas. However, I want to make an important point: every older or disabled person in Scotland will be entitled to use the new free bus scheme, regardless of their eligibility for those important local schemes. Older and disabled people will never have to make a choice between a local scheme and the national scheme.

Our objective will be to ensure that enough money remains in the local government settlement for local authorities' continuing responsibilities. We also want to ensure that resources that are used to support socially necessary bus services are protected locally.

The measures amount to a major step forward for older and disabled passengers in Scotland and have been made possible by an agreement with the Confederation of Passenger Transport UK, the representative body for the bus operators. The agreement commits bus operators for the first time to an unrestricted, Scotland-wide, free bus scheme for older and disabled people, at agreed levels of payment. Card holders will be able to access the widest range of bus and coach services. The current local schemes cover only local services and, in some—but not all—areas, scheduled coach services in the local area. The new scheme will allow older and disabled people to travel free on local services and scheduled coach services throughout Scotland.

Currently, each scheme has its own rate of payment to bus operators, which is complex, bureaucratic and time consuming. All that will go. The national scheme will have a single payment rate for all operators on all journeys. The rate will be 73.6 per cent of the average adult single fare. That is the same rate as the one that applies in Wales, where it is widely accepted as being fair to the operators and to the taxpayer. The rate will form the basis of our new approach. It will compensate for the revenue that passengers would have paid through the fare box if there had been no scheme and for any additional costs that the operator might incur, for example by putting on extra services.

However, there will be an important difference in our approach. There will be an extra safeguard for the taxpayer. In Scotland, the total payment in any one year on the national bus scheme will be

capped. For the scheme that I am announcing, the maximum payment will be £159 million in 2006-07 and £163 million in 2007-08. That guarantees that the scheme will be affordable for the Executive and for the taxpayer. If in any year it becomes clear that the cap will be reached, there will be a mechanism involving the bus operators to adjust payments accordingly.

The new scheme is good news for everyone who believes in better public transport in Scotland. The Confederation of Passenger Transport UK has assured us that, on the basis of the agreement, bus operators will invest in modern vehicles and better services, which will secure benefits for all passengers who use the network. We will ensure that the additional benefits to the bus network as a whole will be tracked as part of our monitoring of the new scheme.

This is a ground-breaking agreement with the bus industry in Scotland and a real model of partnership working that will benefit the industry and all passengers. Today's announcement is good news for older and disabled people throughout Scotland, good news for the bus industry, good news for passengers and good news for everyone who believes in better public transport.

**The Presiding Officer:** The minister will now take questions on the issues raised in his statement. I will allow about 20 minutes for that. Members who wish to ask a question should press their request-to-speak buttons now.

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** On behalf of the Scottish National Party, I warmly welcome the minister's announcement. I say that not just because of the impending festive season but because the SNP has, as the minister knows, given full support to the scheme. We particularly welcome the scheme's extension to 24-hour access on buses and the agreement that there should be some concessionary travel for senior citizens and people with a disability on ferries, which we also called for.

My questions to the minister are offered, as always, in the spirit of critical support. First, the minister quoted two figures as maximums, but can he give the actual estimated costs of the scheme? It is important that we get the costs right. Secondly, does he accept that some of the money—some people argue that it is £10 million or more—that is intended at present to be used by local authorities for the 16 concessionary schemes is not so used? Could that be a black hole? Will he make available to the Local Government and Transport Committee the computation that sets out the figures? It is essential that the costings are accurately estimated and that we know the cost of the proposed smart cards.

Finally, can the minister indicate whether the Executive has considered and made a study of the impact that the new scheme may have on senior citizens and people with a disability moving from rail, on which they may travel at present, to the free bus services? Has the minister considered that issue, which is obviously important?

The scheme will allow many senior citizens and people with a disability to get out and about; so what His Eminence the Cardinal said earlier—"Let me oot"—will be possible once the scheme comes in.

**Nicol Stephen:** It is fair to say that Fergus Ewing's critical support is renowned across Scotland, particularly in relation to transport debates. I warmly welcome his support for the scheme. It is very encouraging to see him so happy with an Executive statement—long may that continue.

On the important questions that Fergus Ewing asked about funding, I should repeat that the total cost will be as I described in the statement: £159 million would be the maximum amount payable in the scheme's first year, rising to £163 million the following year. The issue that will require detailed discussions with COSLA is the current funding for the 16 existing concessionary schemes. Fergus Ewing and other members will know that, in some areas, the funding that has been made available to local authorities has been used exclusively for the free bus travel scheme, but in other areas that funding has been used for other concessionary schemes and other forms of support. It is important, particularly in rural Scotland, that such services are continued and safeguarded. The discussions that we will have with COSLA will ensure that that happens.

The important thing is that there is adequate funding in the Scottish budget not only for this scheme for elderly and disabled people, but for the concessionary fares scheme for young people and for supporting more work with disabled people once the review is finished. All of that means that we have the resources to honour our partnership agreement commitments. That is why I am so pleased that today's statement goes beyond what was originally promised.

**David Mundell (South of Scotland) (Con):** I always welcome good news, but I am sure that the minister agrees with his Liberal Democrat colleague on Dumfries and Galloway Council, Councillor Joan Mitchell, when she says that there is no point in having a free bus travel scheme if there are no buses. Will he go further than he did in his previous response and commit to funding arrangements for the scheme that will guarantee that existing bus services in rural areas will remain as they are, and that throughout Scotland no



individual passenger will be disadvantaged by the implementation of the scheme?

**Nicol Stephen:** Given the collapse of bus services throughout Scotland during the stewardship of Conservative Governments, with a decline every year in bus passenger numbers and a particularly negative impact on rural Scotland, it is a bit rich to receive such criticism from David Mundell. We will ensure that bus services are protected and improved as a result of the initiative.

We are introducing significant additional funding for our buses in Scotland. The scheme will invest more than £150 million a year in concessionary travel, which will give bus operators the confidence to invest in new vehicles, such as disabled-accessible vehicles, and in new services. The guarantee has been given to us in discussions with bus operators—which are positive about the scheme—that it will have that positive impact. That is the sort of injection of Government support that the industry has been crying out for—the sort that was completely lacking during the Conservative years. It is good news for the bus industry.

Finally, we are doing more than ever for demand-responsive transport, which is used where there is a problem for individuals in getting from their home to the bus stop or the railway station, or where there is a lack of services in rural areas. For the first time, we are investing in dial-a-taxi, dial-a-bus and community bus services on a scale that is unprecedented in Scotland, and we will do more of that.

**Ms Wendy Alexander (Paisley North) (Lab):** Coalition members are delighted to join Opposition members who have seen the light in welcoming the extension of the scheme, particularly the removal of early-morning restrictions, which will allow passengers access to hospitals and to care for relatives and grandchildren. That is a particularly apt Christmas present in the spirit of the season.

However, the minister will be aware that a number of members on all sides of the chamber have raised the issue of fraudulent claims by a small number of disreputable operators who sought to undermine the integrity of the valued schemes. Clearly, measures that have been announced today—smart cards and the national rate for reimbursement—will go a long way towards dealing with fraud, but is he satisfied that sufficient steps have been taken to make the reimbursement processes fraud free so that the resources will go to those operators who are actually delivering this valued service?

**Nicol Stephen:** The short answer is no, I am not sufficiently confident at present that the scheme is as fraud free as it should be, which is partly due to

the fact that we have 16 local schemes. I continue to hear anecdotes and receive letters from older people who received tickets for journeys the length of which was considerably greater than those they intended to take, which is why the introduction of the national reimbursement rate is so important. However, the crucial factor will be the introduction of smart cards. If we can come forward with new smart-card technology that is available on all buses and coaches in Scotland, if we can kick-start the funding of that and if we can introduce smart cards for more than 1 million people in Scotland and make them affordable for other passengers, we will be in a strong position to monitor the success of the scheme and clamp down finally on any fraud.

**Iain Smith (North East Fife) (LD):** I thank the minister for his statement. Our colleague John Farquhar Munro thinks that all his Christmases have come at once this week, with yesterday's announcement of the abolition of the Skye bridge tolls and today's excellent announcement on concessionary travel—particularly the part on ferry travel. Will the minister confirm the importance of local concessionary fares schemes for elderly people, such as those on rail travel, and will he give an assurance that funding will still be available for local councils to provide such schemes? Will he confirm that the tracking that he announced in his statement will ensure that bus companies continue to improve and enhance services and do not simply enhance their bottom lines?

**Nicol Stephen:** It is important that the scheme leads to improvement in services and investment in new vehicles and that it gives a fair and appropriate return to bus operators for the significant number of additional older people and disabled people that I believe will be carried on their vehicles under the new scheme.

We will have careful discussions with COSLA on the local schemes. As I said, COSLA supports the national scheme, but we must identify areas where the funding that was provided for local initiatives was used for important demand-responsive transport services, such as dial-a-taxi or dial-a-community-bus schemes. We must consider that carefully for each of the 16 areas that currently have schemes and ensure that the financial settlement is fair. Funding has been set aside to ensure that we achieve that.

Because the scheme is ground breaking and innovative and will be examined by other parts of the UK and countries throughout Europe, we must track its success and be able to explain that the money that has been invested has led to better services.

**The Presiding Officer:** I ask for shorter questions and answers from now on.

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

Does the minister agree that, while his statement will be widely welcomed by senior citizens, further resources will be required to ensure that every senior citizen benefits from the national concessionary bus travel scheme, including those who live in remote locations? Will he undertake to ensure that the less-profitable routes, such as that from East Kilbride to Wishaw General hospital, are reinstated? Concessionary travel can be called that only when it actually caters for senior citizens' needs.

**The Presiding Officer:** There must be a question, Mr Swinburne.

**John Swinburne:** I am delighted that measures will be employed to prevent the abuse of this excellent scheme by unscrupulous operators who at present are recompensed for carrying phantom passengers.

**The Presiding Officer:** Question.

**John Swinburne:** On behalf of all those whose lives will be greatly enhanced by the excellent scheme, I congratulate the minister and the Executive, but I ask the minister to consider the problem that I mentioned.

**Nicol Stephen:** I will consider the issue that John Swinburne raises, but I emphasise that the scheme will be available to all elderly people and disabled people in Scotland. I am sure that further developments will take place to improve access through demand-responsive services such as the dial-a-taxi and dial-a-bus schemes.

**Bristow Muldoon (Livingston) (Lab):** I welcome the announcement, which delivers a key pledge from the 2003 Labour manifesto and the partnership agreement, but I have two brief questions. First, what investment in additional capacity does the minister envisage is necessary to achieve the welcome removal of the morning peak-time restriction? Secondly, he stated that he intends to make a further announcement in the spring on the scheme for young people, but does he also intend that scheme to be implemented in April 2006?

**Nicol Stephen:** The short answer to the second question is that that is the intended implementation date. We are doing further work on the scheme for young people, which is more complex and involves operators of a variety of transport services, such as ferries and trains as well as buses. However, I hope to confirm the 2006 implementation date when I make the announcement to Parliament in the spring.

Additional capacity will be required, but different levels of additional capacity will be required in different parts of Scotland. The Executive's extra investment will enable bus operators to invest in

new services. The additional capacity reimbursement is included in the 73.6 per cent reimbursement rate that I mentioned in my statement.

**Bruce Crawford (Mid Scotland and Fife)**

**(SNP):** I warmly welcome today's announcement. In a week when there has been a bit of knocking copy about the Scottish Parliament, this perhaps begins to redress the balance. I am sure that there was an oversight on the minister's part in regard to questions from Fergus Ewing, but will the minister tell us what studies have been undertaken into the impact that the scheme will have on rail travel in Scotland? Will he also let us know what the cost might be of the introduction of the smart card? It is not just the cards themselves, but the machinery that will be required on buses and so on. The scheme will be introduced in April 2006, when I will be only eight years away from qualifying, and I am very much encouraged by that.

**The Minister for Health and Community Care (Mr Andy Kerr):** Is that all?

**Bruce Crawford:** That is all—it is a shock. Maybe it will encourage other MSPs of an elderly age to use public transport and keep costs down.

**Nicol Stephen:** I thank Bruce Crawford for that, and I apologise for missing a couple of Fergus Ewing's points. The cost of the smart-card scheme is subject to further discussions with the bus operators, but it will be a multimillion pound scheme. It is very important that we roll out the scheme before the start date of April 2006. I will give more details on that to Parliament in due course.

On studies on rail travel, all the evidence from the local schemes is that such initiatives greatly increase the number of older people and disabled people using public transport. It is not a question of removing travel from other modes of transport. However, with a national scheme for free bus travel, we will have to consider that carefully, and we will have discussions with First ScotRail. We want to monitor the impact of the scheme on public transport throughout Scotland. The clear trend, however, is that when we introduce a new scheme such as this, it leads to a dramatic growth in public transport, rather than robbing one form of transport of passengers and gaining them for another.

**Helen Eadie (Dunfermline East) (Lab):** I would like to say to the minister, to his colleagues, to the Executive and to the civil servants: "Fandabidozi!" The announcement that the minister has made today is absolutely brilliant. People throughout Scotland will be thrilled to bits, so I thank the minister on their behalf.

The minister said in answer to another member that he will reserve some of the money to consider

other issues, such as dial-a-ride and other special needs services. Some groups of frail, vulnerable elderly people cannot even leave the house. Will the minister amplify how he will address that particular aspect? It is an issue in Fife, and we would like to engage the minister in that debate.

**Nicol Stephen:** I can amplify how I will address that. We want to continue to fund and to expand demand-responsive schemes, as they are called by the profession—I am not sure that local people always understand that phrase. We are also, for the first time, introducing that form of initiative in Scotland's cities. The dial-a-taxi and dial-a-community-bus initiatives have been more common in rural areas until now. It is obvious that people in rural areas can become isolated, but many disabled people in our cities find it very difficult to access public transport and then to have confidence that public transport will have disabled-accessible vehicles. All of that is an important part of the study that will be carried out into disability issues in 2005 and, as I promised, I will report to Parliament on that. However, local authorities still require to retain some funding to ensure that they can expand those schemes.

**Mr Brian Monteith (Mid Scotland and Fife) (Con):** The minister has announced a huge subsidy by taxpayers to private—yes, private—bus companies and called it an investment. Can he tell me why the Executive believes that private schools are different, and why the Executive is reluctant to make a similar subsidy towards private schools to ensure greater access to good education? That would clearly be a good investment for our children. On the point—

**The Presiding Officer:** That is well off the point, Mr Monteith. There is no need for a ministerial reply to that.

**Mr Monteith:** On the point about the smart card, will the minister rule out its being used in any way at a later date as part of the identity card proposed in another place?

**Nicol Stephen:** Brian Monteith is engaged in a desperate attempt to try to turn the scheme into a negative or party-political issue. I am deeply disappointed by that, because I had hoped that the scheme would receive broad support from all parties in the Parliament. That is the spirit in which all the other questions have been posed, but, unfortunately, not Brian Monteith's.

**Mr Duncan McNeil (Greenock and Inverclyde) (Lab):** Christmas has indeed come early—to hear Fergus Ewing and the Scottish National Party welcome a ministerial statement is truly historic—but it is a pity that the Christmas spirit has not reached the party of Scrooge.

When the minister considers concessionary travel for young people, will he acknowledge the

fact that, in poorer communities, many young people who are in education face significant barriers to accessing our historical sites, our cities, our cultural centres and even the Parliament?

**Nicol Stephen:** Yes, we intend to consider those issues. The concessionary travel commitment for young people will enable them to use ferries and trains, as well as buses, at a reduced rate, which will be good for their education and their ability to access all parts of Scotland. Too many young people have rarely travelled away from their local communities and areas; they ought to get the opportunity to see all Scotland.

**Christine Grahame (South of Scotland) (SNP):** Will the minister consider extending the scheme to disabled people's carers, who are essential to helping them to access transport? What redress will elderly or disabled people have if they simply cannot access the bus fleet in their area because the buses have high steps?

**Nicol Stephen:** The second point will be part of the study that will be carried out next year, and I share Christine Grahame's concern on the first point. There are clearly circumstances in which it would be appropriate for a carer or partner to accompany a disabled person, and I am concerned that the local policies on that are inconsistent throughout Scotland. In the spirit of good will and cross-party consensus—which is important in the Parliament on major issues such as the concessionary fares scheme—I undertake to consider the issue carefully.

## Emergency Workers (Scotland) Bill: Stage 3

15:08

**The Deputy Presiding Officer (Trish Godman):** The next item of business this afternoon is stage 3 consideration of the Emergency Workers (Scotland) Bill. For the first part of the stage 3 proceedings, members should have the bill as amended at stage 2, the marshalled list, which contains all amendments that have been selected for debate, and the groupings.

I will allow an extended voting period of two minutes for the first division. Thereafter, I will allow a voting period of one minute for the first division after a debate on a group. All other divisions will be 30 seconds long.

Before I call group 1, I ask those members who are conducting conversations to conduct them somewhere else.

### Section A1—Assaulting or impeding certain providers of emergency services

**The Deputy Presiding Officer:** Amendment 2, in the name of Stewart Stevenson, is grouped with amendment 3.

**Stewart Stevenson (Banff and Buchan) (SNP):** My colleague, Kenny MacAskill, will speak to later amendments on the subject of social workers, but amendments 2 and 3 concern health workers who would not benefit from the support that the bill seeks to give to various categories of emergency workers. I will touch on a few important issues that relate to that matter.

First, I am told that 70 per cent of occupational injuries to national health service staff who are working in a community setting—an area of the health service that the Executive says it is seeking to expand and grow in importance—are due to violence and aggression. That is a higher percentage of injuries than is the case for NHS staff who work in the acute services. Paradoxically, it is to acute services staff that the bill offers protection. We support that, of course, but in doing so we note that it is paradoxical that we are not extending that support to those who work elsewhere. Unison highlighted the fact that the weakness in the bill overall is that it extends protection only to a limited number of workers. Later, we will welcome the extension of the definition of “hospital,” modest as it undoubtedly is, and the inclusion of blue-light workers.

I will quote from an e-mail that I received yesterday from an Inverness-based general practitioner. Of the present arrangements, he says that this is a

“clearly absurd situation as we are at some of the highest risk. I have been assaulted whilst GP Visiting at night, in a quite serious manner, and find this division”—

between various categories of health service staff—

“quite unintelligible.”

When the minister responds to amendment 2—to which amendment 3 is simply consequential—he ought to speak to the concerns of that Inverness GP and to those of midwives and nurses who are putting themselves at risk on a regular basis and explain to them why we are, so far, denying them the kind of protection that we are prepared to offer to other important workers in emergency services. He should explain to people across Scotland why those important workers, upon whom the population depends and to whom people look for succour in times of crisis, are not entitled to the kind of protection that is given to workers elsewhere.

I move amendment 2.

**Pauline McNeill (Glasgow Kelvin) (Lab):** It is important for Parliament to recognise that a key principle of the bill is to define those who act in emergency circumstances regularly and routinely. The Minister for Finance and Public Service Reform is on record as having said that. When we try to establish who is covered by the bill, it is important to ensure that they fit into that definition.

A line must be drawn, and I think that if we are to extend the provisions of the bill beyond those who are already covered, we will never stop redrawing that line. It appears to me that there are many other groups who could fall into the category of workers subject to the protection of the bill.

Stewart Stevenson’s final comments were about other groups wanting protection. That is a critical point. The bill is designed to protect people who are regularly and routinely in emergency circumstances; it is not about violence against public sector workers in general. However, in no way do I want to give the impression that that is not a vital issue, and I am sure that that is the Executive’s position, too. There is plenty of legislation that will cover other groups. More serious crimes will be covered by the criminal law, under which all the groups with whom we are concerned will be protected, but it is important to draw the distinction.

As we said at the end of stage 1, this was a difficult bill for the Justice 1 Committee to scrutinise. There has been a lot of confusion about the purpose of the bill. I am pleased to say that the Executive has now put on record the fact that its primary purpose is to identify emergency circumstances. What we do about violence in the workplace in general is a matter for the Parliament, but the bill is not the only place where

we can address that. I hope that one of the advantages of passing the bill is that we can make it clear to everybody that we will not tolerate violence, not just against health service workers, but against any public service workers. That extends, for example, to bus drivers and estate agents—many estate agents work alone in the community and put themselves at risk. When we are legislating, we have to ensure that we provide protection for everyone working in the relevant circumstances.

It is important to emphasise the particular circumstances covered by the bill—we should remember why it has been called the Emergency Workers (Scotland) Bill. The issue is not that any worker is any less important than another; it is simply that the provision is different. I ask members to reject Stewart Stevenson's amendments.

15:15

**Margaret Smith (Edinburgh West) (LD):** I support Pauline McNeill's comments. The Emergency Workers (Scotland) Bill has been difficult to deal with—at various points it felt like we were dealing with a can of worms. If we accept the rights of one set of workers, where do we draw the line? That is the main problem with amendment 2. As a former convener of the Health Committee, I have the greatest respect for the groups of workers that Stewart Stevenson's amendment covers, but the bill does give extra protection to GPs, nurses and midwives.

The central question is: what is the bill about? It is about emergency workers in emergency situations. Examples are being bandied about by the British Medical Association and others, such as a case in which a general practitioner is called out to an emergency and assaulted, but a GP in those circumstances is covered by the bill. A midwife in a hospital who is doing her best to deal with an emergency is obviously covered, as is a midwife who is called out because a woman is experiencing difficulties during a home birth, because that is an emergency. Those staff are covered as emergency workers, and we have accepted that they are covered by the key test for inclusion because they deal with emergencies on a regular and routine basis.

The reason why the BMA, the Royal College of Nursing and the Royal College of Midwives are concerned about the bill is that there is an anomaly between how it deals with people in hospitals and how it deals with people in the community. That is partly because the Executive accepted some of the concerns that the Justice 1 Committee raised. Originally, the bill covered only accident and emergency departments but we said that that was too narrow. What if someone is in a

high dependency unit? What if they are being wheeled along a corridor by a porter on their way to a high dependency unit? What if the person concerned is in the blood bank or the medical records department? They are part of the chain of personnel who are involved in an emergency. We managed to persuade the Executive to extend the bill to cover the entire hospital, not primarily because of doctors, nurses and midwives, who are already covered as emergency workers, but because of the large number of other people who work in emergency circumstances in hospitals but were not covered.

However, if we agree to Stewart Stevenson's amendment 2 we will compound the anomaly by including GPs, nurses and midwives but not GPs' receptionists or the workers that Pauline McNeill mentioned. I suggest that we should resist the amendment, not because I do not have sympathy with it, but because the bill is about emergency workers in emergency circumstances and the people to whom the amendment seeks to give extra protection—GPs, nurses and midwives—are already given extra protection by the bill. The minister will be able to extend the list of who is covered by the legislation in due course if he wishes. I seek an assurance that he will take time to monitor and review how it works—and to see whether we are given the evidence that was sadly lacking during the Justice 1 Committee's deliberations—to see whether we have got the legislation right or whether we need to include others.

**Marlyn Glen (North East Scotland) (Lab):** I too oppose amendment 2, not because I do not value the work that doctors, nurses and midwives do day in, day out, but because the bill is about emergency workers in emergency circumstances. All workers should have the right to work in safety, unimpeded and unharmed, and the bill should not affect that right.

The primary role of the blue-light services—the police, the fire brigade and the ambulance service—is to respond to emergency circumstances and so they are included in the first section of the bill. Although doctors, nurses and midwives have to respond to emergency circumstances, doing so does not make up the bulk of their work. The bill covers doctors, nurses and midwives when they are responding to emergencies and when they are on hospital premises. People who assist them are also covered.

Some groups have unjustifiably criticised the bill's narrow scope. The Justice 1 Committee took much evidence on and had lengthy discussions on that point. It is essential that the bill—like any other—is clearly focused.

The bill recognises that attacks on emergency workers are unacceptable and recognises the

effect that attacks can have on the ability of workers to save lives. The bill is part of the action to deal with that most serious issue. I oppose amendment 2.

**Margaret Mitchell (Central Scotland) (Con):** Amendment 2 would extend the bill to cover workers in services other than the traditional blue-light services—the police, ambulance and fire services. It would create a two-tier system for public sector workers. Stewart Stevenson quoted a GP saying that dividing health sector workers into categories was unacceptable. We agree and identify with that comment, which is why we oppose the amendment.

We shall also oppose amendment 3, which is consequential to amendment 2.

**The Minister for Finance and Public Service Reform (Mr Tom McCabe):** Stewart Stevenson's amendments would extend the bill's protection to doctors, nurses and midwives whenever they were on duty. I share his respect and admiration for the valuable service that such workers provide, but the amendments are wrongly focused.

In considering the amendments, we must be clear about the fact that the bill is explicitly and intentionally emergency focused. It is right that the bill should protect GPs, district nurses, health visitors and others when they respond to emergency circumstances. In such situations, they are emergency workers and should be protected accordingly.

However, most of the time such workers are not involved in the provision of emergency services. Valuable though their work is, it is not first and foremost connected with emergency responses in the same way as is the work of the police, firefighters, ambulance workers or health workers in hospitals.

The bill provides on-duty protection for health workers who work in hospitals. It already ensures that doctors, nurses or midwives who work elsewhere are protected whenever they respond to emergency circumstances. I emphasise that point because it did not appear in some of the briefings that groups with health interests sent members. If a doctor, nurse or midwife responds to an emergency—wherever that might be—the bill covers her or him.

In non-emergency situations, such workers are protected by the common law, under which it is an offence to assault any person, no matter what the circumstances and their professional status are. In addition, the Lord Advocate's guidance to procurators fiscal ensures that assaults against any worker who serves the public will be treated particularly seriously.

**Karen Gillon (Clydesdale) (Lab):** Some concerns have been expressed—particularly by

psychiatric nurses who work in the community—about an unwillingness in some situations to deal with attacks. Will you undertake to work with the Lord Advocate and your colleague the Minister for Health and Community Care to ensure that health boards, as managers, take such incidents seriously and that prosecutions are seen to take place if assaults occur?

**Mr McCabe:** I have no hesitation in giving that assurance, which complements exactly what we are trying to achieve in promoting the bill.

Today is not the last chance to add workers to the bill or to extend on-duty protection to the workers that are already listed. This is not the end of the matter. I remind members that the bill's order-making power enables us to change the level of protection that is afforded to groups of workers that are listed in the bill. If it can be shown that all doctors, nurses and midwives—like the police and fire and ambulance workers—must be able to respond to emergency circumstances as a core part of their functions, we must certainly safeguard their operational capacity to do so. I am happy to consider the case for providing such workers with on-duty protection by order at that time. I hope that that provides the reassurance that Margaret Smith sought.

However, providing on-duty protection to such workers before that case has been made would be inconsistent with the bill's emergency focus. It could open the floodgates to extending on-duty protection to other groups of workers whose duties are primarily of a routine nature, which would serve only to undermine the clearly emergency-centred nature of the bill. I re-emphasise that those groups of workers are already protected by the Emergency Workers (Scotland) Bill when they are responding to emergencies, and are covered by the common law when they are not.

I urge members to disagree to amendments 2 and 3.

**Stewart Stevenson:** I have listened to members with considerable interest, and their contributions were fair and balanced. After the debate, I would like Pauline McNeill to give me the telephone number of the emergency estate agents service, as I may need it at some point in the future.

Tom McCabe gave the game away a little in referring to the protection for a number of workers that is provided by the common law. However, the Executive says that the bill has been introduced because the common law does not provide sufficient protection for various workers. Therefore, a contradiction remains at the heart of the bill.

I will not be too churlish. I welcome the minister's acknowledgement that the issue that has been raised by doctors, nurses and midwives

is not closed, even if it appears from the arithmetic today that we are unlikely to amend the bill. I hope that the minister will arrange to meet representatives of those professions at an early date so that they can make their case directly to him for subsequent amendment of the bill by order, if it is not amended today. I will press amendment 2.

**The Deputy Presiding Officer:** The question is, that amendment 2 be agreed to. Are we agreed?

**Members:** No.

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

#### For

Adam, Brian (Aberdeen North) (SNP)  
 Baird, Shiona (North East Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Frances (West of Scotland) (SSP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Fox, Colin (Lothians) (SSP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Kane, Rosie (Glasgow) (SSP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Robison, Shona (Dundee East) (SNP)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)

#### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North East Scotland) (Con)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)

Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McGregor, Mr Jamie (Highlands and Islands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 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)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 31, Against 70, Abstentions 0.

*Amendment 2 disagreed to.*

#### Section 1—Assaulting or impeding certain emergency workers responding to emergency circumstances

**The Deputy Presiding Officer:** Group 2 is on workers who provide a rescue service on a body of water. Amendment 4, in the name of the minister, is grouped with amendments 5, 1 and 6.

15:30

**Mr McCabe:** In extending the bill's protection to crews of rescue vessels that are not operated by

the Royal National Lifeboat Institution, our stage 2 amendment referred to

“purposes similar to those of the RNLI”.

At stage 2, it was brought to my attention that, because the Royal National Lifeboat Institution describes its function with the phrase

“The RNLI saves lives at sea”,

rescue vessels that save lives on bodies of water other than the sea might not be covered by the bill.

As I made clear to the Justice 1 Committee at the time, our intention was to draw comparisons with the water rescue operations of the RNLI, but the body of water on which those operations take place should be irrelevant. That is why our stage 2 amendment did not specify bodies of water. However, an amendment that makes that explicit will be helpful.

I sympathise, therefore, with the intention behind Stewart Stevenson’s amendment 1, but I do not believe that it would achieve its purpose. Stewart Stevenson has argued that the reference to the purposes of the RNLI in the bill’s existing definition of non-RNLI rescue vessels would have the effect of restricting the bill’s protection to vessels that operate at sea. If that is the case, his proposed definition in amendment 1 might similarly restrict the bill to vessels that operate for the purpose of saving lives at sea, as his amendment would retain a reference to the purposes of the RNLI.

Jackie Baillie’s amendments 5 and 6 provide an all-encompassing definition of the rescue crews that the bill seeks to protect. Her amendments would clarify that the bill will provide protection to crew members of any rescue vessel responding to emergency circumstances on any body of water. By focusing on the purpose for which the vessel operates—namely, water rescue—Jackie Baillie’s amendments are consistent with the bill’s focus on emergency circumstances. The important issue is the work of saving lives that rescue vessels undertake rather than the body of water on which that is undertaken. For those reasons, I will support amendments 5 and 6, but cannot support amendment 1.

Amendment 4 is a purely technical amendment that will ensure that the bill makes correct reference to the “Royal National Lifeboat Institution” rather than to the “Royal National Lifeboat Institute”.

I move amendment 4.

**Jackie Baillie (Dumbarton) (Lab):** I welcome the minister’s comments. In briefly providing members with some background to amendments 5 and 6, I hope that I will be forgiven for being ever-so-slightly parochial.

The Loch Lomond rescue boat service, which is staffed by volunteers, operates 24 hours a day,

seven days a week, 52 weeks a year. Quite simply, its objective is to save lives. However, the bill as introduced did not explicitly cover inland water rescue services. I agree with Pauline McNeill that we do not want to end up with a lengthy list of particular groups of workers, but the Loch Lomond rescue boat volunteers should be included, given that they are emergency workers who work in emergency circumstances.

We had quite a debate at stage 2, during which the minister helpfully sought to address that omission by amending the bill. Although the committee was generally supportive of his approach, we had lingering doubts as to whether we had achieved our aim. I shall not subject members to the finer arguments that were put by Stewart Stevenson on the role of the RNLI and on the differences between different bodies of water—he can be relied on to go over the arguments again.

Suffice it to say that amendments 5 and 6 are an attempt to put the matter beyond doubt. The amendments would include within the scope of the bill rescue boat services that operate in clearly defined emergency circumstances. In providing protection to crew members of any rescue vessel that responds to emergency circumstances on any body of water, the amendments are consistent with the overall approach of the bill.

I thank the minister for indicating the Executive’s support for amendments 5 and 6, which I hope Parliament will support.

**Stewart Stevenson:** It is clear that the minister listened at stage 2, as he has articulated to perfection where I was coming from.

Given that the issue was originally raised by Jackie Baillie, I was delighted to hear the minister say that the Executive will accept her amendments. I have no intention of pressing amendment 1 in the face of such well-argued, well-reasoned and consistent support for Jackie Baillie’s position. After a performance like that in speaking up to the Executive, one never knows, but she might be a minister soon. Friends in high places are always worth having.

Amendments 5 and 6 would remove the potential anomaly that the bill could cover rescue services at sea but not rescue services on inland waterways. Given the increase in the amount of activity on inland waterways, it is important that we provide appropriate support.

We will happily support Jackie Baillie’s amendments 5 and 6 and the minister’s technical amendment 4.

**Margaret Mitchell:** We will support amendment 4, which is a drafting amendment. We will not support the other amendments in the group, for



the same reason that we opposed the amendments in group 1. The amendments would create a two-tier system of provision for public sector workers. All the provisions could be dealt with much better under the flexibility of common law.

**Mr McCabe:** I commend Jackie Baillie for her continuing support for the Loch Lomond rescue boat and other similar rescue vessels. I share her concern for ensuring that such rescue crews are adequately protected by the bill. The amendments that she has lodged provide helpful clarification. I accept entirely that Stewart Stevenson's amendments were well intentioned, but I do not believe that they would have achieved their purpose.

*Amendment 4 agreed to.*

*Amendment 5 moved—[Jackie Baillie].*

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

**Members:** No.

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

#### FOR

Adam, Brian (Aberdeen North) (SNP)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballard, Mark (Lothians) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Frances (West of Scotland) (SSP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fox, Colin (Lothians) (SSP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kane, Rosie (Glasgow) (SSP)

Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 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)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### AGAINST

Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Johnstone, Alex (North East Scotland) (Con)  
 McGregor, Mr Jamie (Highlands and Islands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)

**The Deputy Presiding Officer:** The result of the division is: For 86, Against 11, Abstentions 0.

*Amendment 5 agreed to.*

*Amendment 1 not moved.*

*Amendment 6 moved—[Jackie Baillie].*

**The Deputy Presiding Officer:** The question is, that amendment 6 be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Adam, Brian (Aberdeen North) (SNP)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballard, Mark (Lothians) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Frances (West of Scotland) (SSP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fox, Colin (Lothians) (SSP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kane, Rosie (Glasgow) (SSP)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 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)  
 Morgan, Alasdair (South of Scotland) (SNP)

Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 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)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**AGAINST**

Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)

**The Deputy Presiding Officer:** The result of the division is: For 89, Against 9, Abstentions 0.

*Amendment 6 agreed to.*

*Amendment 3 not moved.*

**The Deputy Presiding Officer:** Group 3 is entitled "Definition of emergency worker: social workers". Amendment 7, in the name of the minister, is grouped with amendments 15, 16 and 8. If amendment 16 is agreed to, amendment 8 will be pre-empted.

**Mr McCabe:** I remind Parliament that this issue was considered in the Justice 1 Committee's stage 1 report and was discussed, debated and agreed at stage 2. At stage 1, the committee recommended that the bill be extended to cover the emergency role that is played by mental health officers and social workers in dealing with child protection orders. The Executive supported the amendments that were lodged by Mary Mulligan and Margaret Smith, which included mental health officers and social workers dealing with child protection orders.

Amendments 7 and 8 will extend the bill slightly further to include social workers who are dealing with emergency protection authorisations, which

are similar to child protection orders. Such authorisations provide local authorities with the same powers to remove a child to a place of safety or to prevent the removal of a child. They act as a back-up to child protection orders, as they can be awarded by a justice of the peace when a child protection order cannot be obtained from a sheriff. Like child protection orders, they are intrinsically connected with emergencies and, as with child protection orders, social workers who are charged with enforcing them are essentially providing an emergency service. The Executive therefore believes that social workers who are dealing with emergency protection authorisations should be added to the list of workers who are protected in responding to emergency circumstances. I urge Parliament to support amendments 7 and 8.

The issues that are raised in Kenny MacAskill's amendments 15 and 16 were considered at stages 1 and 2, when he lodged similar amendments that were, after discussion by the Justice 1 Committee, withdrawn in favour of amendments lodged by Mary Mulligan and Margaret Smith. Essentially, amendments 15 and 16 would extend the circumstances in which the bill will protect social workers from the emergency situations that were identified by the committee—carrying out mental health officer functions and child protection activities—to their carrying out more routine duties. I cannot agree that the bill should be extended to protect social workers in undertaking their more routine activities; therefore, the Executive does not support Kenny MacAskill's amendments 15 and 16.

Amendment 15 relates to social workers carrying out assessments and investigating whether there is a need to apply for child protection orders. Although those are crucial functions, by their very nature they are about finding out whether emergency circumstances exist and so are not, in themselves, emergency responses. Therefore, they do not fall within the reach of the bill.

Amendment 16 would go still further by extending, in effect, the bill's protection to all social workers, which would serve to compound the problem that would be created by amendment 15 by including in the bill people who are much less likely to respond to emergency circumstances in their professional lives.

I also draw members' attention to significant technical problems that are presented by Kenny MacAskill's amendments. Although the problems being technical may make them seem unimportant, they are failings that would remove the protection that is offered by the bill. In removing the references to mental health officers, the amendments would exclude all such officers

from the bill's protection. In carrying out duties under the Mental Health (Care and Treatment) (Scotland) Act 2003, such officers act not as social workers, but as mental health officers. Kenny MacAskill's amendments would make no provision for such workers and would, in effect, remove the protection that was secured for them at stage 2. I am sure that that is not what Kenny MacAskill intends; however, that would be the practical effect of his amendments.

Technical issues aside, I make it clear that I do not support amendments 15 and 16. I hope that, when he speaks, Kenny MacAskill will point out that the amendments are incompatible with each other. The Executive is clear that they are also incompatible with the bill's objectives. I have said that the bill is about protecting providers of emergency services. Common law, the Lord Advocate's guidance to procurators fiscal and our package of non-legislative measures will ensure that social workers who undertake any tasks in any other circumstances will be protected from verbal and physical assault. The bill highlights and seeks to address the particular problems that emergency workers face; undermining that deliberate aim would serve only to dilute the impact of this important legislation. For those reasons, the Executive does not support amendments 15 and 16.

I move amendment 7.

15:45

**Mr Kenny MacAskill (Lothians) (SNP):** I appreciate the minister's comments and accept that amendment 7 represents an advance. However, in pressing amendments 15 and 16, I point out that the devil is in the detail and that we are dealing with matters that will result in criminal prosecutions, that will be pored over by sheriffs and that will be argued by learned advocates and solicitors in courts throughout the land. As a result, we must get things as right as possible.

It is not enough simply to fall back on the argument that common law can already deal with such matters. Indeed, the arguments that have been made in response to my amendments were raised in the earlier discussion between the minister and my colleague Stewart Stevenson. The bill's purpose is to go beyond the common law. We do not subscribe to the Conservatives' view of the bill; we appreciate the logic in introducing legislation that will ensure that we try to change the culture and that makes it quite clear from the highest position in the land that certain behaviour is unacceptable. I say again that we do not accept the argument that, in respect of the bill's provisions, the catch-all provision exists in common law. The bill must add value to the current provisions and let us get to where we want

to go, which is why we need to be specific about certain definitions. That is the purpose of amendments 15 and 16.

I accept that difficulties remain about how we specify matters. Amendment 15 seeks to broaden the bill's definition of emergency worker, and amendment 16 seeks to deepen it. I have listened to the points that have been made and acknowledge that the minister is taking matters substantially beyond the current situation; indeed, organisations, especially the Association of Directors of Social Work, welcome that. However, as Stewart Stevenson pointed out, social workers and those who act in a health care capacity still face significant problems. Not every emergency that a social worker goes into will fall within the current criteria. For example, they might have to act in response to a telephone call or other information and deal with a situation in which a warrant would not be required.

I appreciate that we need to find out how the legislation beds down and works in practice and I welcome the minister's earlier comment that the book is not closed as far as categories of emergency workers are concerned. However, some social workers have to deal with extremely difficult situations that might require a police escort. They will not be covered by the bill's provisions if, for example, that escort is not available and they are assaulted. I realise that the common law is available to procurators fiscal and sheriffs who have to deal with such offences. However, in moving amendments 15 and 16, I seek to put on record the various difficult circumstances that are faced by social workers—who often do not get the credit that they deserve—and which should be covered by the bill. Although I welcome amendment 7, I will press my amendments.

**The Deputy Presiding Officer:** In calling Scott Barrie and Margaret Mitchell, I ask for short contributions.

**Scott Barrie (Dunfermline West) (Lab):** I take that on board.

Kenny MacAskill is absolutely right to say that amendments 15 and 16 seek to broaden the bill's current definition. However, although child assessment orders under the Children (Scotland) Act 1995 are part of the child protection system, they do not represent the emergency elements of it. Instead, they are seen as a means of gathering more information to ensure that direct emergency intervention is not needed.

In such a case, one seeks a child protection order via the sheriff. As Pauline McNeill said, we must be careful about the amendments that have been lodged by Stewart Stevenson. If the bill is about emergency workers in emergency

situations, we need to hold on to that point firmly. I was previously a social worker, so I welcome the opportunity to acknowledge the hard work and difficult task of social workers, but we cannot say that social workers are acting in emergency situations when they do the work that is entailed under sections 53 and 55 of the Children (Scotland) Act 1995, or in some of the more routine work that they do.

If we agree to amendments such as those that have been lodged by Stewart Stevenson and Kenny MacAskill, other local authority colleagues who work in difficult situations—such as housing officers dealing with homeless families in emergency situations—will feel that they are being disadvantaged. The devil is in the detail, so we must be careful about broadening the scope of the bill too far so that we do not lose its main thrust.

**Margaret Mitchell:** Amendment 7 is consequential on amendment 8, which seeks to extend child protection to cover authorisation situations. Amendments 15 and 16 cover NHS workers in the community and social workers responding to mental health situations. Those amendments seek to extend the bill to cover social workers going into situations that could flare up at a moment's notice. The bill is intended to have a deterrent effect, and I therefore do not believe that it is appropriate to make such amendments.

The British Association of Social Workers has questioned the added value that would be offered by the introduction of the legislation. I agree with Kenny MacAskill that it is not really enough to invoke common law. What is certainly required is a high-profile campaign to highlight the problems that some workers, including social workers, are facing. The social work profession believes that it should have safer working practices, and employers, politicians and society at large should be more aware of the fact that social workers face violent situations.

For those reasons, it is not appropriate to include amendments 15 and 16 in the bill, so we shall vote against them.

**Mr McCabe:** It is crucial that the bill provide the right level of protection to those who genuinely provide emergency services. We believe that the bill as amended at stage 2 and the Executive's additional amendment—amendment 8—will extend protection to social workers who are most likely to respond to emergency circumstances, as they are defined in the bill.

In the interests of time, I will not repeat the arguments that I made against Kenny MacAskill's amendments, but I stress again that we cannot support amendments 15 and 16. However, a decision today need not rule out the possibility of protecting a broader range of social workers in the

future. The bill's order-making power means that social workers who undertake duties other than those relating to child protection orders and emergency protection authorisations can, at a future date, be added to the list of workers who will be protected by the bill, if a case is made for their inclusion.

**The Deputy Presiding Officer:** The question is, that amendment 7, in the name of the minister, be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Adam, Brian (Aberdeen North) (SNP)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballard, Mark (Lothians) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Frances (West of Scotland) (SSP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fox, Colin (Lothians) (SSP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marilyn (North East Scotland) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kane, Rosie (Glasgow) (SSP)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)

May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 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)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 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)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Johnstone, Alex (North East Scotland) (Con)  
 McGregor, Mr Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Scanlon, Mary (Highlands and Islands) (Con)

**The Deputy Presiding Officer:** The result of the division is: For 88, Against 12, Abstentions 0.

*Amendment 7 agreed to.*

*Amendment 15 moved—[Mr Kenny MacAskill].*

**The Deputy Presiding Officer:** The question is, that amendment 15, in the name of Kenny MacAskill, be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Adam, Brian (Aberdeen North) (SNP)  
 Baird, Shiona (North East Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)

Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Frances (West of Scotland) (SSP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Fox, Colin (Lothians) (SSP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Kane, Rosie (Glasgow) (SSP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Robison, Shona (Dundee East) (SNP)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)

#### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North East Scotland) (Con)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)

McLetchie, David (Edinburgh Pentlands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 31, Against 69, Abstentions 0.

*Amendment 15 disagreed to.*

*Amendment 16 moved—[Mr Kenny MacAskill].*

**The Deputy Presiding Officer:** The question is, that amendment 16, in the name of Kenny MacAskill, be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Adam, Brian (Aberdeen North) (SNP)  
 Baird, Shiona (North East Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Frances (West of Scotland) (SSP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Fox, Colin (Lothians) (SSP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Kane, Rosie (Glasgow) (SSP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Robison, Shona (Dundee East) (SNP)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)

Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)

#### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North East Scotland) (Con)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 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)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)

Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 30, Against 70, Abstentions 0.

*Amendment 16 disagreed to.*

*Amendment 8 moved—[Mr Tom McCabe].*

**The Deputy Presiding Officer:** The question is, that amendment 8 be agreed to. Are we agreed?

**Members:** No.

#### FOR

Adam, Brian (Aberdeen North) (SNP)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballard, Mark (Lothians) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Frances (West of Scotland) (SSP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fox, Colin (Lothians) (SSP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kane, Rosie (Glasgow) (SSP)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)

May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 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)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 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)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Johnstone, Alex (North East Scotland) (Con)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)

**The Deputy Presiding Officer:** The result of the division is: For 89, Against 13, Abstentions 0.

*Amendment 8 agreed to.*

#### Section 2—Provisions supplementary to sections A1 to 1A

**The Deputy Presiding Officer:** Amendment 9, in the name of the minister, is grouped with amendments 10, 11, 13 and 14.

**Mr McCabe:** During stage 2, I was asked whether the bill's order-making power would enable the Executive to move a group of workers from one section of the bill to another. I confirmed that it would.

I have considered the issue further and my view is now that it would be helpful for the bill to be more explicit on that. Amendment 14 is a technical amendment that reflects the changes that were made to the bill at stage 2 and clarifies that the order-making power may be exercised so as to move a group of workers from one section to another. It also simplifies the process of changing the level of protection that is afforded to any group of workers by moving them from one section of the bill to another.

Amendments 9 to 11 and 13 have been lodged for purely technical reasons. They will ensure that the language in the bill is consistent.

I move amendment 9.

*Amendment 9 agreed to.*

*Amendments 10 and 11 moved—[Mr Tom McCabe]—and agreed to.*

#### Section 3—Assaulting or impeding health workers in hospital premises

**The Deputy Presiding Officer:** Amendment 12, in the name of the minister, is in a group on its own.

**Mr McCabe:** Amendment 12 will ensure that the Executive's policy objective of providing on-duty protection to doctors, nurses, midwives, ambulance workers and people who assist them anywhere in the grounds of a hospital can be fully satisfied. The bill as amended at stage 2 will clearly protect such persons in hospital buildings, but amendment 12 will ensure that they are also protected when they are outside the hospital building but on the hospital campus.

I move amendment 12.

**The Deputy Presiding Officer:** I call Stewart Stevenson, to be followed by Margaret Mitchell, but I ask them to be very brief, as the axe will fall in four minutes.

**Stewart Stevenson:** We support amendment 12, which represents a useful but small increment. However, the matter of other health service premises—such as health centres, where doctors, nurses and others who are equally deserving of protection work—has been left wide open. We hope that the minister will revisit the matter in the future.

**Margaret Mitchell:** Amendment 12 seeks to second-guess particular emergency circumstances and therefore epitomises everything that is wrong with the bill. Common law has the flexibility and the power to deal with any given situation with the correct degree of severity. We will not support amendment 12.



**The Deputy Presiding Officer:** Do you want to add anything, minister?

**Mr McCabe:** In the interests of time, I will not.

**The Deputy Presiding Officer:** The question is, that amendment 12 be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Adam, Brian (Aberdeen North) (SNP)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballard, Mark (Lothians) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Frances (West of Scotland) (SSP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fox, Colin (Lothians) (SSP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kane, Rosie (Glasgow) (SSP)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 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)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Johnstone, Alex (North East Scotland) (Con)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Tosh, Murray (West of Scotland) (Con)

**The Deputy Presiding Officer:** The result of the division is: For 87, Against 14, Abstentions 0.

*Amendment 12 agreed to.*

*Amendment 13 moved—[Mr Tom McCabe]—and agreed to.*

#### Section 6—Power to modify

*Amendment 14 moved—[Mr Tom McCabe]—and agreed to.*

**The Deputy Presiding Officer:** That ends consideration of amendments.

## Emergency Workers (Scotland) Bill

**The Deputy Presiding Officer (Trish Godman):** The next item of business is the debate on motion S2M-2157, in the name of Tom McCabe, that the Emergency Workers (Scotland) Bill be passed.

16:03

**The Minister for Finance and Public Service Reform (Mr Tom McCabe):** It is with great pleasure that I open the debate on the bill. The bill is the product of considerable work on the part of the Executive in consultation with the Crown Office and Procurator Fiscal Service. It is also the product of invaluable partnership working with the Justice 1 Committee at stage 2, which demonstrated again the genuine and powerful contribution that the Parliament's committees can make to the legislative process in Scotland and showed that the Scottish Parliament is strongest when it pulls together to find the right solutions for the people of this country. Most important, partnership working has helped to achieve focused, effective and workable legislation, which tackles head on the problems that face emergency workers. First, therefore, let me record my thanks to the Justice 1 Committee for its tireless work on the bill to date. I am sure that members will agree that the bill has come a long way since stage 1. I look forward to seeing that hard work bear fruit this afternoon.

We have all seen sickening stories in the press about firefighters, paramedics and others being attacked when they respond to emergencies. None of us here will understand such behaviour and all of us will condemn it. The bill makes it clear that the Scottish Parliament will not tolerate such behaviour. Emergency workers provide an invaluable service to our society. We depend on them to protect our health, our well-being, our possessions and our environment. It is the Parliament's responsibility to ensure that, in return, they receive the protection that they deserve.

The Emergency Workers (Scotland) Bill will provide that protection by creating the offence of assaulting, obstructing or hindering someone who is providing an emergency service. Since the bill was introduced, its coverage has been extended considerably to ensure that the right workers receive the right levels of protection in the right circumstances.

**Michael Matheson (Central Scotland) (SNP):** I refer members to my entry in the register of interests.

A group of emergency workers who are not included in the bill are mountain rescue teams. The Mountain Rescue Committee of Scotland is consulting teams across the country on whether they believe that they should be included in the bill. Can the minister confirm that, if the MRCS believes that the bill should cover mountain rescue team personnel, he would be sympathetic to amending the legislation by using the order-making provision in the bill?

**Mr McCabe:** I confirm that the order-making provision is in the bill so that we can back up any desire to add workers to the bill, based on an evidence-based approach. We have said that our minds are open to anything that is evidence-based.

We have expanded the list of workers who are included in the bill, so that all those who provide emergency services, be they doctors, prison officers, mental health officers or volunteer rescue boat crews, will be protected. We have recognised that the very nature of some workers' jobs requires them to be constantly ready and able to provide emergency services. Therefore, we have extended on-duty protection to police, firefighters, ambulance workers and designated health workers in hospitals, so that their operational capacity to respond to an emergency, should one arise, is completely safeguarded.

Clearly, the amendments that were agreed at stage 2 have resulted in significant changes to the bill. The additional amendments that have been agreed at stage 3 are perhaps less significant in comparison, but they will ensure that the bill is consistent and comprehensive and, above all, that it effectively meets our policy aim. What has not changed is the fact that the bill is firmly, intentionally and explicitly focused on emergency circumstances.

**Pauline McNeill (Glasgow Kelvin) (Lab):** I thought that it would be helpful to confirm some of the discussion that we had in the Justice 1 Committee, particularly at stage 2. The provisions in the bill are about a summary offence. It is important to note that, for all groups of workers, more serious assaults, involving a weapon for example, would generally be dealt with on indictment in front of a jury. It is important to note that the common law covers everybody for more serious offences.

**Mr McCabe:** That is an important contribution, which informs our understanding of what the bill is designed to achieve and which will reassure people that the bill is not, in any way, a dilution of protections that are already in place.

Legislation alone will not solve the problem. That is why the bill is just one crucial part of a range of actions that the Executive is taking to tackle

violence towards any worker who serves the public. The report "Protecting Public Service Workers: When the customer isn't right", which was published earlier this year, provides a blueprint for action in this area. The report was produced in partnership with the Scottish Trades Union Congress, employers and representative bodies and it makes a series of recommendations for preventing work-related violence and protecting all public service workers. The Executive has committed to implementing those recommendations over the next three years.

Already, we have launched the first phase of a multimedia campaign to raise awareness of the problem, which highlights the personal impact of even non-violent situations and sends the strong message that abusing workers is bang out of order and simply will not be tolerated.

Partnership working is vital to success in this area and I am delighted that the STUC has been so supportive of our work. Trade unions have a crucial contribution to make to the issue. I am confident that by working together we can find the right solutions and deliver real differences to those at the front line. Criminal sanctions alone will not deter people from offending behaviour but, together with our non-legislative measures, the bill will make the difference our emergency workers deserve.

The Parliament has the opportunity to vote on the bill today and to send a clear message to emergency workers and to the perpetrators of abhorrent crimes against them that the members of this Parliament value emergency workers, condemn the assault of emergency workers and the disruption of emergency services and are prepared to take action to see that such behaviour is punished appropriately.

I commend the bill to the Parliament. I move,

That the Parliament agrees that the Emergency Workers (Scotland) Bill be passed.

16:11

**Mr Kenny MacAskill (Lothians) (SNP):** I echo the minister's comments that the legislation will have been produced not only in the chamber today or in committee; its passage has been a long and laborious process, and many people outwith the parliamentary field have input considerable time and effort. Thanks and credit must go to them.

In supporting the motion, we return to the initial question: why should we support the bill when we have the common law in our armoury? The clear answer is that the common law is not working. Incidents have been narrated on numerous occasions, first in a debate initiated by Karen Gillon. We have the common law, but every

member will be aware of incidents, and the number of such incidents is multiplying. Such behaviour is antisocial and unacceptable. We are not seeking to replace the common law, as the minister clearly stated in his reply to Pauline McNeill's intervention.

**Margaret Mitchell (Central Scotland) (Con):** Does Kenny MacAskill accept that in many cases the common law is not even being given a chance, because procurators fiscal are not using it to prosecute to deal with the situation?

**Mr MacAskill:** Such crimes are not prosecuted for a variety of reasons, including people's failure to give evidence or report crimes and difficulties in apprehending the perpetrators because people do not bother telling officers who did it, even though they saw them. A variety of factors are at play; it is not simply down to problems in the Procurator Fiscal Service.

I accept that we have problems that must be addressed, but we support the bill and the minister today because the common law is not working. Will the bill be the solution? Clearly, the answer is that, on its own, it will not be a solution. It will not make the attitudinal or cultural changes that are required to stop the bad behaviour, but—as the minister, to his credit, made clear—we are sending a message from this chamber that actions such as stoning firemen who are trying to put out fires and throwing bricks at paramedics are unacceptable and will not be tolerated. We are the elected Parliament of the people of Scotland. If we do not send that message and let it ring out true, nobody else will.

First, the bill will give fiscals the opportunity to libel a variety of charges. Simply throwing an egg at an ambulance could be libelled as a breach of the peace under the common law. However, there are circumstances—sadly too prevalent—in which fires are raised or malicious calls are made to draw fire engines into circumstances simply so that they can be attacked. That is unacceptable. Although such offences could be libelled under the common law, a decision could be taken that it would be appropriate to use the full weight and majesty of this legislation to show that the behaviour is unacceptable and to make an example of the person. That is why we are giving this option to those who are charged with dealing with such behaviour.

Secondly, as the minister said, the bill sends a message that, although there is no single, simple solution to the antisocial behaviour that manifests itself in such offences, such behaviour will not be tolerated, will be dealt with heavily and there will be no acceptable excuses for it. It might not be proceeded against in every instance following the passing of the bill, but the legislation will be there for the fiscal to use and the sheriff to implement if they so desire.

As I said, the bill is part of the process of sending the simple message that we are not prepared to accept such behaviour. I have sympathy for the Conservatives' view that such attacks can be dealt with under common law, but the common law is not working and we must change the situation. The bill on its own is not necessarily the solution, but it is one more string to the bow of those who seek to end such behaviour. The bill makes it clear that the Parliament believes that that behaviour is unacceptable. We support the bill.

16:15

**Margaret Mitchell (Central Scotland) (Con):** No doubt a few headlines in tomorrow's newspapers will say what a good piece of work the bill is, but I regret that it is not; it will be bad legislation that, I believe, will not stand the test of time. I say that not out of any anti-devolutionary spirit—since the people of Scotland decided that they wanted a Scottish Parliament, my party has worked hard to make devolution work. However, the people of Scotland deserve a strong Parliament that makes good laws and it is in that spirit that we are totally unable to support the bill.

At the start of the process, we all signed up to the bill in good faith—who would not want emergency service workers to be protected from assault and obstruction? However, it quickly became clear that the bill had not been thought through. The Executive's aims were muddled and the Justice 1 Committee did not know whether the bill was aimed at protecting emergency workers at all times or whether the focus was on the consequences of obstructing or hindering them. The so-called blue-light services—the police, the fire service and ambulance crews—are clearly emergency workers whose work is almost always carried out in emergency circumstances. However, when the committee took evidence, it became clear that those whom the bill is intended to protect had real difficulties with and concerns about it. For example, a witness from the fire service expressed reservations about the service's inclusion in the bill, which, he feared, could result in the loss of the fire service's neutrality by aligning it with the police and hence increasing the risk of attacks.

Other witnesses wanted to extend the bill to include more public service workers, but it was evident that if we had started that process, the list of those who could be included might be endless. The minister has chosen to extend the category to include a limited number of public service workers who are not blue-light service workers. In doing so, he has created a two-tier public service workers bill, although he was honest enough to admit that in evidence. I would have preferred him

to go further and acknowledge that, despite everyone's good intentions, the bill is simply not necessary, it creates more problems than solutions and extra legislative time has been allocated and wasted on a face-saving exercise for the Executive.

The common law can already deal with such situations and has the flexibility to take account of individual circumstances. The situation has been enhanced by the Lord Advocate's guidance to procurators fiscal, which emphasises that an attack on any worker who is delivering a public service is an aggravated offence. That goes a long way towards achieving the bill's objectives, without the need for new legislation. Two more elements are needed. First, we need a high-profile campaign that stigmatises attacks on public service workers in emergency circumstances in much the same way as the drink-driving campaign stigmatised that behaviour. Secondly, we must ensure that the increased sentencing powers that are proposed in the bill are available to sheriffs under the summary procedure.

We have heard many references to the impressive chamber and the importance of ensuring that the quality of our work matches the quality of our surroundings. Today, we have failed to do that. The Emergency Workers (Scotland) Bill is not good enough for the people of Scotland.

16:19

**Margaret Smith (Edinburgh West) (LD):** Like most members, I agreed that we needed legislation on the issue. As Margaret Mitchell said, who would not stand up and say that we want to give the best possible protection to emergency workers? However, as we went through the process of scrutinising the bill, we realised that the matter was not as simple as it had appeared at first sight.

In more than five years in the Parliament, I do not think that I have come across a piece of legislation that has been more difficult to deal with or on which it has been more difficult to understand the Executive's thinking than this bill. For a bill that runs to only a few pages, we ended up with a stage 1 report that ran to 240 paragraphs.

I thank the minister for his comments about the partnership between the Executive and the committee. We have given it due scrutiny and put more of ourselves and our views into it than we have done with any other bill, and we have seen that reflected in the Executive's responses. Unison went further and said that the rigorous approach of the Justice 1 Committee had salvaged legislation that should provide a measure of additional protection for many workers. That is where we have got to.

The Justice 1 Committee felt that the legislation would give added protection at the margins for certain workers. The changes that the minister proposed and accepted at stage 2 have improved on that. The bill will give greater protection, especially to the blue-light services—ambulance, fire and police. The police already have certain protections, but the bill goes further to protect them from assault as well as from being obstructed and hindered. It also improves the positions of the other two blue-light services, the ambulance and fire services.

Throughout consideration of the bill, we have heard conflicting and confusing evidence, partly because there is no data on how many assaults against emergency workers there are, in particular when they are in emergency circumstances. We have heard conflicting evidence from unions and other bodies who represent groups of workers about who should be covered by the legislation and into which categories they should fall; whether they should be covered when on duty, as Stewart Stevenson discussed when he talked about general practitioners, nurses and midwives, or whether being covered in emergency circumstances is enough.

Even now, I do not believe that any of us could say that we are 100 per cent happy that we have got the bill right. The legislation opened a can of worms and Mr McCabe is to be congratulated on trying his best to put those worms back in, but we might not have got it right. That is why I am reassured that the minister will consider whether other workers should be added.

I welcome the fact that my amendment about child protection officers was accepted at stage 2. I also welcome the extension of cover from the accident and emergency department to the entire hospital. That gives greater clarity to the bill.

Many people have been disappointed by the narrowness of the bill. We hope that the minister will monitor the effectiveness of the bill and whether or not the legislation is being used. One of the areas that concerned us was the evidential process of proving that someone was an emergency worker working in emergency circumstances when they were assaulted.

Along with everyone else, I believe that it is totally unacceptable for someone who is working for the good of the public to be assaulted. As part of the package that the Executive is proposing, the bill should be welcomed and supported.

16:23

**Mrs Mary Mulligan (Linlithgow) (Lab):** I welcome the passage of the bill and the additional protection that it will give to emergency workers and to those in emergency circumstances.

However, I acknowledge that the use of those two phrases has caused some consternation and I will return to that.

When I joined the Justice 1 Committee after the stage 1 report had been debated, I was aware of the concerns that had been raised. I thank the committee clerks for bringing me up to speed with what was quite a complicated issue. I was also surprised at the committee's delay in moving on from stage 1, but I realised why there had been so many problems when I had my first briefing session.

Following some constructive discussion with the minister, Tom McCabe, I believe that the committee was right to focus on the "Emergency Workers" part of the bill's title. That allowed the committee to scrutinise the bill that was before it and not some imaginary bill.

When I was involved in taking evidence and making visits throughout Scotland for the Antisocial Behaviour etc (Scotland) Bill, I was made aware of the difficult circumstances that some workers face far too regularly. Many workers, from bus drivers to shop workers, had been threatened or even assaulted just for doing their jobs. I believe strongly that everyone should be able to go about their work without fear and, as a member of the Union of Shop, Distributive and Allied Workers, I have supported USDAW's high-profile campaign on the matter. However, the bill relates to emergency workers. I do not accept Margaret Mitchell's position that we should reject the bill because it creates a two-tier workforce. As I said, no one should go to their work in fear, but when threats and violence put at risk not only the workers, but those whom they seek to help, we must go one step further, which is why we must support the bill.

We know that, for legislation to be effective, it needs to be clear. People understand what the blue-light services—the police, fire and ambulance services—are, what emergency circumstances are and who those assisting in such circumstances are. I thank the minister for accepting my stage 2 amendment on mental health officers.

The bill is important and I hope that, on this occasion, the Conservatives will put aside their opposition, because it is important that the Parliament gives the message that we are determined to stamp out any kind of aggression towards the workforce, and that, because this piece of the jigsaw refers to those who work in emergency circumstances, we should support the bill.

16:26

**Patrick Harvie (Glasgow) (Green):** I add the Scottish Green Party's support to the general

support for the bill. One problem that members from smaller parties have is keeping track of the detailed arguments that arise in committee stages when their parties do not have members on the relevant committee, so I am particularly grateful to the researchers in the Scottish Parliament information centre for keeping us informed of developments.

As we heard in the various arguments on amendments in the stage 3 debate, there is a balance to be struck in defining circumstances and categories of workers. I confess that I do not understand what the huge problem is with defining categories of workers. I do not consider it to be the case, as some members have said, that protection for emergency workers in emergency circumstances would be undermined by extending that protection to others in other situations.

I am sure that every member of every party acknowledges the importance of the problem of aggression towards emergency workers. We depend on emergency workers and many others for the protection that they offer to society. The impact of violence against them is profound; it affects not only their health and safety, but their dignity, motivation and ability to provide essential services, so it is entirely right that society should make a pointed and determined effort to reflect protection back on them. However, I make a plea for a restorative and constructive approach towards dealing with offenders. The offence of violence towards public service and emergency workers is particularly offensive and disturbing and is to be condemned, but to draw young offenders into the criminal justice and prison systems when their offending behaviour might be the result of peer pressure, ignorance, thoughtlessness or boredom would be short sighted.

I especially welcome the minister's words on prevention. He will have the Greens' enthusiastic support for his efforts to inform and educate the public and to raise awareness of the issue to make the problem less likely to occur. Prevention is certainly better than cure.

I restate the Scottish Green Party's support for the bill.

16:29

**Miss Annabel Goldie (West of Scotland) (Con):** Since the bill came before the Parliament's Justice 1 Committee for stage 1 scrutiny, it has been perfectly clear that it has not received a glowing commendation. That has nothing to do with the policy intention and everything to do with the substantive content of the bill and what it tries to achieve. It has been exceedingly instructive to listen to the debate and to the debate on the amendments.

The question that must be posed, and which illuminates the difficulties surrounding the bill, is who the bill is not for. Clearly, it is not for the medical practitioners, registered nurses or midwives who are mentioned in Stewart Stevenson's amendment 2, and it is not for the social workers to whom Kenny MacAskill referred. However, the bill is for the water rescue services personnel whom Jackie Baillie has discussed and for those social workers referred to by the minister. The bill does not cover the bus drivers, estate agents et al mentioned by Pauline McNeill, although she would like it to. The distinction between who the bill is intended for and who it is not intended for is incomprehensible.

Margaret Smith has been honest enough to recognise that today. She spoke about the existing anomaly, and was right to do so. She did not want to extend that anomaly by supporting Mr Stevenson's amendments. Karen Gillon mentioned psychiatric nurses. It was interesting that, in responding to her and to Stewart Stevenson, the minister said that, where the bill does not cover a situation, the common law will prevail and will cover the incident in question. The minister reiterated that point when responding to Kenny MacAskill's amendments.

It would have been infinitely preferable to allow the common law to do what it is best at: to provide flexibility of application according to the severity of the offence under either summary or solemn procedure. In the cases of the many workers to whom the Parliament is desirous of giving adequate protection, that flexibility could be achieved now by a direction from the Lord Advocate to say that such cases should be prosecuted on indictment and that, on conviction, sentence should reflect the aggravating circumstances.

If the existing law is not being applied for the various reasons that Mr MacAskill advanced, the bill will address not one of those reasons. It is deeply troubling that offences under the bill might be prosecuted under a less robust regime than indictment at common law.

The policy intention of the bill is commendable, but the bill does not meet that policy intention. It has inadvertently created confusion and inconsistency. In so doing, it does a disservice to all those whom it should protect. We support our emergency workers, but we cannot support bad law. The Emergency Workers (Scotland) Bill is very bad law, which is why my party will be unable to vote for it.

16:32

**Jackie Baillie (Dumbarton) (Lab):** I seem to recollect that the Tories introduced a number of

bad laws, not least of which was the one that brought the poll tax to Scotland, so I take what Annabel Goldie has just said with a pinch of salt.

I add my thanks to the Minister for Finance and Public Service Reform, his officials, the Justice 1 Committee and the committee clerks for getting us to this point. Despite the fact that it is relatively short, the Emergency Workers (Scotland) Bill has a degree of complexity, as was clearly reflected in the committee's deliberations. I will not attempt to repeat the minister's eloquent explanation of the purpose or nuances of the bill. Let me instead paint a picture of what I hope the bill will prevent from happening in my constituency and in constituencies throughout the country.

The firefighters at Dumbarton fire station tell me that, in responding to 999 calls to put out what can be serious domestic fires in parts of my constituency, their vehicles have been stoned; they have had a variety of missiles hurled at them, which have not just shattered windows and damaged the vehicles, but caused injury to the firefighters, delaying them in attending emergencies. Ultimately, it has delayed the firefighters in doing their job, which is about saving lives.

I hope that the staff nurse working at the accident and emergency department of the Vale of Leven hospital will never again have to contact me to say that she was assaulted as she attended to a patient. The patient was drunk and violent and left her with substantial physical injuries—never mind the emotional injuries—which meant that she could not return to work.

I welcome the recognition that the bill now gives to services such as the Loch Lomond rescue boat. That service is provided on a voluntary basis by men and women from my constituency and Sylvia Jackson's constituency. It is an essential emergency service that is engaged in saving lives and its volunteers deserve the same level of protection as others who are specified in the bill. I thank the minister and the committee for their support in that regard.

Nothing justifies any attack on any emergency worker, especially those who are directly engaged in emergencies and in saving lives. Unlike the Tories, I very much welcome the bill. The Tories have once again demonstrated to the rest of us in the Parliament and to the people of Scotland just how out of touch they are.

Although I have no doubt that the penalties that are contained in the bill will have a deterrent effect, I am clear that the legislation must sit in a much wider package of measures. Therefore, I particularly welcome the Executive's intention to bring forward such measures, including the public awareness campaign, improved training for

managers and staff and more education for children and young people about the unacceptability of antisocial behaviour directed at emergency workers. We need practically to reinforce the bill's message that attacks on public service workers are completely unacceptable and will not be tolerated. I commend the minister and the Executive for introducing the bill.

16:35

**Mike Pringle (Edinburgh South) (LD):** My colleague Margaret Smith referred to the bill as a can of worms. I remember the discussions that I had with her at the early stages of the bill's consideration, when it was more the case that the can had arrived but the worms were not in it—the committee had to find out where they were. I have had discussions with Margaret Smith throughout the process and, like the minister, I congratulate the Justice 1 Committee on the good job that it has done.

The whole thrust of the bill is, as its title suggests, in the word "emergency". That point was well made by Mary Mulligan and others. There is a growing trend of more assaults in our society and, as Kenny MacAskill said, an increase in antisocial behaviour. Throughout the public sector, assaults are reported to be on the increase. Little research has been done on the issue, but there is no doubt that the bill will help to address the problem. Perhaps some research is needed on the continuing increase in the number of attacks on emergency workers.

I have some sympathy with the various health agencies that wanted us to support Stewart Stevenson's amendment 2, but common law and the Lord Advocate's guidance to procurators fiscal give the level of protection that is needed. Pauline McNeill and Margaret Smith covered that point extremely well earlier in the debate. The bill introduces a maximum sentence of nine months' imprisonment or a fine of up to £5,000. Those penalties are greater than the penalties under common law and the increases are very much to be welcomed.

It is worth making the point that fire officers and policeman who think that they are going to an emergency will be covered by the bill even if they find out when they get there that the situation is not an emergency. In my constituency, on a number of occasions, the fire brigade has been called out and youngsters have heaved stones at the fire engine as it is driven up the Gilmerton Road. We can now deal with those people, many of whom are over 16, in a far more aggressive manner. As the minister said, no one in the chamber can understand the behaviour that those youngsters are involved in. The bill will protect emergency workers and I support it. I congratulate

the Justice 1 Committee on its work in bringing the bill to a conclusion.

**The Deputy Presiding Officer (Murray Tosh):** I now go to Tom McCabe to wind up the debate. Minister, you are entitled to seven minutes, but it would be helpful if you could take fewer.

16:38

**Mr McCabe:** This has been a good debate and I have listened to it with interest. I sincerely thank members for taking part and for their amendments, which added to the bill and assisted us with our explanation of the issues.

In concluding the debate on the bill, I think that it is important to remember what we are seeking to do. Emergency workers save lives. They protect our society from harm in difficult and often dangerous circumstances and they deserve to be protected in return—that is what the Emergency Workers (Scotland) Bill is about. Devolved government provides us with important opportunities to address critical issues that impact on our society in Scotland. It is therefore genuinely sad that the Conservatives have, yet again, failed to rise to that challenge and failed to recognise that the heroes in our health and emergency services—they are nothing less than heroes—need and deserve the level of protection that the bill will provide.

**Miss Goldie:** I hope that my colleague Margaret Mitchell and I made it crystal clear on the Conservatives' behalf that we support our emergency workers and applaud what they do. We question the technicality of whether the bill addresses the need that must be addressed.

**Mr McCabe:** Actions matter, not words. That is how emergency workers will respond. They need to see actions and real things from the Parliament. The bill will give them that and protect them, unlike the Conservatives' words.

I reiterate my thanks to the Justice 1 Committee and its convener, Pauline McNeill, for their considerable contribution to the bill's development. I also thank the Crown Office, the Law Society of Scotland, our Executive officials and many other organisations and individuals who played a part in shaping the bill.

The bill's passage through the Parliament has been eventful, but I am convinced that our journey has been worth while. The bill will give robust and comprehensive protection to those who provide invaluable emergency services to the people of Scotland. Who here would deny such committed workers that protection? That is the question to consider this afternoon. I commend the bill to the Parliament and urge members to support the motion.

## Code of Practice for Ministerial Appointments to Public Bodies

**The Deputy Presiding Officer (Murray Tosh):** The next item of business is consideration of motion S2M-2097, in the name of Trish Godman, on the code of practice for ministerial appointments to public bodies. I will allow three minutes for each speech. I cannot give longer, because the level of interest in the debate is higher than the time that is available allows for.

*Motion moved,*

That the Parliament notes that the Commissioner for Public Appointments in Scotland proposes to adopt, as an interim measure, the UK Code of Practice for Ministerial Appointments to Public Bodies, until such time as a Code of Practice for Ministerial Appointments to Public Bodies in Scotland is agreed.—[*Trish Godman.*]

16:41

**Tricia Marwick (Mid Scotland and Fife) (SNP):** It is important to record why we are having the debate. The commissioner for public appointments in Scotland was established by the Public Appointments and Public Bodies etc (Scotland) Act 2003. Under that act, a commissioner was appointed and statutory duties were placed on her to consult the Parliament and the Executive in producing a code of practice for ministerial appointments to public bodies. In addition, she was required to report material breaches of the code to the Parliament.

In February 2003, Peter Peacock said:

"the commissioner will be required to consult extensively Scottish ministers, the Parliament and the public in drawing up the code. Parliament will be able to express its view ... clearly and unambiguously."—[*Official Report*, 5 February 2003; c 17767.]

Although the act became law, neither the Parliament nor the Executive took steps to identify a committee of the Parliament that could be consulted or be the recipient of reports of material breach. In other words, the commissioner had no mechanism for fulfilling the obligations that were placed on her by the act that created her post. That is despite a ministerial commitment that a committee would be established.

To enable the Parliament to express its views clearly and unambiguously, there is no legal alternative to having this short debate. Twenty months after the act was passed, the Procedures Committee is only now considering the mechanism for consulting the Parliament and has still to make a final decision on that. If, in the period between the adoption of the interim code and the putting in place of the final code, a formal mechanism is still not established for reporting a material breach to the Parliament, the Scottish



National Party expects a similar debate to be scheduled for discussion of that material breach.

When the Parliament passes legislation, we must act on its implications for the Parliament. We have in place several other commissioners and we must ensure that their mechanisms for reporting to the Parliament are robust enough to allow any actions that are required to be taken timeously.

16:44

**Mr Kenneth Macintosh (Eastwood) (Lab):** I am happy to support the motion in the Deputy Presiding Officer's name and to endorse adoption of the United Kingdom code of practice as an interim measure until our code is finalised. The measure is temporary, but it is important to recognise that adoption of the code is a vital further step in our attempt to build confidence in public life, to ensure independence and transparency in the appointments system, to encourage good citizenship, to support those who are willing to play a role in shaping the world around them and to inspire confidence in the meritocratic process by which individuals are appointed to public bodies.

We have come a long way from the Nolan committee—the Committee on Standards in Public Life of the mid-1990s—and the dangerously low levels of public esteem in which public appointments and politics in general were held. Indeed, if the motivation or driver behind the early moves in the process was the desire to tackle the perception of sleaze, the main objective from our perspective is to improve the transparency and accountability of the system.

The Parliament was established on the principles of openness, transparency and accountability. Those principles underpin the code that we are endorsing today and they will inform our discussion of a new code that is specific to Scotland. Scottish ministers are responsible for the appointment of almost 4,000 people to public bodies, which, in turn, are responsible for spending more than £6 billion each year. It is essential that individuals who represent the whole spectrum of Scottish society are encouraged to put themselves forward to fulfil that role and that they are offered the protection of knowing that they were appointed on their merits and as part of a robust process.

With confidence in the system, we can make progress on introducing further improvements in public appointments, such as in the appointment of more women, more people of different ethnic origins and people who reflect a wider age range. As deputy convener of the Parliament's Standards Committee, I look forward to exploring whether there is a role for that committee in developing or

scrutinising our new code. However, I am happy to support the motion today.

16:46

**Bill Aitken (Glasgow) (Con):** Not much requires to be said about the measure that we are considering. The proposal is, after all, for an interim code, so we can happily agree to it. However, we must look to the future and ensure that, when a full and finalised code is laid before the Parliament, it is sufficient to enable us to achieve precisely what Ken Macintosh wants, which is that people who are appointed to public bodies come from the widest possible circle and that all sections of the community are represented. In the past, there seems to have been a fairly narrow appointments pool. I refer to those who—surprise, surprise—seem to have connections with the Labour Party in many respects. We must also ensure that the Parliament has the appropriate right to question and take action against any appointments that appear to be suspect. However, we are relaxed about the interim measure.

16:47

**Robert Brown (Glasgow) (LD):** Like other members, I will be brief. I support the motion, which provides for an interim measure. Various issues underlie the discussion that will no doubt take place in committee and those issues will come back to the Parliament in due course. Trying to widen the pool from which candidates for appointments are made is important. Ken Macintosh touched on some of the issues involved when he mentioned women, ethnic minorities and so on. There should be a wider range of appointments from society as a whole. I am sure that that matter will be discussed further.

The issue is relatively straightforward. Adopting the code of practice for ministerial appointments that has operated at the UK level is undoubtedly a satisfactory arrangement pro tem, but the sooner we move on to the longer-term arrangements in a more considered way, the better. However, for the time being, I support the motion and the interim measure.

16:48

**Frances Curran (West of Scotland) (SSP):** I realise that the measure is an interim one, but there is a huge credibility issue even so. It has been recognised that there is a problem with appointments, the result of those appointments and the outcomes of the existing code. I ask the minister, the Procedures Committee or whoever can answer how long it will be before there is a new code that we can discuss. Consider a public body such as Scottish Water. The outcome of the

existing code and procedures is that Scottish Water is stuffed full of bankers and corporate businessmen who know the Labour Party. Why do private business representatives and bankers fill up such boards? There is no trade union or staff representation, although they are a huge resource.

The same applies to the Scottish Environment Protection Agency. Scottish Environment LINK is made up of 33 organisations, but not one of them is represented on SEPA's board. We cannot be proud of that outcome. Complete representation is needed, but that cannot credibly happen unless we change the criteria that allow such boards to be stuffed full of corporate businessmen, who make up less than 10 per cent of the population of Scotland but represent three quarters of the appointments to those boards.

We need a credible code. I am not happy about such interim measures. We should have dealt with the matter when we appointed the commissioner. If we do not have a more direct mechanism that allows ordinary people to be represented, the Scottish Socialist Party will challenge the new code when it is introduced.

16:50

**Alex Neil (Central Scotland) (SNP):** First, I emphasise the point that Tricia Marwick made about the need to establish a parliamentary mechanism to oversee the appointments process. On 10 September 2002, the then Local Government Committee—which, ironically, was chaired by Trish Godman—was told by the then minister responsible, Peter Peacock:

“Parliament will have ... a much more serious role in the appointments process than it has had previously and will have increased powers of scrutiny throughout the process. It will, of course, be for Parliament to decide how it manages its new role. I have suggested that it consider establishing a dedicated public appointments committee, but that is a matter for the Parliament to consider.”—*[Official Report, Local Government Committee, 10 September 2002; c 3206.]*

The fact that we have taken well over two years to get even to this stage is, quite frankly, unacceptable. Sooner rather than later, we must address what mechanism we are to use for scrutinising the public appointments system. As Ken Macintosh and others have pointed out, it is vital that we do so, given the power that such appointees have.

My second point is on the interpretation of the code of practice. The code has already been in operation in the UK, but it has not wheedled out the political bias in the system. Both north and south of the border, we still have a situation in which two thirds of the appointees who declare a political bias belong to one political party. That cannot be accidental. In the Scottish Parliament

elections, that party—the Labour Party—received 34 per cent of the vote, but it ended up with 66 per cent of the appointments of those who declared their political involvement.

In her interpretation of the existing code, I hope that the commissioner will take into account the issue of equal opportunities, which is spelled out in the code. Equal opportunities should apply to members of political parties, but a total bias is currently built in for one party. The commissioner should use the code to get rid of that bias. In 2005, the Parliament must take the opportunity to break up once and for all the Labour Mafia that controls too many public appointments in Scotland.

16:52

**Mark Ballard (Lothians) (Green):** Like members of other parties in the Parliament, I welcome and have always supported the idea of a commissioner for public appointments. It is good that we now have a Scottish commissioner and that we are making progress on a Scottish code for public appointments, but I share Tricia Marwick's concerns about the time that it has taken to get to this stage and about the nature of the interim measure that is to be adopted.

We should remember that there was such support for the idea of a commissioner because there was a feeling that the public appointments system did not have, as Frances Curran and Alex Neil said, the necessary diversity or transparency. I hope that we can quickly make progress on a Scottish code that recognises our distinctive Scottish situation. I recognise the need for the interim measure, but I share the concerns that have been expressed about the way in which we have got to this position.

**The Deputy Presiding Officer:** I call Margaret Curran to respond to the debate. She has five minutes.

16:53

**The Minister for Parliamentary Business (Ms Margaret Curran):** I am delighted to speak in the debate and I thank Alex Neil for introducing such a degree of partisanship that he has allowed me to respond in equal measure. It has been a wee while since I have been partisan, so I look forward to doing my best in the five minutes that I have.

Seriously, I appeal to members to support the motion and to maintain a sense of perspective on the issue. It was recommended to us that we take the time that has been taken for the very reason that members have given: the need to widen the basis of public appointments and to introduce more diversity. Anyone who has been involved in decisions on such issues will appreciate that the process is not straightforward. The nature of the

exclusion of some groups is such that they do not regularly volunteer and need to be encouraged to volunteer. We should be very careful about that issue.

I want to respond to Alex Neil and to others who were perhaps a bit too cursory in some of their comments. Let us not denigrate political involvement in Scotland. Let us not denigrate those who are involved in political parties but also seek to serve their communities and nation. *[Interruption.]* God, it is good to be back. It is not appropriate to say to people that their contribution is less effective because they are involved in a political party. I say to Alex Neil, to Christine Grahame—who is shouting at me—and to Bill Aitken that it is not my fault that most of those people support the Labour Party. The fact that those members cannot find people to serve on bodies reflects their policies, not mine.

We have taken this action because we want to widen the base and to involve more women and people from a different background. I say to Alex Neil—I can shout louder than he can—that it was the Labour Party that set up this Parliament. It was the Labour Party that argued for generations that we need to involve more women and people from a different background and that we need the people of Scotland to be represented properly on public bodies. Alex Neil should get a sense of perspective and not blame us because he cannot find people to stand.

## Business Motion

16:56

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

The next item of business is consideration of business motion S2M-2199, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a business programme.

*Motion moved,*

That the Parliament agrees the following programme of business—

Wednesday 12 January 2005

2.15 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Education Committee Debate: 8th Report of the Education Committee on Child Protection Issues

*followed by* Motion on the Gambling Bill - UK Legislation

*followed by* Business Motion

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Thursday 13 January 2005

9.30 am Parliamentary Bureau Motions

*followed by* Scottish National Party Business

12 noon First Minister's Question Time

2.00 pm Question Time—  
Environment and Rural  
Development;  
Health and Community Care;  
General Questions

3.00 pm Executive Debate: Victims and  
Witnesses

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Wednesday 19 January 2005

2.30 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Executive Business

*followed by* Business Motion

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Thursday 20 January 2005

9.30 am Parliamentary Bureau Motions

*followed by* Stage 1 Debate on the Further and  
Higher Education (Scotland) Bill

12 noon First Minister's Question Time

2.00 pm Question Time—  
Enterprise, Lifelong Learning and  
Transport;  
Justice and Law Officers;  
General Questions

3.00 pm Executive Business

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business—[Ms Margaret  
Curran.]

*Motion agreed to.*

## Parliamentary Bureau Motions

16:57

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

The next item of business is consideration of two Parliamentary Bureau motions. I ask Margaret Curran to move motions S2M-2191 and S2M-2192, on the designation of lead committees.

*Motions moved,*

That the Parliament agrees that the Justice 2 Committee be designated as lead committee in consideration of the following instruments—

the Police Act 1997 (Criminal Records) (Protection of Children) (Scotland) Regulations 2004 (SSI 2004/526);

the draft Scotland Act 1998 (Modifications to Schedule 5) Order 2005; and

the draft Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005.

That the Parliament agrees that the Health Committee be designated as lead committee in consideration of the Smoking, Health and Social Care (Scotland) Bill at Stage 1.—[Ms Margaret Curran.]

**The Deputy Presiding Officer:** The question on those motions will be put at decision time.

After sitting here all afternoon, cutting down on members' time, giving them severe looks and tapping the microphone, I find that, at the end of proceedings, I am left with two spare minutes.

**Members:** Speech!

**The Deputy Presiding Officer:** I am afraid that it would set all sorts of undesirable precedents if I were to accept the invitation that members are pressing on me.

In these circumstances, there are two options. The first is to suspend the meeting until 5 o'clock and the second is to take a motion without notice to bring forward decision time. Since no notice of that possibility was given to the business managers and, therefore, to all members, I will exercise the first option.

16:58

*Meeting suspended.*

17:00

*On resuming—*

## Decision Time

### The Presiding Officer (Mr George Reid):

There are four questions to be put as a result of today's business. The first question is, that motion S2M-2157, in the name of Tom McCabe, that the Emergency Workers (Scotland) Bill be passed, be agreed to. Are we agreed?

**Members:** No.

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

### FOR

Adam, Brian (Aberdeen North) (SNP)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballard, Mark (Lothians) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Frances (West of Scotland) (SSP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fox, Colin (Lothians) (SSP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marilyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kane, Rosie (Glasgow) (SSP)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)

Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 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)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 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)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Johnstone, Alex (North East Scotland) (Con)  
 McGregor, Mr Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Tosh, Murray (West of Scotland) (Con)

**The Presiding Officer:** The result of the division is: For 95, Against 15, Abstentions 0.

*Motion agreed to.*

That the Parliament agrees that the Emergency Workers (Scotland) Bill be passed.

**The Presiding Officer:** The second question is, that motion S2M-2097, in the name of Trish

Godman, on the code of practice for ministerial appointments to public bodies, be agreed to.

*Motion agreed to.*

That the Parliament notes that the Commissioner for Public Appointments in Scotland proposes to adopt, as an interim measure, the UK Code of Practice for Ministerial Appointments to Public Bodies, until such time as a Code of Practice for Ministerial Appointments to Public Bodies in Scotland is agreed.

**The Presiding Officer:** The third question is, that motion S2M-2191, in the name of Margaret Curran, on the designation of a lead committee, be agreed to.

*Motion agreed to.*

That the Parliament agrees that the Justice 2 Committee be designated as lead committee in consideration of the following instruments—

the Police Act 1997 (Criminal Records) (Protection of Children) (Scotland) Regulations 2004 (SSI 2004/526);

the draft Scotland Act 1998 (Modifications to Schedule 5) Order 2005; and

the draft Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005.

**The Presiding Officer:** The fourth question is, that motion S2M-2192, in the name of Margaret Curran, on the designation of a lead committee, be agreed to.

*Motion agreed to.*

That the Parliament agrees that the Health Committee be designated as lead committee in consideration of the Smoking, Health and Social Care (Scotland) Bill at Stage 1.

## Congestion Charging Scheme Referenda

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

The final item of business is a members' business debate on motion S2M-2175, in the name of David McLetchie, on congestion charging scheme referenda. The debate will be concluded without any question being put.

*Motion debated,*

That the Parliament congratulates West Lothian Council for agreeing to hold a consultative referendum on the City of Edinburgh Council's congestion charging scheme and for setting a question which conforms with the guidelines issued by the Electoral Commission and regrets that the City of Edinburgh Council, in its referendum, has proposed for answer a question which does not conform with these guidelines and intends to circulate an information leaflet with the ballot paper which will not include statements from parties opposed to the scheme.

17:02

**David McLetchie (Edinburgh Pentlands) (Con):** Next February, referenda are scheduled to be held in Edinburgh and West Lothian to consult residents on whether they approve of the congestion charging scheme that has been proposed by City of Edinburgh Council. It is a matter of regret to me that Midlothian Council, East Lothian Council and Fife Council are not holding referenda on the same day. Many tens of thousands of residents in those areas commute to Edinburgh on a regular, if not daily, basis for work or social purposes. They will pay dearly if the congestion charging scheme goes ahead, although they will receive little in return through public transport improvements. This would have been an opportunity to assess opinion across the area as a whole.

The referendum plan in Edinburgh was born out of blind political panic following a by-election in the Balerno ward of my constituency in September 2002, when the Labour vote completely and utterly collapsed. The referendum was devised partly to save Iain Gray's political career, and partly to defuse the controversy about road tolls as a council election issue in May 2003 and save the seats of the majority group of Labour councillors. As I know better than most, the strategy was only partially successful.

Whatever the origins, we should all acknowledge that all parties now support the use of referenda to decide issues of local and national significance. In recognition of that, the independent Electoral Commission has produced guidelines for assessing the fairness of the all-important question to be asked in any referendum. In summary, the guidelines say first that the question "should be clear" and "prompt an immediate response". They go on to say:

"Words and phrases ... should not have positive or negative connotations. ...

Words and phrases ... should not be leading"

or "loaded", "should not contain jargon"

and

"should reflect the language used and understood by the voter".

Finally, the guidelines point out that questions

"should not provide too much information ... should not be too long"

and "should be well structured".

Let us apply those tests to the questions that will be put in the West Lothian Council and City of Edinburgh Council referenda. In West Lothian, the question is:

"Are you in favour of City of Edinburgh Council's congestion charging scheme?"

I submit that that yes or no question is readily understood, straightforward and clear-cut and uses neutral language.

The contrast with the Edinburgh question could not be greater. Members will have to bear with me as I read it out, because it will take some time. The question reads:

"The leaflet enclosed with this ballot paper gives information on the Council's transport proposals for Edinburgh. The Council's 'preferred' strategy includes congestion charging and increased transport investment funded by it. Do you support the Council's 'preferred' strategy?"

The question is not just about congestion charging; it is about a transport strategy. It is certainly not readily understood in its own terms, because it requires reference to a leaflet and familiarity with what on earth the so-called preferred strategy is. The question is leading and loaded and its language is far from neutral.

It is not just me—or even West Lothian Labour councillors—who says this. Professor John Curtice of the University of Strathclyde described the questions as "completely biased". Professor James Mitchell of the same university said that it was highly unusual to circulate an information leaflet with the ballot paper.

Moreover, the latest information leaflet is another remarkable piece of work from the City of Edinburgh Council in the finest and dishonourable tradition of the other so-called information leaflets that it has produced over the past couple of years to try and con the public into supporting road tolls. In the latest leaflet, neither of the opposition parties that is represented on the council—the Conservatives and the Liberal Democrats—is to be permitted to submit any statement about why voters should vote no, even though the leaflet is effusive about the virtues of the council's preferred strategy.

**Mark Ballard (Lothians) (Green):** Will the member give way?

**David McLetchie:** In a second.

Why not? Are voters not entitled to read about both sides of the argument? Why is the council so afraid and why does it have so little faith in its own case that it will not permit a contrary view to be put to the public?

Unlike the council, I am delighted to hear a contrary view and shall give way to Mr Ballard.

**Mark Ballard:** I am slightly confused by David McLetchie's speech so far. He acknowledges that we are talking about a transport strategy, which includes investment in public transport, even though he questions the amount that goes to regional authorities—

**The Deputy Presiding Officer:** Quickly. What is your point?

**Mark Ballard:** Surely the question should be about the transport strategy. Does not the member acknowledge that the council has taken independent legal advice from Queen's counsel and that Electoral Commission guidelines have been checked—

**The Deputy Presiding Officer:** Come on.

**Mark Ballard:** —to ensure that the leaflet actually—

**The Deputy Presiding Officer:** That is enough, Mr Ballard. You will get a speech later if you are lucky.

**David McLetchie:** The council took legal advice, but it conspicuously failed to consult the Electoral Commission. We all know that, by and large, one can get any answer one wants when one takes legal advice, and I have no doubt that the questions were framed with that very much in mind. Some of us know that better than others.

The rigged referendum is, quite simply, a last desperate throw of the dice by City of Edinburgh Council, which will stop at nothing to impose yet another tax on our motorists. City of Edinburgh Council, of course, is the council that, in a previous consultation exercise in 2002, was found to have invented responses to a questionnaire to try to demonstrate some support for its proposals. It is the council that, in a consultation exercise publicised earlier this year, found that fewer than 5 per cent of respondents were in favour of the congestion charging scheme, but it still pressed ahead. It is the council that says in its latest information leaflet that the scheme was backed by the recent public inquiry, whereas, as is well known, the inquiry was highly critical of the proposed exemption for city residents who live outwith the tolls cordon. It is the council that has twisted and turned in every direction over the past

three years and has already squandered the best part of £6 million on promoting the toll scheme.

Members will have read today that Midlothian Council is mounting a legal challenge and now wants to prevent the Edinburgh referendum from taking place, on the basis that the proposed congestion charging scheme is illegal. I fully understand why councils around Edinburgh are keen to stop the introduction of tolls, but in my view the way to do that is not through some legal manoeuvre but by letting people speak loud and clear in the referenda that are planned. Let us trust the people and we can stop the tolls at the polls.

My intention in lodging the motion was not to debate for or against congestion charging, but to underline a key principle—that people's views should be properly heard and that, where a referendum is to be held, it should be conducted fairly in accordance with Electoral Commission guidelines. Unless that has been done, Scottish Executive ministers should not approve any congestion charging scheme that may be submitted by any council for approval.

The deceit—I use that word advisedly—of City of Edinburgh Council needs to be exposed in this Parliament. My message to people in Edinburgh is quite simple: never mind this loaded question, the answer is still no.

**The Deputy Presiding Officer:** There is a very long list of members who wish to speak, so I shall restrict time to three minutes each.

17:13

**Bristow Muldoon (Livingston) (Lab):** Given the shortage of time, I want to restrict myself to dealing with two specific issues: the referenda that are proposed by the City of Edinburgh Council and West Lothian Council; and the issue of fairness and fair treatment in the proposed scheme.

It is with some regret that I speak in yet another debate on congestion charging, because I believe that congestion charging has a role to play as a traffic management tool for alleviating congestion, particularly in some of our most congested cities. However, I think that the approach that is being taken by the City of Edinburgh Council is badly flawed, and I have spoken against the proposals on a number of occasions.

First, on the question of the referenda, I believe that the referendum that is proposed for Edinburgh is based on a biased and unclear question. It is dubious that only material in support of the proposed scheme is to be distributed with the ballot paper, and I recognise that the referendum has been criticised by independent academics such as John Curtice of the University of Strathclyde. It is a referendum that also

disfranchises many thousands of people, because it is not based on the full electoral register, and it takes into account only the views of Edinburgh residents, although I believe that the issue is one for the whole Lothian-Fife city region.

The West Lothian Council approach is helpful in that it provides an opportunity for non-Edinburgh residents to express their views. The West Lothian referendum is based on a neutral and clear question, and I understand that material both for and against the congestion charging scheme is to be distributed with the ballot paper. Of course, the West Lothian referendum also suffers from having to use the edited register. On a side issue, I urge the minister to discuss with his colleagues at Westminster the possibility that future referenda that are conducted by local government can use the full electoral register.

I ask the minister to emphasise to the City of Edinburgh Council that it needs to ensure that its referendum is fair, which I do not believe it currently is, and to review the question that it intends to ask.

The second issue that I will raise is the congestion charging scheme itself. I have opposed the scheme for a long time because of its lack of fairness, in particular in respect of the exemption for residents of places such as South Queensferry, Currie and Balerno. The inquiry into the scheme found that it was essential that that exemption should be abandoned to ensure fair treatment. I therefore find it unbelievable that the City of Edinburgh Council intends to proceed with the scheme. The public inquiry report on the City of Edinburgh Council's scheme states:

"We consider that those considerations are of such importance that the proposed exemption must be removed. Otherwise we are driven to the conclusion that the proposed scheme would be unfair and inequitable not because of characteristics endemic in an otherwise acceptable set of arrangements but because the council had deliberately made it so."

The Parliament should make it clear that we cannot accept a proposed scheme that fails the fair treatment test and that we cannot accept a scheme that is not based on a fair referendum.

17:16

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** This is an extremely serious debate. There is no doubt that the arguments that have been advanced by David McLetchie seem to be correct. Although I am no legal expert in this field, it seems to me to be self-evident that in an electoral process one cannot have leading questions, biased propositions or the use of language that contains positive or negative statements. Neither can one have material accompanying the ballot paper that is plainly



biased towards one side of the argument. That is so basic that I find it extraordinary that anyone—far less reputedly responsible politicians and officials—could put forward such a ludicrous suggestion.

It is a waste of taxpayers' money that Midlothian Council and possibly West Lothian Council, which may come into the action if it is raised and has to proceed, would both be using public funds to take on another council. Three parties would be involved and the taxpayer would pay for the whole lot. In his reply to the debate, the minister should state what role the Scottish Executive plans to play.

I will mention the case that Brian Wilson raised at the time of the devolution referendum in 1979. That case clearly established the principle that in a referendum there should be equivalence of treatment between one side and the other. That meant that the yes side in that devolution campaign, which of course failed, had only one shot on television—one party-political broadcast—and the no side had one. I did not like that at the time, but I had to recognise that there was a certain fairness about it. The idea that those opposed to the congestion charges should be denied the opportunity to submit material is preposterous.

An election was held recently in the Ukraine that many of us have seen described as a rigged election. It seems to me that there is a touch of the Ukraines about the whole process in the City of Edinburgh Council's proposed referendum. It is incumbent on the council to withdraw the referendum. If the council does not withdraw the referendum and proceeds with it, I suspect that any result—we are not here to debate the merits of the proposals, but I mention that the SNP is against them and would advocate that people vote against them—would have no validity because, for the reasons that have been outlined, the referendum is flawed. The Electoral Commission has given an opinion to that effect.

I hope that in his closing remarks the minister will indicate the legal power and responsibility of the Executive in this regard and, perhaps more important on a practical level, what it proposes to do.

17:19

**Margaret Smith (Edinburgh West) (LD):** Like the Conservatives in Edinburgh, the local Liberal Democrats oppose the City of Edinburgh Council's congestion charging scheme and, most pertinent to this debate, oppose the Labour council's discredited proposals for the referendum ballot question—a question that will cost taxpayers £600,000. The Liberal Democrats in Edinburgh

argue against the scheme, but not against the principle of road pricing in the right place and in the right circumstances. A case for congestion charging as part of a package can be made, but the scheme that is proposed for Edinburgh is not the right one.

In this debate we are rightly focusing on the referendum. I voted for the Transport (Scotland) Act 2001, which gave councils the power to introduce road tolls provided that the scheme is fair, alternative public transport solutions are in place and, crucially, the scheme has clear public support. Ministers—indeed even the First Minister—have reiterated that the Executive will give the go-ahead for a scheme only if the scheme has clear public support. That is why I have always supported a city-wide referendum on such a controversial issue.

The scheme is controversial. The Scottish Executive Development Department inquiry reporters who considered it earlier in the year told the City of Edinburgh Council to "proceed with caution". Meanwhile, the City of Edinburgh Council's neighbouring councils—West Lothian Council, Midlothian Council and East Lothian Council—oppose the proposals, particularly now that the City of Edinburgh Council has said that it would exempt Edinburgh council tax payers in areas such as Queensferry and Kirkliston from paying the charge, partly because of the inadequacies of the bus services. I thought that that was the right approach, because the charge would affect my constituents.

Like David McLetchie, I welcome the fact that West Lothian Council is balloting its residents, because the charge would impact not only on the people of Edinburgh but on other councils' residents. I also welcome the fact that West Lothian Council appears to be able to follow Electoral Commission guidance, which says that words and phrases used in questions in a referendum should not

"have positive or negative connotations ... be intentionally leading ... contain 'jargon' ... be loaded"

or

"provide more information than is necessary to answer the question meaningfully".

The West Lothian question—or a version of it—will be quite simple. The council will ask, "Are you in favour of the City of Edinburgh Council's congestion charging scheme?" However, the City of Edinburgh Council's question will come with the information leaflet that has been mentioned, which John Curtice and others say is completely biased. The question would use the word "preferred", which has a positive connotation. I have yet to see literature produced by the council that has not been completely one-sided. There should be a

simple, unbiased, clear question and the ballot paper should be accompanied by information leaflets or literature that represent more than one viewpoint. Can members imagine how everyone would react if there were an all-postal general election ballot and the Government was the only party that could include an election address with the ballot paper? The referendum will be paid for by taxpayers' money and should be treated in the same way as any other election.

It is farcical that an edited register would be used, which means that 30 per cent of my constituents would not be able to take part in the referendum. I cannot believe that it was the intention of the bright spark who came up with the rules that citizens would give up their right to vote at the same time as their right to buy a fitted kitchen. The question is biased and it is backed up with a biased leaflet.

The minister and his colleagues said that the scheme would have to have clear public support. I urge the minister to intervene now and to suggest to the City of Edinburgh Council that it follow West Lothian Council's line. If the minister does not intervene now, he will be sending a message to the City of Edinburgh Council that he approves of the referendum question. Taxpayers' money will be wasted and others will take the council to court. I ask the minister to prevent that from happening. Let us have a clear answer from the people of Edinburgh on the question.

17:23

**Colin Fox (Lothians) (SSP):** I congratulate David McLetchie on securing the debate and I am grateful to the Presiding Officer for allowing me to speak early. I apologise to members because I will not be able to hear all the speeches—I must pick up my son from the nursery.

Mr McLetchie suggested that the referendum question that the City of Edinburgh Council will pose is biased and will attempt unduly to influence the outcome of the vote. He might well be right, but I fear that the City of Edinburgh Council is making a big mistake if it thinks that asking people at any time whether they support the council will encourage a yes vote. Although I agree with Mr McLetchie that in a truly democratic debate both sides of the argument would be presented, unfortunately the Tories' record in upholding that democratic tradition is woeful—it is certainly no better than new Labour's record.

Congestion is a serious problem, which other members have addressed. How do we reduce congestion, pollution levels and the gridlock that seriously affect our city? In my opinion, we should provide people with an option that is more attractive than their car. However, instead of

highlighting the need to combat congestion and the awful levels of pollution across the city, the Edinburgh scheme has from the outset been about raising money. Supporters of the charge have failed to counter the view that the scheme has more to do with paying up front for public transport improvements that might or might not happen during the next 20 years. Working people in Edinburgh are expected to shell out £720 million, with nothing to show for it up front. That is the commerce of the con man. I am surprised that Mr McLetchie is not in favour of it—he normally is.

The supporters of congestion charges talk longingly of the London experience. However, Ken Livingstone's central warning is that a congestion charging scheme that is predicated on a need to raise money is seriously flawed. The artist previously known as red Ken advises us that there are better and more effective ways of raising money than via the route of congestion charging. Ken Livingstone has reflected in hindsight on the London experience and concluded that public transport improvements ought to be put in place first and thereafter congestion charges can be used punitively. I sympathise with that position.

The problem with Edinburgh's proposed scheme is that the £2 flat-rate charge would disproportionately affect working people and the poor. Interestingly, as members will have appreciated, there is a proposal to increase the charge in London from £5 to £8, because anticipated revenues from the charges have not materialised.

The Scottish Socialist Party is serious about reducing congestion, pollution levels and traffic volumes in Edinburgh. Unfortunately, the council's proposed scheme is not the answer. Therefore, we will call for a no vote in the referendum. We believe that public transport improvements should be put in place first to give people a real and attractive alternative to using their cars. The money for the improvements should come from general taxation. There is no shortage of money for the war in Iraq and for tax breaks for the rich. A more progressive tax system would be rather more effective than congestion charges and would ensure that those who can afford to pay, do so.

17:26

**Mrs Mary Mulligan (Linlithgow) (Lab):** I join David McLetchie in congratulating West Lothian Council on holding a referendum on congestion charging. I would expect nothing less of the council. However, beyond that, I depart from David McLetchie's comments.

Let me be clear that I believe that, in certain circumstances, congestion charging could be used to reduce congestion, improve the environment of

people who live in congested areas and help businesses that suffer from the effects of congestion. However, I have two major concerns about the City of Edinburgh Council's proposal. First, I am not reassured that congestion charges, if they achieve their aim to reduce traffic, will raise sufficient revenue to invest in public transport. Many of my constituents who travel to work in Edinburgh do so by public transport—either by train or by bus—and the main complaint that I get from them is about overcrowding at peak times. If my constituents left their cars at home because of congestion charges, how could they be expected to use buses and trains that are already overcrowded?

My second major concern, to which members have referred, is the unfairness regarding who would pay and who would not. Why should my constituents in Newton village, for example, pay congestion charges for the outer ring, when people along the road in South Queensferry—I mean no offence to Margaret Smith—would not have to pay that charge? I think that that would be unfair. It was shown up by the public inquiry and it is recognised as an anomaly. I am sorry that the City of Edinburgh Council has not taken that on board.

I find the debate ironic, given that the Conservatives do not have any other ideas about how to deal with congestion. Back in the 1980s, the Tories' big idea in Edinburgh was to build the western relief road. I must say that it would have been anything but a relief. It would have led to greater congestion on Lothian Road and in the west end. We only have to look at the situation in Glasgow to see that building motorways and dual carriageways into a city centre does nothing to relieve congestion.

I do not know where David McLetchie gets the idea that we are all wonderfully happy about referendums. Only last week, at a meeting in Balerno High School, he accepted that to ask a simple question that requires a yes or no answer is not always the easiest thing to do.

**David McLetchie:** Will the member give way?

**Mrs Mulligan:** No. I am sorry, but I do not have time.

Therefore, I think that this debate is a smokescreen. It is about criticising the words of a referendum to hide the fact that the Conservatives and David McLetchie have no ideas about how to address congestion. People need to think carefully about what is a serious problem that will get worse if nothing is done about it.

17:29

**Mr Kenny MacAskill (Lothians) (SNP):** I congratulate Mr McLetchie on bringing this issue

to the Parliament and on his measured speech, with much of which I did not disagree.

It is clear that there are two aspects to the debate: the question of congestion charging and the question of a referendum. London has congestion charging. However, it is to Ken Livingstone's credit that he made it clear that if he was voted in as mayor, he would introduce congestion charging. He got the electoral mandate to do so and he has delivered. There can be no dispute about the democracy of that. To be fair to Mr McLetchie, I do not think that he disagrees that that is one weapon with which to introduce congestion charging. Edinburgh did not seek to do that. We have a history in Scotland of using referenda, whether on the creation of this Parliament or the fluoridation of water in Strathclyde. They were successful and welcomed by the population.

**Mrs Mulligan:** Will the member give way?

**Mr MacAskill:** I do not have time.

What is taking place in Edinburgh is unacceptable. However, I differentiate between the referendums in Edinburgh and West Lothian and fully accept Mr McLetchie's points about how referenda should be run.

We should all be worried about what the City of Edinburgh Council is up to, whether we are for or against congestion charging. First, it is fundamentally wrong. It brings all of us as politicians into disrepute. To use such a loaded question in such an unfair manner denigrates the whole body politic. We all know that no matter what political party, if any, we represent, all politicians are universally condemned and viewed as chancers. When such a loaded referendum is to be used, what else can we expect?

The referendum could cause difficulties for the minister due to the difference in position between Liberal Democrat councillors and a Liberal Democrat minister. With the referendum it could be difficult to work out what was meant, especially if there is a close result. It is fundamentally bad for the body politic.

I congratulate West Lothian Council on its referendum. West Lothian is part of the congestion problem in Edinburgh, so it has to be part of the solution. The way forward is to follow the path down which we are heading to regional transport authorities that allow such matters to be dealt with, because Edinburgh cannot address congestion that comes from elsewhere. West Lothian has to be brought on board, as do East Lothian, the Borders and other areas.

Edinburgh cannot drive forward the issue as it is doing, because it is fundamentally wrong. We did not think that that was part of the body politic in

Edinburgh. Someone referred to it being typical of the west of Scotland Mafia, but it is not even that. This is a political matter that brings to mind Ukraine or North Korea. It is simply unacceptable. I back Mr McLetchie in raising the matter.

17:32

**Mark Ballard (Lothians) (Green):** I congratulate David McLetchie on securing a debate on congestion charging, but I am disappointed that instead of focusing on the impact of congestion charging, he chose to debate the referenda. As Mary Mulligan said, it shows the weakness of those who are against the City of Edinburgh Council's congestion charging scheme that having failed to come up with any realistic alternative proposals to reduce congestion and fund the world-class public transport system that we need, they end up quibbling over the referendum process. It is the lawyer's principle that once one has lost the argument, one should argue about the process.

**David McLetchie:** Does the member not agree that many of the decisions taken by the City of Edinburgh Council on the narrowing and closure of streets and roads in our city have created congestion? It is a bit of a cheek to ask people to pay a charge to solve a problem that in many parts the council created.

**Mark Ballard:** I am sorry, but that is nonsense.

There has been a massive rise in congestion in Edinburgh, and it is predicted that it will rise by 30 per cent by 2021 if nothing is done. That is the problem. We cannot build our way out of congestion—something the Tories fail to understand, which is why they have always proposed new roads going through a world heritage site as the solution to congestion.

The truth is that the process has gone through a public inquiry and the council has taken counsel's advice. I will quote from a letter from Tom Aitchison, the returning officer for Edinburgh and for the whole of Scotland at the last European elections. The letter states:

"We have taken independent legal advice from Counsel and the leaflet has been carefully checked against the law of the land and guidance provided by the Electoral Commission. I am confident the leaflet represents a fair and balanced introduction to the issues related to congestion charging".

Tom Aitchison has seen the leaflet. We have heard speculation, and nothing but speculation, from the other parties.

The truth is that congestion charging is part of a package that will bring world-class public transport not just to Edinburgh but to the whole region. That is why it is important. We have to consider congestion charging in the context of the package.

I am disappointed that David McLetchie and other speakers have chosen to focus on the process, rather than talk about how we are going to tackle congestion. They have no alternatives to the whole package put forward by the council.

We need to discuss the whole package in the referendum. The City of Edinburgh Council has done the right thing by making it clear that the referendum is about a package, not just about one element of that package. As an Edinburgh citizen, I will support the council in the referendum.

17:35

**Mike Pringle (Edinburgh South) (LD):** I, too, congratulate David McLetchie on securing the debate. I will focus specifically on the Edinburgh referendum question because the motion is about that, not about what Mr Ballard talked about. Our view on the toll scheme is clear and consistent and has been well explained by the Liberal Democrat council group. The scheme is the wrong one at the wrong time. It is simply a disgrace for the City of Edinburgh Council to try to justify the scheme through a flawed referendum. The council is spending a further £600,000 on its test of opinion. Given that the whole process is a sham before we even begin, that is a ludicrous waste of council tax payers' money.

The decision of the council's Labour group to go ahead with a fatally flawed referendum is terrible for the people of Edinburgh, Fife, the Lothians and the Borders. The biased question means that people will be hoodwinked into supporting a preferred transport strategy that will include tolls that will actually increase congestion by 40 per cent in parts of my constituency of Edinburgh South—that is a fact. I am sure that the council's information leaflet will not tell the voters that, because it is clearly fishing for one answer. It is not only opposition politicians in Edinburgh who are saying that. Professor James Mitchell of the department of government at the University of Strathclyde has said that sending out a separate leaflet is highly unusual.

**Mark Ballard:** Will the member take an intervention?

**Mike Pringle:** No, not after my previous experience, when the member spoke for a minute.

Professor Mitchell said:

"I would not have thought the council would have done this for the sake of the credibility and independence of the poll."

**Mark Ballard:** I have a point of information. Will the member give way?

**Mike Pringle:** No.

The problem of the leaflet is bad enough, but the issue surrounding the question is worse. As David

McLetchie said, "Guideline two" of the Electoral Commission's guidelines on referendums, including regional ones such as that which we are discussing, states:

"Words and phrases ... should not have positive or negative connotations".

However, the proposed preamble and question contain the word "preferred" twice and the word "increased". The wording could be more positive only if it asked people to vote yes directly. Recently, the question for the referendum on the European Union constitution was changed because the original question referred to a bill that Parliament had approved. If that is biased, so is the use of the word "preferred". The guideline is clearly broken and thus the Electoral Commission would consider the question to be unintelligible. However, the council admits that it has not contacted the commission. What is it up to? Professor John Curtice of the University of Strathclyde has suggested that the question sounds like that in the old trade union ballots that asked, "Are you in favour of strike action?"

Questions exist about the legitimacy of the test of opinion—I am not sure that we can call it a referendum—given that up to 17 per cent of Edinburgh people may not be able to vote, as they have unwittingly disenfranchised themselves by opting out of junk mail. The council has made little effort to sign people up, which again takes away from the poll's legitimacy. Overall, it is appropriate that the referendum should be classified in the same category as junk mail, cheap loans and free prize draws. It promises much, but it ultimately has no credibility. I predict that the sensible people of Edinburgh will reject the proposal overwhelmingly.

17:38

**Susan Deacon (Edinburgh East and Musselburgh) (Lab):** Kenny MacAskill said that the leaflet that the City of Edinburgh Council will include in the referendum process will bring the business of politics into disrepute. Frankly, some of the speeches tonight are precisely the kind of thing that brings politics into disrepute. As a national Parliament, we should focus on the big picture of the huge transport challenges that are faced by our country in general and our capital city in particular. I put on record my unequivocal appreciation of the efforts that the City of Edinburgh Council is making, under its Labour leadership, to attempt to tackle those challenges.

I do not doubt that certain aspects of how the council has gone about the process have been imperfect, but I doubt whether any of us could have designed a perfect process, given the uncharted territory that we are discussing. However, the council deserves congratulations on attempting to grapple with the issues. We should

stop questioning the council's motives in attempting to make progress. Colleagues say that the scheme is the wrong one at the wrong time, but that they are really behind the principles. Right from the start, members have been casting around for reasons to oppose the scheme.

There are legitimate concerns. I represent a constituency that spans the city boundary—it goes into East Lothian as well as the City of Edinburgh—and I have my views and concerns about issues such as the west Edinburgh exemptions, which I have expressed in discussions and communication with the council.

I have my own opinions about aspects of how the consultation process has been carried out. However, on the whole, I have heard no viable alternative proposal about how this city's congestion problems can be tackled. We in this national Parliament should be having that debate, and national politicians should be engaging in that debate rather than concentrating on the minutiae of the process.

There is going to be £720 million of investment into the area, not just the city. Almost half of that investment will go into East Lothian, West Lothian and Midlothian. I want there to be transport improvements that will benefit the areas of my constituency that are inside and outwith the city.

I know how easy it is for people to oppose particular proposals and call for change, but the difficult thing is putting together an investment programme that will make a difference. On the whole, the City of Edinburgh Council has gone some considerable way towards doing that.

I make this plea to the minister for this evening and for the months to come. He should by all means be robust in his scrutiny of the City of Edinburgh Council and the process that it has followed, but the Parliament and the Government should take head on some of the tough choices, decisions and challenges that we need to address to ensure that our capital and our country are fit for the future.

17:41

**Fiona Hyslop (Lothians) (SNP):** We have just passed a bill about emergency workers. Nurses who used to work in the emergency surgery unit at St John's hospital in Livingston and who now have to travel to Edinburgh because of the health policy of centralisation will have to pay the price if the vote goes in favour of tolls. The impact on people who travel from West Lothian will be immense. Many of those people are low-paid workers who live in West Lothian because they cannot afford the house prices in Edinburgh. They staff the Edinburgh economy and they have a right to have their views taken into account.

It is wrong for politicians to say that this debate is a smokescreen for those who are against the congestion charging scheme. We will return to the issue of local government and referendums again and again. David McLetchie's speech was measured, and the minister must take back to the Cabinet the fact that we will face the issue again and that we will have to consider it properly and fairly.

Members should remember that the wording on the ballot paper was decided by one vote. One vote can make all the difference, which is why referendums have to be fair and have to be seen to be fair. Even those who support the scheme would feel that their case was strengthened if a fair referendum was held.

The impact of congestion charging will not be trivial. The scheme will undoubtedly have a major impact on low-paid workers and it will affect the Edinburgh economy. The City of Edinburgh Council cannot be seen in isolation on this issue.

I agree with Susan Deacon that we must argue the case about why Edinburgh is not only central to the region, but central to the Scottish economy. We cannot have the situation that has gone on for decades, whereby every time that a scheme is proposed, it disappears. There must be consensus that this is about not party-political point scoring, but driving the local and national economies.

However, we have a problem because people are disengaged from politics. They see a major decision being taken even though there are questions about the referendum that should not have needed to be asked. People would take the issue far more seriously if they had respect for the decision-making process.

Last year, the Scottish Executive explained the need for fair treatment of those who would have to pay the charge and those who would benefit from any improvements. I appeal to the minister to acknowledge—I see that he is returning to his seat—that that fair treatment should not just be about the scheme; it should also apply to the decision-making process. The Parliament can make a useful contribution to the debate. We cannot put off considering the issues any longer.

The issues of congestion charging and revenue raising should be separated. The aim is to reduce the congestion level in Edinburgh to that which exists in the summer holidays. I do not want West Lothian commuters to have to pay for the Edinburgh school run. Let us be a bit more imaginative. Let us try to build consensus and drive Edinburgh and Scotland forward.

**The Deputy Presiding Officer:** I was relieved to note that the minister had a return ticket from the back of the chamber, and I invite him to respond to the debate.

17:44

**The Minister for Transport (Nicol Stephen):** I assure you, Presiding Officer, that I did not leave the chamber; I was consulting officials at the back of the room on a technical point.

I am pleased to contribute to the debate, which is important, and I congratulate David McLetchie on bringing this important issue before the Parliament. The City of Edinburgh Council has decided to move forward and seek the views of local people on its proposals early next year. That brings us up to date with a matter that was debated in the Parliament on 18 December 2003. In fact, it was the final debate in the Parliament that year, and it was on a motion in Bristow Muldoon's name. At that point, we were at an earlier stage in the process, but, assuming that the test of public opinion proceeds, we expect to see the results of that exercise in February.

As the City of Edinburgh Council's proposal is developed, at each stage, it is for the council, local people and other neighbouring councils to make representations and make their views known. However, it is principally for the City of Edinburgh Council to ensure that all issues are handled properly and appropriately, and I make it clear that the conduct of the vote is a matter entirely for the council; the Executive has no locus to intervene. Clearly, issues of law and natural justice are important. In so far as those relate to the vote, they are matters for the council to consider—it has clearly done so—and, ultimately, for the courts to decide on.

**David McLetchie:** The minister says that the whole process, including the conduct of the referendum, is a matter for the council, but I put to him the point that was well made by Margaret Smith: if the conduct of the referendum is flawed, how can he, in assessing the outcome, have any confidence in the judgment that is delivered? Does not the Executive have a responsibility to ensure that the referendum is conducted fairly so that, in the evaluation that the minister has to make, he can have confidence in the result that is pronounced?

**Nicol Stephen:** David McLetchie makes a fair point, to which I will come. The Scottish ministers have a role in the evaluation and scrutiny of the proposal; I will examine that role and explain it to members.

Depending on the result of the council's consultation, the scheme could be submitted to ministers for confirmation because of the legislative requirements that must be fulfilled before any road-user charging proposal can proceed. The Transport (Scotland) Act 2001 requires that, before a scheme can come into force, it must be submitted to and confirmed by the

Scottish ministers. I am sure that members appreciate that, due to the quasi-judicial role that ministers play in confirming the order, it would be inappropriate for me to comment at this stage on the proposed City of Edinburgh Council scheme. However, I will of course take into account the views that I have heard in the debate.

I have made it clear that I would approve any charging scheme—in these comments, I am not referring specifically to the Edinburgh scheme—provided that it was fair and appropriate and that there was clear evidence of public support. If the proposal comes before ministers, they will have the options of confirming the order in the form in which it is submitted, confirming the order subject to such modifications as they specify or rejecting the order. We are not at that stage just yet, and the proposal faces several weeks of controversy before the vote. If, in due course, the matter comes to me for consideration, I will examine carefully all the issues that have been raised in the debate, all the issues that the council has presented to me and all the representations that other councils, other organisations and individuals have made.

In the meantime, I wish all members and officials present a happy Christmas.

*Meeting closed at 17:49.*





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