

MEETING OF THE PARLIAMENT

Wednesday 20 April 2005

Session 2

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Scottish Parliament

Wednesday 20 April 2005

[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, as always on a Wednesday, is time for reflection. Our time for reflection leader is Imam Habib Ur Rahman Rauf, of the Central Mosque in Glasgow.

Imam Habib Ur Rahman Rauf (Central Mosque, Glasgow): For today's time for reflection I have chosen a few verses from the Holy Qur'an. These verses point out that mankind was once a united community, which had no divisions and disputes. It was only later that it split itself into various groups. Why? And what prevents it from reuniting? And for some other issues surrounding the human race let us listen to these verses.

Bismillah-hir-Rahman-nir-Rahim. Allah the Almighty says:

"Mankind were but one community, then they differed later; and had not it been for a word that went forth before from your Lord"—

that He will not punish anyone until the evidence is established against him and that He would not punish the wrongdoers without giving them a chance to repent—

"it would have been settled between them regarding what they differed.

And when we let mankind taste mercy after adversity has afflicted them, behold! They take to plotting against our message. Say to such people, Allah is more swift in planning. Certainly our appointed angels record all of that which you plot.

It is He who enables you to travel through land and sea, til when you are in the ships and they sail with them with a favourable wind, and they are glad therein, then comes a storm and the waves come to them from all sides, and they think that they are surrounded by the storm. Then they invoke Allah, making their faith pure for Him alone, saying, 'If you, O God! deliver us from this, we shall truly be grateful.'

But when He delivers them, behold! They rebel in the earth wrongfully. O mankind! your rebellion is against your own selves: the enjoyment of worldly life, then unto us is your return and we shall inform you of what you used to do.

Verily the likeness of life is as the rainwater, which we send down from the sky; so by it arises the intermingled produce of the earth of which men and cattle eat: until when the earth is clad in its adornments and is beautified, and its people think that they have all the powers of disposal over it, our command reaches it by night or by day and we make it like a clean-mown harvest, as if it had not flourished yesterday. Through such parables do we explain our message in detail for the people who reflect.

Allah calls to the home of peace and guides whom he wills to a straight path."—chapter 10, verses 19, 21-25.

O Creator of the heavens and the earth! Guide us to the straight path, path of those whom you favoured, not of those who earned your anger nor of those who went astray.

Amen.

Business Motion

14:34

The Presiding Officer (Mr George Reid): The next item of business is consideration of business motion S2M-2716, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Further and Higher Education (Scotland) Bill.

Motion moved,

That the Parliament agrees that, during Stage 3 of the Further and Higher Education (Scotland) Bill, debate on groups of amendments shall, subject to Rule 9.8.4A, 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 – 1 hour and 10 minutes

Group 3 – 1 hour and 20 minutes

Groups 4 to 7 – 1 hour and 45 minutes.—[*Tavish Scott.*]

Motion agreed to.

Further and Higher Education (Scotland) Bill: Stage 3

14:34

The Presiding Officer (Mr George Reid): The next item of business is stage 3 of the Further and Higher Education (Scotland) Bill. I begin with the usual announcement about the procedures to be followed. We will deal first with amendments to the bill and then move to the debate on the motion to pass the bill.

Members should have in front of them the bill—SP bill 26A, as amended at stage 2—the marshalled list, which contains the amendments that I have selected for debate, and the groupings that I have agreed for those amendments. The normal rules for division times will apply.

Section 7—Fundable bodies: further provision

The Presiding Officer: Group 1 is on academic freedom. Amendment 6, in the name of Mr Jim Wallace, is grouped with amendment 10.

The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson): As members are aware, an amendment to section 7 was agreed to during stage 2 consideration by the Enterprise and Culture Committee. The amendment was intended to protect the academic freedom of staff in further and higher education institutions who were employed by fundable bodies.

During the stage 1 debate, we made it clear that we strongly supported the principle of protecting such freedom. The subject was discussed again at stage 2 and an amendment was agreed to by the committee. However, I harboured some concerns about the way in which that amendment had been formulated. In particular, the funding council and the institutions had raised concerns with me about the creation of a new role for the council in a matter that was, in essence, between employers and their staff.

With those concerns in mind, we asked officials to convene a meeting of all the relevant bodies to establish the implications of the amendment. From that meeting, clear consensus emerged that the best solution would be to create a stand-alone section in the bill that would put a duty on institutions in relation to academic freedom without putting a duty on the funding council to become involved. The discussions, which involved the trade unions and representatives of the institutions, suggested that the new section would be the best way in which to acknowledge the importance of academic freedom for those who work in teaching and research in our institutions,

and that it would do so without interfering in the ability of institutions to manage their relationships with their employees.

As I said, that has been the clear consensus since stage 2. I commend the result of that consensus to the chamber.

I move amendment 6.

Fiona Hyslop (Lothians) (SNP): Amendments 6 and 10 show how a committee can work constructively when there is a degree of consensus. At stage 2, members of the committee from the Executive parties—the Liberal Democrats and the Labour Party—were opposed to including the concept of academic freedom in the bill. I am pleased that the Executive has now embraced the majority view of the committee, which was that academic freedom should be extended to post-1992 universities and colleges.

For technical reasons, the minister is removing the amendment that was lodged by my colleague Michael Matheson and moved by me at stage 2, and replacing it with a more extensive and considered amendment, on which agreement has been reached. I am pleased to support amendment 6 on behalf of the SNP. Academic freedom, which is very important, allows academics freedom to express their views and opinions. Not including the post-1992 universities earlier was, perhaps, an oversight.

I am pleased that the Parliament has taken the opportunity to do that very rare thing—to include something positive and constructive in a bill. I congratulate the ministers but, in particular, I congratulate the committee on recommending an amendment at stage 1 and then voting for it at stage 2. I hope that the Parliament will support amendments 6 and 10 at stage 3.

Murdo Fraser (Mid Scotland and Fife) (Con): I declare an interest, in that I am a member of the board of management of the Dundee University Students Association.

The Scottish Conservatives support the principle of preserving academic freedom. At stage 2, we were happy to support Michael Matheson's amendment to that effect.

I listened with great interest to the minister's arguments for amendments 6 and 10. I feel that the wording of amendment 10 is an improvement on the wording of the original amendment. The fact that the obligation to preserve academic freedom will fall on the academic institution rather than on the funding council will mean that the institution's autonomy will be upheld. The requirement that institutions should "have regard to" academic freedom does not constitute a significant regulatory burden and is entirely consistent with the desire to have a light touch

when it comes to regulation. We should remember that freedom of expression is already safeguarded under the Human Rights Act 1998 and existing employment law.

I applaud the Executive for working with the various stakeholders to develop consensus on the wording to deal with the issue. For those reasons, we will be happy to support amendments 6 and 10.

Christine May (Central Fife) (Lab): I was at the Enterprise and Culture Committee meeting at which Michael Matheson's amendment was debated. I heard the minister tell the committee that he intended to come back with an amendment at stage 3. I regret that, on that day, Michael Matheson did not accept what the minister said. I am pleased that the minister has kept faith with the committee's wishes by producing a suitable amendment and I welcome the Scottish National Party group's assurance that it will support amendments 6 and 10.

Alex Neil (Central Scotland) (SNP): There was no fundamental difference of principle on academic freedom. The only question was whether the requirement to preserve academic freedom should be written into the bill or contained in subsequent statutory instruments. I listened objectively to the arguments at stage 2 and, as convener of the Enterprise and Culture Committee, was persuaded to exercise my casting vote by voting for Michael Matheson's amendment because that was the right thing to do. In my view, the requirement to preserve academic freedom should always be written into primary legislation rather than secondary legislation. If the requirement is written into secondary legislation, future Administrations will find it a lot easier to change it, whereas if it is written into primary legislation, the continuity of academic freedom will be guaranteed.

As other members have pointed out, there are two important aspects to the new section that amendment 10 will insert. The academic freedom of the post-1992 universities will be protected in statute in the same way that the academic freedom of the pre-1992 universities is protected. The protection that the new section will afford extends to other fundable bodies, including the colleges. I congratulate the minister on keeping faith with the committee's wishes. I was worried that the Executive might try to overturn Michael Matheson's stage 2 amendment without substituting it with a more suitable amendment, but it has not done that. I am glad that we now have consensus on writing into the bill the excellent wording that is contained in amendment 10.

Allan Wilson: Far be it from me to shake the consensus that has emerged not just in the sector,

but in the Parliament. There was never any difference of principle between the parties on academic freedom. The issue was complicated and it required to be resolved in concert with the sector. I am pleased that that has now been done, and I am sure that amendments 6 and 10 will be agreed to unanimously.

Amendment 6 agreed to.

Section 8—Funding of the Council

The Presiding Officer: Group 2 is on the power to specify tuition fees. Amendment 1, in the name of Chris Ballance, is grouped with amendments 2, 14 to 16, 3, 20, 17, 17A, 18, 7, 4 and 5. If amendment 2 is agreed to, amendments 14 to 16 are pre-empted. If amendment 20 is agreed to, amendments 17 and 18 are pre-empted. If amendment 17 is agreed to, amendment 18 is pre-empted.

Chris Ballance (South of Scotland) (Green): Amendment 1 seeks to delete a provision that is a scar on the face of an otherwise excellent bill. The question of top-up fees has nothing to do with the bill, which was the result of a consensual committee inquiry. In general, all parties in the Parliament agree on the bill's central provisions, which deal with the merging of the funding councils. Why did the Executive decide to produce—out of thin air—a proposal that will allow it to introduce variable top-up fees at some point in the future?

The Enterprise and Culture Committee heard from the National Union of Students Scotland, whose representative said:

“Our policy on the issue is clear: we have a clear stance against any form of differential or top-up fees, whether the fees vary by institution or by course. There is a great deal of evidence to suggest that if variable fees exist, students—primarily those from low-income backgrounds—are more likely to select their courses based on price than on what they have the ability and talent to study.”—[*Official Report, Enterprise and Culture Committee*, 9 November 2004; c 1207.]

The Association of University Teachers told us:

“We remain implacably opposed to variable fees in Scotland.”

The British Medical Association said:

“The BMA is very uncomfortable with any plans to increase tuition fees in Scotland, particularly the prospect of a separate higher fee for medicine”.

The Executive has said that it has absolutely no plans to use the measure if it is agreed to by the Parliament today, but if it has no plans to use it, why on earth introduce it? This is not just about this Executive; it is about future Executives and ministers. I have complete faith that the Deputy First Minister has no intention of using the measure to introduce variable top-up fees, but

equally I have no faith that he will be Deputy First Minister and Minister for Enterprise and Lifelong Learning for the rest of time. We cannot guarantee what the minister's successors will do. The issue is what is on the face of the bill. It is about the law of Scotland that we are passing. The measure will enable the minister to introduce top-up fees in a way that he has said he is opposed to doing.

Other amendments have been lodged, but amendment 1, which would simply delete the measure, is the cleanest and simplest way of doing that. Amendment 1 represents good drafting policy and good law, and it was judged by the drafting clerks to be entirely adequate. If we agree to amendments 1, 2, 3, 20, 4 and 5, we will remove from Scottish law the possibility of variable top-up fees being introduced, so I urge members to vote for the amendments.

I move amendments 1, 2, 3, 4, 5 and 20.

The Presiding Officer: In point of fact, you should move only amendment 1 at this stage. I take it that the chamber agrees.

14:45

Fiona Hyslop: Education should be based on the ability to learn, not the ability to pay. That should be an underlying principle of education policy in Scotland. However, I ask members to consider that this is a D-day for fees in Scotland. Legislation matters, not policy statements or manifestos; as we know from the Labour Party's Westminster manifesto in 2001, those can be reneged on later. Legislation matters; what is agreed to in the Parliament today matters.

The bill is drawn far too widely. I ask members to read section 6, which will allow Scottish ministers by order to specify any courses for any class of student that they wish. We have a political contradiction. Down south, the Liberal Democrats are voting against variable top-up fees; in Scotland, a Lib Dem minister is legislating for variable top-up fees. They are all over the place on the issue.

What is the clear policy that is driving the bill? Let us listen to the ministers. Allan Wilson said during stage 2:

“I have responded generally to the points that Fiona Hyslop made, but on the question of there being a financial incentive, I totally refute the proposition that any revenue raised would be used to supplement loan revenues to students studying in England. There is no financial incentive involved.”—[*Official Report, Enterprise and Culture Committee*, 22 February 2005; c 1654.]

The Minister for Enterprise and Lifelong Learning, Jim Wallace, said:

“we intend to ensure that the first call on the extra revenue that is generated by increasing the fee levels for

non-Scots who come here will be on meeting that extra cost.”—[*Official Report*, 24 June 2004; c 9489.]

Jim Wallace says, “Hang on, it’s about revenue raising. It’s about trying to deal with the Westminster top-up fee legislation,” but at stage 2 Allan Wilson says that it is not. The ministers, too, are all over the place. We have a catalogue of confusion and a catalogue of contradictions.

It is about revenue raising, resulting from the legacy of the Westminster Parliament’s vote for top-up fees. The cost is cited as £6 million. Perhaps Murdo Fraser can tell us why his party’s sole MP sat on his hands in a £6 million vote at Westminster.

We should consider which amendments in the group would help to defend the principle of free education in Scotland. Amendments 14 and 16 would do a variety of things: they would lock out variable top-up fees by course, so that they could not be extended to dentistry and engineering, and they would lock out variable fees by nationality. The minister is being anti-English. Why should not English students in Scotland be treated the same as any other student in the European Union? An independent Scotland would ensure that that happened. Most important, if members do not wish to see the introduction of English-style top-up fees by institution, they had better vote for amendment 15; if they do not, the Scottish National Party will ensure that their constituents know that they have refused to lock out English-style top-up fees in Scotland.

The measure is seen as a deterrent. The idea is that somehow, if we up the top-up fees for English medical students, they will stop coming here. Murdo Fraser asked an important question on 24 June last year, to which the minister, Jim Wallace, replied:

“I do not think that the situation will necessarily lead to English students not wanting to come to Scotland.”—[*Official Report*, 24 June 2004; c 9492.]

If the Executive has no clear policy directive and no understanding of what it wants to do—it does not know whether it wants to raise revenues or affect cross-border flows—how on earth can members vote on the issue today? That is what is so worrying. Not only was there no clear policy direction when the bill was introduced, but there are now two consultations: one on medical students, which will not report until May, and another on other aspects of the bill, which will report after the bill has been passed.

The Executive is not only confused with regard to its policy direction; it is being premature in how it proposes to deal with various issues. It should lock out variable top-up fees by course, by nationality and by institution now. The Executive’s reaction to the issue is knee-jerk, unresearched

and unsubstantiated. If the Executive wants to recruit more doctors to the national health service in Scotland, it should ensure that students can study five highers at once. It should tackle the issue of recruitment by universities. It should tackle career prospects and the retention of doctors. Shona Robison has a raft of proposals. Let us ensure that we keep in Scotland doctors who have been trained in Scotland. If a golden handcuffs training bond opportunity from the Executive is good enough for dentists, it is good enough for doctors.

Amendment 17, in the name of Mike Pringle, is a white flag, which can be interpreted as an extra hoop. It is a panic measure. The Executive has realised, at this late stage, that there is a problem. The super-affirmative instrument that the amendment proposes has flown in from the stratosphere of statutory instruments; the procedure has never been used in the six years of the Parliament. If there is no problem with the bill, why was the amendment lodged? Amendment 17 is harmless; I do not think that it will do what people want it to do. If the amendment is necessary, does that not tell members that we should delete the sections about fees and ensure that, if the Executive wants to introduce variable top-up fees in the future, it will have to do so up front in a piece of primary legislation?

Chris Ballance’s amendments are similar to an amendment that I lodged at stage 2—imitation is the best form of flattery. However, deleting subsections (5) to (10) of section 8 would leave the Further and Higher Education (Scotland) Act 1992 in place, which would allow ministers far more scope than I think we would want to give them. It would be absurd to pass such a wide-ranging bill with section 8 in its current form. Apart from section 8, the bill is fine and I ask members not to agree to section 8 unamended. We have positive, constructive ways of locking out variable top-up fees by institution, by nationality and by course. I urge members to grasp the opportunity today, because their constituents—parents and students—are watching.

Mike Pringle (Edinburgh South) (LD): Amendment 17 focuses on the very real concerns of the National Union of Students Scotland with regard to section 8. I have had a number of meetings with the students, as have other MSPs. In particular, Richard Baker, a previous students union president in Scotland, has had several meetings with the students. I have met the students over a period of time and have taken on board, in amendment 17, the concerns that they have expressed.

We must do what we can to protect Scottish students who want to study in Scotland. The problem is most acute in the medical faculties.

Indeed, the Calman review called for medical education to be given special consideration in light of the finding that Scottish students are far more likely to stay in Scotland after they graduate than non-Scottish students are. In addition, the proportion of non-Scottish students on medical courses is twice that on any other university course. Two thirds of those who are entering medicine this year at the University of Edinburgh are from outwith Scotland and only one third is based in Scotland. That cannot be good for the national health service or for Scottish students.

Mark Ballard (Lothians) (Green): Does Mike Pringle recognise that those figures are for the students who are applying to study medicine? Does he acknowledge that, although twice as many students from south of the border as from north of the border apply to study medicine at Edinburgh, the actual ratio of students from Scotland and outside Scotland is 50:50? Given that fact, students from Scotland are more likely to be accepted.

Mike Pringle: I cannot predict the final outcome of the students' applications. All I know is that, as of now, 66 per cent of the places in medicine at the University of Edinburgh have been offered to non-Scottish students. That is a fact and I was told it by the university; if Mr Ballard has different figures, somebody at the university is telling him something different. The fact is that two thirds of those who have applied for and been given places at the University of Edinburgh medical school are not from Scotland.

I have a constituent called John who goes to a school in my constituency. I am not sure how many highers the other students there got, but John gained five highers at A pass and one at B, all at one sitting. Many members might have youngsters who are going through school or have had youngsters who have gone through school, but how many have a son or daughter who got six highers—five As and one B—at one sitting? There will be precious few. From speaking to several schools, I understand that that is an unusual event, because most children are not allowed to take six highers at one sitting. However, John was desperate to go to university to study medicine, so he worked extra hard at school and got the qualifications that he thought would get him in. The University of Edinburgh's entrance requirement for medicine is four As and one B, so he did better than that.

John, who now did not want to stay in Edinburgh, decided to apply to other Scottish universities—the University of Glasgow and the University of St Andrews—but he was unsuccessful. He did not even get an interview at either of them; he was not even asked to go and make his case. He also applied to the University of

Newcastle upon Tyne, which gave him a 15-minute interview but no offer. How is it that such a boy cannot get into a medical school in Scotland?

Pauline McNeill (Glasgow Kelvin) (Lab): I agree with Mike Pringle's point, as many of my constituents have been turned away from the University of Edinburgh with the required number of passes. However, there are other students who do not achieve four or five A passes but would make good doctors, and the policy of determining who will make the best doctors on the basis of straight A passes has been criticised this week. Does Mike Pringle agree that we need to consider other factors in making that determination?

15:00

Mike Pringle: I do not disagree with Pauline McNeill. I have said to the NUS that, after the bill has been passed, we will have to consider carefully the criteria that are used to determine how students get into medical schools in particular. It is not only about passing exams, but that is the basis of the system at the moment. The universities have a set figure of highers or A-levels that a student must have to get into university, and the boy whom I described is more than qualified but cannot even get an interview.

Against that background, something had to be done. The introduction of top-up fees south of the border—a policy that the Liberal Democrats continue to oppose vigorously nationally—posed a real threat that our universities would become a cheap option. Doing nothing was not an option and I am pleased that the minister has addressed the problem in this bill. I hope that he will accept my amendment 17. I would also very much welcome any commitment that the Deputy First Minister might give today that the only course to which any increased fees might apply in this session is medicine. I hope that he will address that point.

The NUS wanted the whole of section 8 to be left out, because it feared the wholesale introduction of added fees. I am sure that it now realises that that was not the intention; we are fundamentally doing our best to protect Scotland-based students.

In her letter to me of 11 April, Melanie Ward, the president of NUS Scotland, asked for two specific things. First, she asked for:

"An amendment to ensure that the powers could never be used without a full debate and vote of the Scottish parliament, which would therefore remain the guardian of Scottish students' interests. This has, as you know, been referred to as 'the super-affirmative procedure'."

There is no doubt that amendment 17 does just that; indeed, it goes further by naming NUS

Scotland as a body to be consulted. Secondly, she asked for:

"An amendment to the Policy Memorandum accompanying the bill stating very clearly that the Executive will not attempt to use the powers for any course other than medicine for the lifetime of this Parliament. Failing this, a letter to us from the Deputy First Minister giving the same guarantee."

I hope that the Deputy First Minister can give the students that guarantee in the chamber, which would be more of a commitment than a letter would be. I hope that the students will acknowledge that we have listened to their concerns and have gone a long way towards addressing them. As I have said, we must protect Scottish students and the supply of qualified doctors going into the national health service.

Some members might be concerned that, given that the super-affirmative procedure is used seldom, using it in this instance will set a precedent. Fiona Hyslop talked about that. The fact that this is the first time that the procedure has been used in the Scottish Parliament demonstrates the Executive's commitment. This is a one-off situation. I am most grateful that the minister has accepted my amendment and I urge all members to vote for it.

Dr Sylvia Jackson (Stirling) (Lab): I will speak first as convener of the Subordinate Legislation Committee, which, during its stage 1 consideration of the bill, was concerned by the width of the powers that subsections (6) and (7) of section 8 would give ministers. The committee welcomed the Executive's undertaking to lodge an amendment to make orders made under section 8(6) subject to the affirmative procedure. On section 8(7), the committee raised with the Executive the issue of greater consultation, given the wide powers in the section when taken together with those in section 8(6). The committee accepted the Executive's points that if orders made under section 8(6) were to be subject to the affirmative procedure and if a new consultation requirement were to be added, that would provide sufficient scrutiny.

However, yesterday, on considering the bill as amended at stage 2, the committee expressed the view that the consultation requirement did not go far enough in relation to the powers in subsections (6) and (7), on which ground the committee has reported to the Parliament. At stages 1 and 2, the committee considered that there should be a stronger undertaking in the bill that ministers will take full cognisance of responses to any Executive consultation. That is as far as the committee went.

I will now speak in a personal capacity, rather than on behalf of the committee. Mike Pringle's amendment 17 helps to address the issue that the committee raised, in that it stipulates that when an

order is laid before Parliament—after consultation on the proposals—it must be accompanied by a statement that outlines how the Executive has had regard to representations that have been made to ministers.

I gather that amendment 7 adds NUS Scotland to section 8 as one of the main bodies to be consulted, but I take it that, although we are talking about an order-making power, if Mike Pringle's amendment 17 is agreed to, amendment 7 will not go through.

Alex Neil: I rise to support amendments 14 to 16, in the name of Fiona Hyslop. We start from the principled position that we are opposed to the introduction of variable fees. I do not think that we will win that battle today, so we need to consider the conditions under which variable fees could and should be introduced under the terms that the Executive has set.

One of the problems with the bill as it stands is that it gives any future minister the power to introduce variable fees for any institution, for any course and for any student. That is far too wide a power for a minister to have. We have an assurance from the current Minister for Enterprise and Lifelong Learning, Jim Wallace, that his intention is to deal only with the specific issue of medical students. I take his word that there will be no other application of the power for as long as he is the minister, which, no doubt, is a decision for Mr McConnell. However, Jim Wallace will not be the minister for ever. As Chris Ballance pointed out, there will be an election in 2007, and if we are elected, we will get rid of the power. If we are not elected and Murdo Fraser becomes the minister, he will be able to apply the power to any student, any course and any institution.

Allan Wilson: Will the member tell us what will happen if Brian Adam becomes the minister? In response to the Minister for Enterprise and Lifelong Learning's statement on 24 June 2004, he said:

"I welcome the fact that he is to address the difficulty with medical schools in Scotland. I look forward to hearing detail on the level of charge that will protect the national health service in Scotland."—[*Official Report*, 24 June 2004; c 9489.]

Alex Neil: Mr Adam was asking for information; he was not giving a commitment on behalf of anyone. I think that he will confirm that point.

I turn to the position of the Minister for Enterprise and Lifelong Learning. In 1999, he did not want any tuition fees. His colleagues south of the border are arguing for no tuition fees whatsoever, yet the minister's position has changed. In 1999, he was against them; in 2000, he was for them; in 2003, he was against variable fees; in 2005, he is in favour of them. That reminds me of the old music hall song:

"She wouldn't say yes,
She wouldn't say no,
She wouldn't say stop,
And she wouldn't say go."

That has been the minister's position on tuition fees during the past four or five years.

The fundamental point is that, unless Fiona Hyslop's amendments are accepted, we will hand any future minister a carte blanche power to introduce variable fees at any institution for any student of any subject. We find that totally unacceptable and we shall vote accordingly this afternoon.

Murdo Fraser: Section 8, which contains the right to impose top-up fees, is the most controversial part of the bill. The minister seeks the power to charge English students who come to Scottish universities. The example of medical students has been given but of course the door to top-up fees would also be open elsewhere.

As I said in the stage 1 debate, I have some sympathy with the minister's predicament. It is not the Executive that has caused the problem with top-up fees. It is the Labour constituency colleagues of many members on the Executive benches who have caused the problem by voting for the legislation for England. We all know about the potential danger of cross-border flows and the damage that might be done to the chances of Scotland-domiciled students who apply to study medicine at Scottish universities.

The power has been heavily lobbied against by NUS Scotland and by the Coalition of Higher Education Students in Scotland—CHESS—because of their concern that it opens the door to top-up fees here. The irony is that the Liberal Democrats are campaigning on a United Kingdom basis as the student's friend but we have a Liberal Democrat minister proposing to take for himself the power to charge top-up fees.

The Scottish Conservatives' position is clear, and I restate it for the benefit of Mr Neil: we oppose all top-up fees north and south of the border. A Conservative Government will remove top-up fees and any consequent damage to Scottish universities. We should be clear about who is to blame. Those to blame are Labour, for imposing top-up fees; the Liberal Democrats, who are complicit with Labour; and the SNP, which is impotent to deal with the issue because it is going backwards, not forwards. Only the Tories can stop top-up fees and their knock-on effect on Scotland.

Most of the amendments in the group would restrict ministerial powers to charge top-up fees. My problem with, and the best that I can say about, what the minister seeks to do is that his proposals are premature. They are premature because he is consulting on the issue and it is

extraordinary to legislate while a consultation is being held. The Executive should decide what to do after considering the consultation responses, so the legislation is premature.

The proposals are also premature because, in 15 days' time, we will have a UK general election and we could well have a change of Government. We will have a Conservative Government, which will stop the legislation on top-up fees. We may even—I appreciate that the idea is in the bounds of fantasy land—have a Liberal Democrat Government, which would legislate against top-up fees. We may even have a minority Labour Government, which would mean that top-up fees did not proceed. The best that we can say about the powers is that they are premature and inappropriate.

For the reasons that I have given, we will support first, the amendments from Chris Ballance, secondly, those from Fiona Hyslop and, if all else fails, the amendment from Mike Pringle, because it would restrict ministerial powers.

Amendments 7 and 17 refer to NUS Scotland, which has lobbied against the minister's proposed measures, as has CHESS. The NUS is a coalition of affiliated student unions. I say as gently as I can to the NUS that it would have a little more credibility as an organisation if it were not closely aligned to the Labour Party. The Labour Party benches in Westminster are stuffed full of former NUS leading lights, who all, to a man, voted for top-up tuition fees when the matter was considered at Westminster. The immediate past president of NUS Scotland—Rami Okasha—has just cropped up in the general election campaign as the Labour Party candidate in Banff and Buchan. If he were elected, how would he vote on the issue? I recognise the de facto position that the NUS represents the majority of student unions in Scotland.

Fiona Hyslop: Will the member comment on my amendment 18, which I did not have the opportunity to speak to? It proposes that more than one student body should be consulted. That would allow CHESS, which represents student bodies, as well as the NUS, to participate. It does not prescribe only one organisation to consult.

Murdo Fraser: I thank Ms Hyslop for making that fair point. We will support that amendment.

I would be grateful if the minister assured me that he will not restrict consultation to the NUS and that he will consult CHESS and any other relevant student bodies. I do not seek to denigrate the NUS's work, but we must recognise that student unions such as that at the University of Dundee, with which I am associated, are not part of the NUS. On that basis, we would be happy to support amendment 7.

Pauline McNeill: I expressed concerns in the stage 1 debate about the power that section 8 will give ministers to vary fees for a special purpose. I seek further clarification. I reiterate that the Parliament must be clear about the provision's purpose, how ministers intend to use it and what they have in mind. The Executive has said that one purpose would be to regulate the flow of medical students, and particularly the flow of those who are domiciled in England. I understand that the Executive's position concerns students who are domiciled in England and not nationality.

There are two ways to deal with the matter. The power could be removed completely or Parliament could have the final say in what the provision should be used for, as suggested by amendment 17, which is in the name of Mike Pringle, supported by Richard Baker. I will explore that.

If the Executive's intention is to use the provision, at least in the first instance, to regulate the flow of medical students, we all know that far more students from Scotland and England want to study medicine than the number of places allows. We welcome that interest. I should say that health policy as well as education policy is involved. I support the view of my colleague Mike Pringle that too many students who have the correct passes are turned away from university. However, I believe that there are students from poorer backgrounds who do not have all the straight A passes and who are turned away from medical schools but who would make good doctors. If members consider the figures, they will find that the number of students from state schools who are in medical schools is lacking. Therefore, we must have a more rounded view about the policy. It is important to consider that issue.

15:15

Fiona Hyslop: Will the member give way?

Pauline McNeill: I will do so if the member has something to say on that point.

Fiona Hyslop: I agree with what Pauline McNeill has said so far. Universities' admission policies and wider access policies could ensure that more Scottish students study medicine at Scottish universities, which would help to improve the national health service. Does she agree that we need to increase the number of medical places in order to encourage such wider access?

Pauline McNeill: I understand that the number of medical places has increased, and I am not against increasing the number of places further. However, the problem is that there are too many people for the number of places that exist, and the balance of who is admitted must be changed so that it is a wee bit fairer. Reviewing matters is right. The Executive has suggested a mechanism

for considering the issue. Considering how the level of fee is pegged is a way of trying to keep the balance correct.

I would like ministers to address two further issues. I would like assurances that students in Scotland who may be studying a second course will not be unfairly caught up by the provision. Furthermore, the aim of amendment 15 is to ensure that there cannot be regulation of a fee for one institution so that it is different from that for another institution. I am certainly opposed to such an approach and want ministers to address that matter. I do not want differential fees.

I conclude with two points. Since the stage 1 report was published, I have said that I want to be clear about what the Executive intends to use the provision for. How will fees be set? What are the Executive's intentions? Is the intention to set fees at the same level as those in England and Wales so that there is a level playing field? Does the Executive intend to set higher fees for another reason?

On who should be consulted, I welcome the suggestion in Mike Pringle's amendment 17 that the NUS is the most representative student body, although I do not expect the Conservatives to agree with that. They have opposed that body throughout its entire existence and it is dishonest of Murdo Fraser to suggest that a reason not to support the NUS is some accusation that it is run by the Labour Party. Consulting the NUS would be a good starting point. I am not against consulting other student bodies as long as it can be demonstrated that they are genuinely representative of students. Such consultation has never happened before, which has always been an issue for me. I support involving students in our policy making, which is good.

Frances Curran (West of Scotland) (SSP):

Section 8 of the bill should never have seen the light of day in the Scottish Parliament. It should never have been presented to the committee or to the full Parliament because it is based on the politics of exclusion. It is deliberately designed to exclude a certain section of students from certain courses at universities—ministers want powers to do so. On what basis do ministers intend to exclude those students? Do they intend to exclude them on the basis of academic ability, geography or the ability to pay? If someone has the money, they can do the course, which is an absolute disgrace. It reinforces the idea that higher education is only for those who can afford to pay. We should face the fact that, with the power in question in place, students from England who are applying to do medical courses in Scotland will still find the money to pay. Those who do not have money and cannot afford to pay will therefore be excluded.

Let us not kid ourselves: the issue of medical courses is a smokescreen. I say that to Mike Pringle, in response to his amendment 17. As Alex Neil said, the bill allows ministers to exercise the power over any course at any university and for any section of students. It is not restricted to students who come from England or who study medical courses. Today, medicine; tomorrow, engineering, physics and literature. It is a disgrace that the Labour-Liberal Democrat Executive is introducing that power. It is excluding by class.

Two thirds of those who get on to medical courses have parents with managerial and professional backgrounds. Only 8 per cent come from working-class backgrounds, yet the Executive thinks that the bill will help—that it will give access to university to working-class young people. We do not trust the Executive and we do not trust how it is going to use the powers. It always said that it was opposed to top-up fees, but now they are being brought before the Parliament. Executive members should hang their heads in shame. They also have a brass neck, as most of them did not pay a penny for their university education—they got it for nothing, yet they are forcing the present generation of students to pay.

I support Chris Ballance's and Fiona Hyslop's amendments. The Executive should withdraw section 8 and stand up for those whom it professes to want to include in society. All that it is interested in is excluding them on the basis of the amount of money in their pockets.

Richard Baker (North East Scotland) (Lab): What Frances Curran says is nonsense. I support inclusive policies and remain opposed to top-up fees. I speak in support of Mike Pringle's amendment 17 and against the amendments from Fiona Hyslop and Chris Ballance.

The proposals to allow ministers to set a different fee for medicine are necessary to address issues of cross-border flow and ensure that students in Scotland are not disadvantaged in their ability to study here. The proposals are also necessary to safeguard the recruitment of graduates of medicine to our NHS. Those are the goals, and it is important to state them, as there has been misinformation about them from the Opposition.

Scottish students are not being asked to pay more to study under the proposed mechanism; its purpose is simply to make the cost of studying in Scotland to students from south of the border comparable to what they have been paying in England. It means that there will not be a financial incentive for English students to study here, which could threaten the ability of Scottish students to take up places at universities here as well as their ability to access our system of bursaries, which was recently made more generous because of the

Executive's policy on the inclusion of students from certain parts of the country. It would be unfair for those students not to have that opportunity for want of our asking English students to contribute here just as they would in England anyway.

To have such a specific mechanism described as the introduction of top-up fees by the back door is nothing short of ludicrous, and it would be dishonest for any member to accuse members of the Executive parties of supporting top-up fees on that basis. That would be dishonest, and our constituents would know about that dishonesty. Top-up fees are a measure to allow universities, not central Government, to set fees. Indeed, the proposed power to enable ministers to set fees is nothing new in Scotland. Universities Scotland made it clear to the Enterprise and Culture Committee that its interpretation of the bill is that it does not permit the introduction of variable top-up fees in Scotland, but that it permits the reintroduction of banded, fixed-level fees, which were used only a few years ago.

Murdo Fraser: I am interested to hear Mr Baker's comments on dishonesty. Was it not dishonest of Mr Blair to say, in advance of the previous general election, that he would not introduce top-up fees, only for him to bring them in?

Richard Baker: That commitment was held to by the Labour Party in its manifesto, as Murdo Fraser can see. I understand why he wants to remove the debate from here to another place—it is because the Conservatives are losing the debate here on this issue.

We have talked about other ways of addressing cross-border flow and recruitment in medicine. Of course, those could still be considered; however, the Executive's proposal is the only mechanism that we can be sure will be effective. Fiona Hyslop talked about Shona Robison's raft of proposals, but they equate to a series of unworkable ideas. Because of that, and because we are promoting a fair and practical procedure, I cannot support the amendments from Fiona Hyslop and Chris Ballance, which would remove this important option and not replace it with anything practical. There are real issues to address, as we have seen from recent statistics that show an increase in the number of applications from students from England.

The outline of the procedure that is proposed by the Executive has been improved since it was considered by the committee, as other members have said. First, orders made under the power will be subject to the affirmative procedure; secondly, there will be a requirement for consultation with student organisations. I am pleased that the NUS has been specified as one of those organisations. The bill does not exclude student organisations,

unlike the Tories, who excluded the NUS—on the basis of a misconception of the organisation—from consultation on issues such as those considered by the Dearing and Garrick committees. That is important.

I support amendment 17, in the name of Mike Pringle, which will secure an additional round of consultation on any order that is made under subsection (6) or (7) of section 8. Whether or not we call such a procedure super-affirmative, the fact is that the amendment will add another important round of consultation with the key stakeholders, ensure that those stakeholders are part of the process and help to allay their concerns. Amendment 17 is sensible, as it will ensure that the process of addressing cross-border flows involves consultation with all the key stakeholders before matters proceed. It will also ensure that as many Scottish students as possible continue to benefit from the excellent education and support that the Executive has secured for them.

Christine May: I support Chris Ballance in his assertion that legislation should be expressed in the clearest and simplest terms if it is to achieve its intended aim. Unfortunately, his amendments would not achieve their intended aim, so, in the circumstances, they do not represent the clearest and simplest wording and I will not support them.

I will not support Fiona Hyslop's amendments either, especially given her assertion that the ground on which they should be supported is that the consultation on medical students' fees will not be concluded for some time. That is not a tenable argument. As for her assertion that the super-affirmative procedure has been flown in from the stratosphere, it is the first time that I have heard the Subordinate Legislation Committee referred to as the stratosphere of parliamentary committee work. I look forward to Ms Hyslop's application for the next SNP vacancy on our committee. We will welcome her.

Fiona Hyslop: Will the member give way?

Christine May: I must make progress, but I will give way in a moment.

On Murdo Fraser's claim that the Conservatives will abolish tuition fees if they are elected at Westminster, I think that he would have considerably more credibility if the sole Scottish Conservative MP had voted against tuition fees or even turned up for the debate.

Fiona Hyslop: On a point of procedure rather than of stratospheres—although any Subordinate Legislation Committee vacancy will interest me when it arises—the fact that the consultation on medical students' fees will not conclude until after the bill has been passed is a serious issue. Does the member agree that her Government and party

have a serious problem with making decisions on health issues before they are put out to consultation, since such consultations never inform the decisions that are taken? That is happening not only in connection with the bill but on many other issues throughout Scotland.

Christine May: No. The legislative process does not work in that way.

I must also disagree with Murdo Fraser's claim that the bill will provide ministers with powers prematurely. Ministers already have powers to vary fees. That point was made during committee debates and in the stage 1 debate in the chamber. Amendment 17, which is in the name of Mike Pringle and is supported by Richard Baker, will curb the power of ministers. That is what we want.

As always, the Scottish Socialist Party members have behaved like penalty-kick politicians, who are here to score the goals but are not interested in playing the game or supporting the team to achieve what we need for Scotland. I simply point out, as I am sure Alex Neil would do if he were arguing on this side of the chamber, that those who have a brass neck cannot hang their head in shame—that would not work because there is no flexibility.

I support amendment 17.

15:30

The Deputy First Minister and Minister for Enterprise and Lifelong Learning (Mr Jim Wallace): I have listened closely to the points that have been made on section 8 not only today, in this useful debate in the chamber, but over recent months. However, I continue to be concerned by the misinformation—or, dare I say it, disinformation—that Opposition members have spread about the aim of the section. I hope that, in dealing with the amendments in group 2, I can clear up those misconceptions.

Despite Alex Neil's suggestion, which Frances Curran echoed, that section 8 is in some way inconsistent with the policy on tuition fees that the Executive has pursued since 1999, our policy remains that all eligible students who are ordinarily resident in Scotland will have their fees paid by the Executive through the Student Awards Agency for Scotland. That gives the lie to all the stuff that Frances Curran came out with. Christine May said that the Scottish socialists were the penalty takers of Scottish politics. However, even when they are presented with a penalty, they kick the ball far over the net. The scenarios that Frances Curran conjured up, about Scots from poorer backgrounds being denied opportunity, stack up not one iota. As I said, all eligible students who are ordinarily resident in Scotland will continue to have their fees paid by the Scottish Executive.

Frances Curran: Will the minister give way?

Mr Wallace: No.

We have gone further than that, because we introduced bursaries in 2000 and 2001. In January this year, I announced a significant increase in the maximum bursary and raised significantly the parental income threshold at which people can qualify for the whole bursary. Those are the actions of an Administration that wants to encourage access to higher education.

Alex Neil: Is it not the case that, if a medical student pays a higher fee as a result of the introduction of variable fees, that will be reflected in a higher repayment of the graduate endowment?

Mr Wallace: No. The higher fee will be met by the Scottish Executive. It bears no relation to the graduate endowment in the sense that Alex Neil suggests. Perhaps he is less well informed than I usually give him credit for.

Fiona Hyslop takes the biscuit for misinformation and disinformation. This week, she said:

"As they stand, Jim Wallace's ... proposals would allow for the introduction of English-style top-up fees in Scotland".

Frankly, that suggestion is ludicrous. More important, it is irresponsible and potentially damaging for students who need to make informed choices about the options if they are going on to further study. Under our proposals, there is no ability to vary fees by institution. The bill will not raise additional revenue for individual institutions, as has been suggested. Given that Fiona Hyslop clearly has not understood that simple fact, I am happy to point it out again.

The powers will allow ministers to set a general fee level or, in exceptional circumstances, a different fee level for specific subjects. Alex Neil gives the false impression that ministers can do that willy-nilly. It will be done only after full consultation and with the express approval of the Parliament. I have continually stated that the use of the powers should be limited. Today, I will again make the commitment that Mike Pringle seeks. We have no plans to use the powers to differentiate for any subject other than for medicine, on which we are consulting.

Murdo Fraser asked an important question: why are we consulting now? We are under no statutory obligation to do so. However, given that the bill is likely to be passed, we decided that it was proper for us to consult. Students who will make a decision about where they will start to study in 2006 should have some clarity about what the position will be. We said that we wanted to consult so that we could make an announcement before students are likely to make important decisions about where they want to study in 2006.

I want to respond to some of the points that Pauline McNeill made, not least with regard to health. Andy Kerr, who heard her comments, is considering a number of wider approaches to addressing the difficulties that students resident in Scotland face when seeking admission to Scottish institutions to study medicine. Our proposals will stop even more Scots missing out on the opportunity to study medicine in Scotland simply because our world-class medical schools might otherwise be seen as a cheaper option for people from elsewhere in the United Kingdom. They follow on from the report by Sir Kenneth Calman, our response to which we will announce shortly. I confirm that the Executive supports Sir Kenneth's comments on diversity and recognises the potential benefits of increasing the proportion of Scotland-domiciled students who enter our medical schools.

What we propose is necessary to ensure that students ordinarily resident in Scotland continue to have fair access to opportunities to study at Scottish universities. I make no apology for that being our prime consideration.

Fiona Hyslop rose—

Mr Wallace: I was coming on to the issues raised by Fiona Hyslop, so I am happy to give way to her.

Fiona Hyslop: What is the prime driver of the bill? Is it revenue raising, to pay for the costs of Scottish students going down south, which will increase because of Westminster top-up fees, or is it stopping cross-border flows? If it is the latter, why in June last year did the minister say that making it more expensive for English medical students to come to Scotland would not be a deterrent? He is completely inconsistent.

Mr Wallace: I do not follow the last part of the question. I have just argued that one reason for setting a differential fee for medicine might be to ensure that studying in Scotland does not become a cheap option. I have made it clear that our prime concern is that students ordinarily resident in Scotland should continue to have fair access to opportunities to study at Scottish universities. We have also said—this is not contradictory—that the additional resource that that generates would be used first and foremost to help Scottish students who wish to study south of the border. Fiona Hyslop tried to suggest that Allan Wilson said that we were embarking on a revenue-raising exercise. That is not the point of the proposals. I have made clear what the point is.

Fiona Hyslop says that the plans are unresearched and unsubstantiated and that they are a knee-jerk response. That is an unbelievable accusation. It was Fiona Hyslop and the Scottish nationalists who throughout January and February

last year were saying that the Government must react and do something. Now, when we do something, they say that it is a knee-jerk response.

To be fair to Fiona Hyslop, when we pointed out that we had already set up a higher education review to look into the matter, she claimed that she had not heard of it. She went on to say in a debate on tuition fees in January 2004 that the review group was "private and secret". The group spent a year considering four key issues facing higher education in Scotland, one of which was student flows in light of variable fees in England. The secret and private sub-group that examined student flows was in fact chaired by the then president of the NUS and contained representatives from the NUS, the Coalition of Higher Education Students in Scotland, the Educational Institute of Scotland, the AUT, the Association of Scottish Colleges, Universities Scotland and the funding councils—a highly secretive and private group. The group made a number of recommendations for future action.

Fiona Hyslop: What did it recommend?

Mr Wallace: I will recap some of the recommendations. One read:

"While cross-border flows are not to be discouraged, arrangements should be reviewed to ensure that Scottish students are not disadvantaged as a result of pressure points due to changes to the fee regime in England."

The group further recommended that we should

"closely monitor the demand for medical and related subjects within Scottish HEIs and if, over time, there is a distortion of current student flows, ensure that Scottish students, particularly from lower social class backgrounds, are not discouraged from entering such professional areas."

Those are precisely the recommendations to which we are responding.

The Enterprise and Culture Committee also considered those matters in its inquiry on Scottish solutions, on which it reported in 2003. Although awaiting the phase 3 report, the committee endorsed our approach, describing it as "wholly appropriate" and "open and inclusive", as opposed to private and secretive. The committee recommended that the Executive should monitor cross-border flows carefully over the years to see whether there were significant changes. We have been monitoring the flows. The most recent figures from the Universities and Colleges Admissions Service show that the applications from England-domiciled students to Scottish universities increased by 18 per cent on last year. That compares to an increase of 3 per cent for Scotland-domiciled students and builds on a 4 per cent increase in acceptances of English students to Scotland last year. Such trends have been predicted since the plans for variable fees in England were announced.

The consensus from the report on phase 3 of the higher education review was that something had to be done to ensure that Scottish students were not disadvantaged. If the trends continue, they would lead to a clear squeeze on places for Scottish students at Scottish institutions.

Pauline McNeill: We have a duty to ensure that Scottish students are not disadvantaged. Before the minister closes, I want him to address two points. First, section 8(6) refers to the fees paid to the fundable body

"by such class of persons as the Scottish Ministers may by order specify".

That means that the fees cannot be varied between institutions. Secondly, if Mike Pringle's amendment is agreed to and the minister brings before a committee of the Parliament a fee for English students, how would he set the fee? What is his thinking on that?

Mr Wallace: On the point on institutions, subsection (11) already makes the point that we cannot discriminate between institutions, as Fiona Hyslop's amendment 15 suggests.

With regard to his amendments 1 to 5 and 20, Chris Ballance would have me remove all the controls that we would attach to setting fee levels. One wonders what that would achieve. In light of the trends shown by the student application figures, how would it ensure that students domiciled in Scotland had a fair opportunity to study in Scottish universities? As Allan Wilson pointed out at stage 2, the amendments would give us untrammelled powers to set any fee we wished, without consultation with or consideration by the Parliament. That is not what the Parliament or, to be fair, Chris Ballance intend.

With amendment 16, Fiona Hyslop is trying to remove our ability to react to protect places for Scottish students. The amendment seems to cut across the powers that are provided in section 8(6). The amendment would create not clear and simple legislation, but unclear and potentially unworkable legislation, with ambiguous provisions that would be open to interpretation. However, on any interpretation, amendment 16 would limit the flexibility needed to adapt to changes in the higher education sector. It would tie the hands of ministers to react to the genuine pressures that the introduction of fees in England is creating.

Amendments 14 and 15 highlight the fact that Fiona Hyslop has not understood what has been said for months. Our proposals do not discriminate against English students, or any other students, and they are not about differentiating fees between institutions. Neither of the amendments is necessary or desirable. Indeed, amendment 14 might well be outwith the Parliament's competence.

Fiona Hyslop's amendment 18 is also unnecessary. The wording of section 8(12A)(b), which was accepted at stage 2, gives a duty to consult students. The Executive's amendment 7—or, if accepted, Mike Pringle's amendment 17—would strengthen that by making a specific reference to the NUS as the main representative student body.

Iain Smith (North East Fife) (LD): Will the minister assure us that the specific reference to the NUS in the bill does not mean that Scottish ministers will consult that body of students exclusively? Will they continue to consult universities that are not affiliated to the NUS, such as St Andrews University in my constituency, and bodies such as CHES?

The Deputy Presiding Officer (Murray Tosh): Minister, you must wind up now.

Mr Wallace: The fact that the NUS is specified in the bill does not exclude consultation with other bodies.

We are willing to lend our support to amendment 17, which proposes to make the order-making powers in relation to fees subject to a more inclusive and extensive consultation procedure. I know that terms such as "super-affirmative" have been used. However, the proposed procedure is not so much super-affirmative as it is an exceptional consultation. There is little precedent for the use of such a procedure in legislation because, in all but very exceptional cases, it would be unduly restrictive and prescriptive and therefore quite inappropriate. As a result, it is vital that the implications are considered fully before there is any agreement to enhance the consultation procedure.

Nonetheless, a compelling case has been made for accepting amendment 17. I have made it clear throughout the debate that the fee-setting powers are intended to be used sparingly and only when there is real evidence that not acting could disadvantage Scottish students. That must remain the case and accepting amendment 17 will strengthen the caveats around those powers in the bill. I have been open about my intentions with regard to medicine. I am glad that the amendment appears to meet some of Sylvia Jackson's concerns and that it was also supported by Christine May and Richard Baker. Finally, the amendment also fulfils Allan Wilson's commitment to make a specific reference to the NUS in the legislation. As a result, if it is agreed to, I will not move amendment 7.

The Executive has been clear in its opposition to top-up fees. The bill, and our consultation on the principles of implementing any change to fees, will allow us to maintain broad parity between the cost of studying in Scotland and that in England. That

will ensure that students can make choices based on academic merit, not on price.

I ask members not to support amendments 1 to 5 and 20, in the name of Chris Ballance, or amendments 14 to 18, in the name of Fiona Hyslop. Instead, they should support amendment 17, in the name of Mike Pringle.

Chris Ballance: The bill—section 8, in particular—is premature and wrong. As Murdo Fraser pointed out, it is premature for the provisions in section 8 to be passed while the consultation is still going on. Such an approach is against the Parliament's basic principle of having pre-legislative scrutiny; agreeing to the provisions today will mean that there must be post-legislative scrutiny.

The Executive's proposed solution is wrong. Indeed, the Enterprise and Culture Committee accepted as much and recommended that the minister should consider amending the bill at stage 2 to provide information on the criteria that ministers will use. However, the minister has not done so. As Sylvia Jackson told us, the Subordinate Legislation Committee also felt that the proposed solution was wrong. Moreover, Frances Curran pointed out the impact that section 8 will have on poorer students.

I say to the minister that his commitments and plans are irrelevant to this debate, which is about the wording in the bill. That is what we are voting on and passing today. It is extraordinary that such a controversial power, which has the potential to introduce a market into Scottish education, should simply be deferred to a negative or affirmative statutory instrument or to the kind of super-double-affirmative procedure that has been suggested by Mike Pringle and Richard Baker. The provision represents an attempt to deal with NHS recruitment problems by introducing deterrent measures at the point of training people for medical practice. Such an approach takes things the wrong way round; as I said, it is the wrong solution.

Three alternative amendments have been lodged. First, the amendment in my name proposes to remove the provision. Secondly, there are the SNP amendments, which I suggest go round the houses and use a complicated method to arrive at the same point. My information from the drafting clerks, both of the Enterprise and Culture Committee and of the Parliament, is that the amendment to delete is entirely adequate in relation to the Further and Higher Education (Scotland) Act 1992. However, I will support Fiona Hyslop's amendments because I believe that they essentially do the same thing as my amendment would. I trust that the SNP will support the Green amendments.

If we oppose top-up fees, there is no satisfactory alternative to our amendments in order to remove from the bill the power to introduce variable fees. Mike Pringle's amendment 17 is a fudge and a compromise. It provides an extra hurdle and ensures an extra vote, but as the Executive did not listen to the debate and the consultation at stage 1, how on earth do we know that it will listen to the debate and the consultation if the super-affirmative procedure goes ahead? However, if our amendments fail, we will support amendment 17, because, frankly, it is better than what the Executive has produced in the bill. Nonetheless, the Greens remain opposed to top-up fees. We believe that the principle of top-up fees should not be introduced into Scottish legislation. I therefore move the amendments in my name.

15:45

The Deputy Presiding Officer: No, you have moved only the lead amendment at this stage, as the Presiding Officer pointed out previously.

The question is, that amendment 1 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division. As this is the first division in the grouping, it will last for two minutes.

FOR

Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)

Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 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)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (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)
 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)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)

Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 26, Against 77, Abstentions 0.

Amendment 1 disagreed to.

Amendment 2 moved—[Chris Ballance].

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

Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 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)
 Henry, Hugh (Paisley South) (Lab)

Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (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)
 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)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 26, Against 78, Abstentions 0.

Amendment 2 disagreed to.

Amendment 14 moved—[Fiona Hyslop].

The Deputy Presiding Officer: The question is, that amendment 14 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)

Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)

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)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 42, Against 62, Abstentions 0.

Amendment 14 disagreed to.

Amendment 15 moved—[Fiona Hyslop].

The Deputy Presiding Officer: The question is, that amendment 15 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)

Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 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)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)

Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 42, Against 61, Abstentions 0.

Amendment 15 disagreed to.

Amendment 16 moved—[Fiona Hyslop].

The Deputy Presiding Officer: The question is, that amendment 16 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)

Swinney, Mr John (North Tayside) (SNP)
Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
Baillie, Jackie (Dumbarton) (Lab)
Baker, Richard (North East Scotland) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Eadie, Helen (Dunfermline East) (Lab)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Finnie, Ross (West of Scotland) (LD)
Gillon, Karen (Clydesdale) (Lab)
Glen, Marilyn (North East Scotland) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Gorrie, Donald (Central Scotland) (LD)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Jackson, Dr Sylvia (Stirling) (Lab)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
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)
McMahon, Michael (Hamilton North and Bellshill) (Lab)
McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
McNeill, Pauline (Glasgow Kelvin) (Lab)
Morrison, Mr Alasdair (Western Isles) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Mulligan, Mrs Mary (Linlithgow) (Lab)
Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
Murray, Dr Elaine (Dumfries) (Lab)
Oldfather, Irene (Cunninghame South) (Lab)
Peacock, Peter (Highlands and Islands) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Pringle, Mike (Edinburgh South) (LD)
Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
Radcliffe, Nora (Gordon) (LD)
Robson, Euan (Roxburgh and Berwickshire) (LD)
Scott, Tavish (Shetland) (LD)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Smith, Iain (North East Fife) (LD)
Smith, Margaret (Edinburgh West) (LD)
Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
Wallace, Mr Jim (Orkney) (LD)
Watson, Mike (Glasgow Cathcart) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)
Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 42, Against 62, Abstentions 0.

Amendment 16 disagreed to.

Amendments 3 and 20 not moved.

Amendment 17 moved—[Mike Pringle].

Amendment 17A moved—[Fiona Hyslop].

The Deputy Presiding Officer: The question is, that amendment 17A be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
Aitken, Bill (Glasgow) (Con)
Baird, Shiona (North East Scotland) (Green)
Ballance, Chris (South of Scotland) (Green)
Ballard, Mark (Lothians) (Green)
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
Byrne, Ms Rosemary (South of Scotland) (SSP)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Cunningham, Roseanna (Perth) (SNP)
Curran, Frances (West of Scotland) (SSP)
Davidson, Mr David (North East Scotland) (Con)
Douglas-Hamilton, Lord James (Lothians) (Con)
Fabiani, Linda (Central Scotland) (SNP)
Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
Fox, Colin (Lothians) (SSP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gibson, Rob (Highlands and Islands) (SNP)
Goldie, Miss Annabel (West of Scotland) (Con)
Grahame, Christine (South of Scotland) (SNP)
Harper, Robin (Lothians) (Green)
Harvie, Patrick (Glasgow) (Green)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
Kane, Rosie (Glasgow) (SSP)
Leckie, Carolyn (Central Scotland) (SSP)
Lochhead, Richard (North East Scotland) (SNP)
MacAskill, Mr Kenny (Lothians) (SNP)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Mather, Jim (Highlands and Islands) (SNP)
McFee, Mr Bruce (West of Scotland) (SNP)
McLetchie, David (Edinburgh Pentlands) (Con)
Milne, Mrs Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Neil, Alex (Central Scotland) (SNP)
Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, Eleanor (Highlands and Islands) (Green)
Scott, John (Ayr) (Con)
Sturgeon, Nicola (Glasgow) (SNP)
Swinburne, John (Central Scotland) (SSCUP)
Swinney, Mr John (North Tayside) (SNP)
Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
Baillie, Jackie (Dumbarton) (Lab)
Baker, Richard (North East Scotland) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)

Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 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)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 42, Against 62, Abstentions 0.

Amendment 17A disagreed to.

Amendment 17 agreed to.

Amendment 18 moved—[Fiona Hyslop].

The Deputy Presiding Officer: The question is, that amendment 18 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

Against

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)

Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (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)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Scott, Tavish (Shetland) (LD)
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 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 42, Against 61, Abstentions 0. The amendment is disagreed to.

I am most obliged to members. Amendment 18 had been pre-empted and I should not have called it.

Amendment 7 not moved.

The Deputy Presiding Officer: The third group of amendments is on tuition fees and their impact on self-funding students. Members who are watching the clock will appreciate that we are already out of time for this group. However, thanks to the wisdom of the Parliament, I now have power under rule 9.8.4A(a) to allow the debate to continue beyond the agreed timetable in order to allow members who have the right—under rule 9.10.13—to speak to an amendment to do so. The members with that right are the mover of the amendment and the minister who is responding to the debate. This is the first time that we have used the new powers.

Amendment 19, in the name of Fiona Hyslop, is in a group on its own.

Fiona Hyslop: I am struck by the way in which we are adopting many innovative procedures. I am sure that the part-time and second-degree students who would be affected by amendment 19

will appreciate the Parliament and the Presiding Officer exercising the new right.

I hope that amendment 19 will bring some light after the heat of the discussions so far. It relates to part-time students and students pursuing second degrees. Pauline McNeill raised the issue earlier and, in its stage 1 report, the committee was concerned about such students.

The minister has already announced that he might want to increase the level of funding in order to tackle the situation with top-up fees down south and the across-the-board increases that we expect will follow. However, the proposals will hit part-time students and students pursuing second degrees disproportionately. I recollect that the minister has indicated that he will look sympathetically on the position of such students, but we have yet to hear any details. It would be useful if the bill contained a commitment that the minister and the Executive would address the consequences for those students.

Why is that important? The days of self-funding students or part-time students studying for pleasure have, perhaps, long since gone. I see that the Minister for Children and Education, who has responsibility for Gaelic issues, is sitting at the back of the chamber. He has been trying to encourage more Gaelic teachers through part-time arrangements with the University of Aberdeen. For such teachers, part-time courses are absolutely essential.

Some people want to change their vocation and become teachers or social workers and there have been campaigns to encourage people with families or with previous experience in other jobs to switch to the caring professions. Because of the fees, those people find it very expensive to pursue a second degree. We should support people who are trying to pursue careers in social work and teaching.

Amendment 19 is simple. It does not commit the minister to any particular solution. It acknowledges the importance of the issue and asks the minister to come back and report to the Parliament in relation to section 8 of the bill. That would be a useful mechanism to include in the bill. Members who are interested in housing matters will recollect that, when we were considering the bill that became the Housing (Scotland) Act 2001, the Parliament requested that the minister should come back with a review of the right to buy. That was a recommendation in a report and it went into the legislation. We acknowledge that the review of the right to buy is an important development in housing legislation, provision and policy and we should consider having a similar mechanism to address the issue of part-time and second-degree students.

The issue has not received as much attention as the more contentious matter of variable top-up fees. However, we have a responsibility towards people who may be concerned about the impact on part-time and second-degree students. I understand that there are about 5,000 such students in Scotland, although the minister may wish to correct me on that. Amendment 19 is a simple provision, which I hope will attract the Parliament's agreement. That would send a strong signal about our support for those students and our willingness to address their concerns.

I move amendment 19.

16:00

Mr Wallace: Members will recall that, during the stage 1 debate, I made it clear that, on fees, our purpose is to ensure that students who are ordinarily resident in Scotland will continue to have fair access to opportunities to study in Scottish universities. As I said then, all eligible students who are ordinarily resident in Scotland will still have their fees paid by the Executive through the Student Awards Agency for Scotland.

As Fiona Hyslop rightly highlighted, some students are not eligible to have their fees paid. I am acutely conscious of the students who fall into that category. That is why, when I announced my intentions to the Parliament in June last year, I said that I would ask the implementation advisory group to consider the impact of my proposals on those students and what might be done to assist them. During the stage 1 debate, I stated that I was sympathetic to their position. That remains the case. I am seeking further views on their position as part of the current consultation.

My difficulty with amendment 19 is that, in legislative terms, it is unnecessary and undesirable in that its purpose would be short lived. Fiona Hyslop will remember that, during the stage 1 debate, I committed to consult again on the fees issue and to inform the Parliament of the outcome of our considerations before the summer recess. I confirm that the Parliament will receive a report on the outcome of that consultation. The requirement that amendment 19 seeks to insert to report back

"within one year of the coming into force"

of the section would mean that what happens to students who enter into the new arrangements that will apply in the academic year that starts in the autumn of 2006 would not be taken into account.

The consultation closes on 30 May. I will consider all the responses, take on board any further comments from the implementation advisory group and report back to the Parliament.

It would be wrong to try to second-guess the consultation's outcome, but I intend to make a clear statement on the position of self-funded students at that time. Once that announcement has been made, the advisory group will continue to consider the implementation of the fine detail of any plans and, over time, my officials will continue to monitor the effect on all groups of students of any actions that are taken. I would be happy to make a commitment on their behalf to keep the Enterprise and Culture Committee apprised of any impact on particular groups, if that would be appropriate.

Although I suggest that amendment 19 is unnecessary and encourage colleagues to vote against it, we are conscious of the issues that Fiona Hyslop has raised, which there will be opportunities to address in my statement in response to the consultation and through the advisory group's on-going monitoring. As I have said, I am happy to give an undertaking to keep the Enterprise and Culture Committee informed of that monitoring, if that would be desirable.

The Deputy Presiding Officer (Trish Godman): I invite Fiona Hyslop to press or to withdraw amendment 19. If you feel that you have to say something, I can allow you half a minute to do so.

Fiona Hyslop: I press amendment 19.

The Deputy Presiding Officer: The question is, that amendment 19 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
Aitken, Bill (Glasgow) (Con)
Baird, Shiona (North East Scotland) (Green)
Ballance, Chris (South of Scotland) (Green)
Ballard, Mark (Lothians) (Green)
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
Byrne, Ms Rosemary (South of Scotland) (SSP)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
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Fox, Colin (Lothians) (SSP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gibson, Rob (Highlands and Islands) (SNP)
Goldie, Miss Annabel (West of Scotland) (Con)
Grahame, Christine (South of Scotland) (SNP)
Harper, Robin (Lothians) (Green)
Harvie, Patrick (Glasgow) (Green)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
Kane, Rosie (Glasgow) (SSP)
Leckie, Carolyn (Central Scotland) (SSP)
Lochhead, Richard (North East Scotland) (SNP)

MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 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)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Scott, Tavish (Shetland) (LD)

Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 42, Against 60, Abstentions 0.

Amendment 19 disagreed to.

Amendment 4 not moved.

Section 20—Council to have regard to particular matters

The Deputy Presiding Officer: Group 4 is on sustainable development. Amendment 8, in the name of the minister, is in a group on its own.

Allan Wilson: Is it me?

The Deputy Presiding Officer: Are you not a minister? [*Laughter.*]

Allan Wilson: I am, but I do not happen to be the minister in whose name the amendment is being moved. However, that is another story altogether.

I hope that we will be able to agree to amendment 8 and return to the spirit of consensus that has marked so much of the debate. Amendment 8 has been lodged to address an issue raised by Christine May during the stage 2 considerations by the Enterprise and Culture Committee. Sustainable development is important, and is a key theme that runs through the partnership agreement. It is clear that our universities and colleges have a vital role to play in supporting sustainability, not least because in the coming years both sectors will take forward a number of major capital projects as a result of the Executive's substantial investment in our teaching infrastructure.

Amendment 8 will place on the council a duty to consider sustainable development in carrying out its functions, and it will require the council to encourage universities and colleges to contribute to the same commitment, where it is practical for them to do so. Sustainability featured in the ministerial guidance to both funding councils this year, and they are already taking forward a number of positive initiatives. Amendment 8 will strengthen our commitment to sustainability.

I am happy to move amendment 8, which is in my colleague's name.

Christine May: As the minister said, amendment 8 was lodged in response to an issue that I raised, as a discrepancy was noted between the terminology in the policy memorandum and the

wording of the bill. Sustainable development is a key plank of the Executive's economic development policy, as well as all its other policies. In other words, it is a horizontal theme, of which some colleagues and I have heard a lot in the past few days in the context of European policy, and it transfers nicely into Scottish domestic policy.

I am grateful to the minister for taking on board the arguments that I made in committee, and was grateful for his support when I withdrew my amendment on receipt of his assurances. I am glad that my faith in the minister has been confirmed.

Amendment 8 agreed to.

Section 22—Consultation and collaboration

The Deputy Presiding Officer: Group 5 is on the exercise of the council's powers on consultation in particular. Amendment 9, in the name of the minister, is in a group on its own.

Allan Wilson: Amendment 9 is another amendment that follows on from discussions during stage 2 consideration. I lodged an amendment to section 22 at stage 2 to give the council a duty to consult representatives of staff and students. Once again, that simply reflects activity in which the councils are currently engaged.

During stage 2, Mike Watson suggested that explicit reference should be made to trade unions, rather than representatives of staff. I have given the issue further thought and our officials have discussed it with the Scottish Trades Union Congress, which wrote to the Deputy First Minister on the matter.

On that basis, I am happy to introduce amendment 9, which will ensure that the council must, where appropriate, consult trade unions representing the interests of the staff of our fundable bodies.

I move amendment 9.

Amendment 9 agreed to.

Before section 26

Amendment 10 moved—[Mr Jim Wallace]—and agreed to.

After section 27

The Deputy Presiding Officer: Group 6 is on the use of certain property. Amendment 11, in the name of the minister, is in a group on its own.

Mr Wallace: As I think we all know, Parliament is currently considering the Charities and Trustee Investment (Scotland) Bill. As many colleagues will also be aware, some concerns have been

raised about the impact of that legislation on the charitable status of colleges and some higher education institutions. The Charities and Trustee Investment (Scotland) Bill will introduce a new regulatory regime for charities in Scotland. It will create a new charity regulator and a public register of charities. The objective of that bill is to ensure that there is a robust, proportionate and transparent regulatory framework that satisfies public interest in the effective regulation of charities in Scotland and meets the needs of the Scottish charities sector. Under the proposed legislation, a Scottish charity will be prevented from applying its assets in any circumstances, including winding up, except for charitable purposes. A charity will also have to be independent. Along with the Minister for Communities and Deputy Minister for Communities I have been considering closely the potential implications of the bill for the colleges and higher education institutions. I believe that we have reached a solution that can lead to those institutions being able to retain charity status.

As part of the solution, I have lodged amendment 11, which will amend sections 25 and 47 of the Further and Higher Education (Scotland) Act 1992. Currently, under those sections, ministers may close a college or higher education institution and order that its assets transfer to ministers without any requirement that those assets be applied for a charitable purpose. Amendment 11 will ensure that, in the unlikely event that an institution is closed, any assets that might previously have transferred to ministers must now transfer to a charity to be used for the advancement of education. That will remove any doubts as to whether colleges and higher education institutions will be able to satisfy the charitable purpose test.

In relation to independence, I will look to my officials to consider ministers' wider powers to issue directions to colleges under the 1992 act and whether those powers are still necessary. We are aware of the need for appropriate financial safeguards given the high level of public resources that is handled by those institutions. That will be one of a number of issues around college governance that will be covered during the forthcoming review of further education.

Fiona Hyslop: I am pleased to hear the minister's comments and am also pleased about the implications that they might have for the charitable status of colleges. Will the minister explain the timescale and the steps that will be involved in making this change and recognising the further independence of colleges?

Mr Wallace: We have already committed ourselves to consulting on governance issues in further education colleges, and I am minded to

extend that consultation to cover more general further education issues. I hope that we can establish that consultation in the near future—perhaps before the summer recess. I do not want to rush the process, but it is important that everything is properly examined, including the extent to which ministers should have powers of direction, if at all. I would not want to tie a review group down to a timescale, but I would not expect to complete the review during 2005; I hope that we would receive the findings of that review during next year. Depending on the outcome of the review, I hope that further actions can be taken to ensure that colleges will be able to retain their charity status.

I move amendment 11.

Amendment 11 agreed to.

Section 32—Orders and regulations

Amendment 5 not moved.

SCHEDULE 1

THE SCOTTISH FURTHER AND HIGHER EDUCATION FUNDING COUNCIL

The Deputy Presiding Officer: Group 7 is on the skills committee. Amendment 12, in the name of the minister, is grouped with amendment 13.

Mr Wallace: Last week, the chamber debated skills and the wide-ranging discussion that took place during that debate reinforced the importance of skills. It is clear that all sides recognise the goal of improving skills as being fundamentally important to the future prosperity of Scotland. That was recognised in the partnership agreement commitment to merge the two existing funding councils and to charge the new body

“to have regard to the future skills needs of Scotland.”

Our approach to skills improvement is detailed in our lifelong learning strategy and is a key part of our strategy for enterprise—“A Smart, Successful Scotland”. A merged funding council will have a vital role to play in taking a strategic overview of what is being provided by Scotland’s colleges and universities, which are our main source of lifelong learning and skills.

Throughout the debates on the bill, I have acknowledged the importance of having a skills committee, but have stopped short of legislating for one because I believe that the council needs flexibility to be able to adapt its structures over time and to be able to react to changing landscapes and priorities. It might be appropriate, for example, to have different bodies represented on the committee.

Since the completion of stage 2, I have listened to the arguments for a statutory requirement to establish a skills committee from several of our

partners. The Association of Scottish Colleges, the Confederation of British Industry Scotland, the Federation of Small Businesses in Scotland, the Scottish Chambers of Commerce and the STUC have all written to me in support. I have considered the points made by those bodies and asked my officials if a way can be found to legislate for such a committee in a way that would allow the necessary flexibility. As a result, I am pleased to have been able to lodge amendment 12, which will create a statutory requirement for a skills committee but not hamper the ability of ministers or the council to change its composition or functions so that it can adapt to changing needs and challenges over time.

I move amendment 12.

16:15

Alex Neil: I support amendment 12, as the decision to build a skills committee into statute is right. I will make a number of points about how the skills committee should operate.

As the minister said, we had an interesting and worthwhile debate on the skills agenda in Scotland last Thursday, and there was broad consensus in the Parliament on the priority that needs to be attached to the development of a skills strategy. However, the new funding council’s spend on skills will represent only a part of the total public expenditure on skills in Scotland. For example, Scottish Enterprise and Highlands and Islands Enterprise spend to the value of about 50 per cent of the further education budget on skills development. Moreover, we now have the Sector Skills Development Agency, Sector Skills Alliance Scotland and industry sector skills councils as well as much involvement of the private sector, which is not to mention a range of other bodies, such as the Construction Industry Training Board, NHS Education for Scotland and local authority schools.

I therefore urge the minister to consider, in conjunction with the new funding council, the issue of skills and to use the skills committee as a way of co-ordinating the work on skills throughout the Executive’s areas of responsibility. I also suggest that he consider the role of Futureskills Scotland. It is an excellent organisation, but perhaps it should no longer be confined to being a part of Scottish Enterprise; perhaps it should be a cross-organisational body, possibly located in the Executive, so that the information that it gathers can inform the new funding council’s decisions as well as those of the other skills agencies in Scotland.

The Scottish National Party welcomes the provisions on a skills committee as the right initiative to take to ensure that skills, along with research, remain at the forefront of the development of higher and further education.

Fiona Hyslop: I, too, welcome amendment 12. The Education Committee recommended such an amendment at an earlier stage and it will serve Scotland well.

Alex Neil has mentioned some of the issues that the skills committee should address on the demand for certain skills in Scotland. I suggest that the minister also considers what opportunities the establishment of a joint Scottish further and higher education funding council will afford for thinking about some of the supply issues.

In particular, all parties in the Parliament want early-years education and child care to be developed comprehensively and extensively throughout Scotland. Given the important role that education departments in universities and further education colleges play in supplying nursery nurses, early-years education could be a good example of an area on which a skills committee could work effectively to address the need for nursery nursing skills throughout Scotland. That would be an innovative approach and a good testament to the work of the joint funding council's two predecessor bodies.

Christine May: I also support amendment 12. In addition to Alex Neil's and Fiona Hyslop's points, with which I agree, I highlight paragraph 10A(2) of the amendment, which says:

"The Council is to appoint one of its members to chair meetings of the skills committee."

That is vital for the necessary liaison to take place and for the coherence of decisions.

I suggest that the fact that, as Alex Neil pointed out, the spend on skills is not entirely in the further education colleges is a very good argument for encouraging more businesses to get involved with their local further education providers to ensure the quality of skills development in industry as well as in academic institutions.

Mr Wallace: I welcome the comments that Alex Neil, Fiona Hyslop and Christine May made. As I indicated earlier, I had always recognised the importance of having a skills committee, but it was a question of whether such a committee's existence should be enshrined in statute.

Alex Neil suggests that there is work to be done on co-ordinating the skills-related work of Highlands and Islands Enterprise, Scottish Enterprise and the sector skills councils. Far from there being anything in amendment 12 that prevents that, it indicates that Scottish ministers may issue guidance about the composition of the committee and its functions. I will certainly take on board the points that have been made when we come to issue that guidance. However, I do not want to suggest that ministers are going to be heavy handed and directive; it is important that,

having been established, the body with expertise identifies its agenda. On the composition of the committee, we can try to ensure that, given the wide range of interests in Scotland in the skills agenda, there are effective link-ups. I welcome the constructive response from those who have participated in this short debate and commend amendment 12 to the Parliament.

Amendment 12 agreed to.

Amendment 13 moved—[Mr Jim Wallace]—and agreed to.

Further and Higher Education (Scotland) Bill

The Deputy Presiding Officer (Trish Godman): The next item of business is a debate on motion S2M-2666, in the name of Jim Wallace, that the Further and Higher Education (Scotland) Bill be passed.

16:21

The Deputy First Minister and Minister for Enterprise and Lifelong Learning (Mr Jim Wallace): I am pleased to move the motion to pass the Further and Higher Education (Scotland) Bill, which, if members agree to it, will create a new landscape for further and higher education in Scotland. I thank many people who have been involved in getting us to this moment, not least Alex Neil and the members of his Enterprise and Culture Committee, who have deliberated and taken a helpful and constructive approach in both the stage 2 debate and the stage 1 report. I am sure that Alex Neil will acknowledge that we have taken on board a number of the points that the committee made. I also thank the many people who were engaged in the consultation. Going further back, I thank Alex Neil in his former role as convener of the Enterprise and Lifelong Learning Committee in the previous session for starting the ball rolling with a report that recommended the merger of the Scottish Higher Education Funding Council and the Scottish Further Education Funding Council. I also thank my two deputies over the past year—Lewis Macdonald, who was with me when we started the venture, and, more recently, Allan Wilson, who has taken on his back quite a large part of the work, not least at stage 2.

I believe that having one body to make decisions for both sectors will be essential in encouraging collaboration between colleges and universities. I believe that it can facilitate smooth transition for learners between and across the sectors and that coherent decisions will be made in a way that will maximise the effectiveness of the record levels of investment that this Administration is making in further and higher education.

The discussions about the bill have focused mainly on the provisions on fees in section 8. That is understandable, because the issue of fees is emotive and important, but I hope that I have been able to dispel some of the myths that some members have perpetuated. I refer not least to some of the comments that Frances Curran made. These points are important. The position is being misrepresented seriously and young Scots feel that there is going to be an increase in the fees that they will have to pay. That is wrong: they will not be any more liable to pay fees than they were before the bill was passed. We would regret it if

that perception were to affect their judgment or aspirations to go to college or university. By all means let us have robust political debate, but we should not have it in a way that discourages people from going to college or university.

Mike Pringle's amendment 17, which was agreed to, reinforces what I have said consistently, that the powers will be used only sparingly and where there is real evidence that Scottish students might be disadvantaged. It will be essential to ensure that any future move to use the powers is thought through carefully and is scrutinised properly and rigorously by the Parliament.

It is important that the provisions on fees do not overshadow the other benefits that the bill will provide, not least for students. Among other things the bill will create a funding council with a statutory duty to have regard to the skills needs of Scotland and issues affecting Scotland's economic, cultural and social life. It will provide statutory support to a number of important sector-led initiatives, such as the Scottish credit and qualifications framework and quality enhancement. It will recognise the needs of students in legislation for the first time and will oblige the council to consult student representatives and trade unions as appropriate. It will give students access to the Scottish public services ombudsman. It will place on the council a duty to collaborate with other bodies such as Scottish Enterprise and will place on those bodies a duty to share information with the council. It will establish criteria for eligibility for funding by the new council. It will extend academic freedom to colleges for the first time. As a result of an amendment at stage 2, which we revised further today, it will extend academic freedom to staff in further and higher education.

I believe that those benefits will make a real difference for students and staff in both sectors. Together with the other provisions in the bill, they will create a framework for further and higher education within a tertiary system, and that will help to give ministers, the Parliament and the Scottish public guarantees that our significant investment in tertiary education is being used efficiently, wisely and effectively. I am sure that members will agree that those important benefits should be supported. Indeed, they reflect the fact that there has been, for the most part, cross-party support for the majority of the bill.

Robin Harper (Lothians) (Green): I congratulate the minister on amendment 8, which requires the new funding council to

"have regard to the desirability of the achieving of sustainable development".

Does the Executive have any plans to support the council in that regard?

Mr Wallace: I reassure Robin Harper that the guidance letters that I issued to the funding councils in January contained a specific reference to their taking full account of our commitment to sustainable development.

The value of the contribution that has been made is reflected in the amendments, and I express grateful thanks to the stakeholders with whom we have had the opportunity to engage during the process. We have not always seen eye to eye, but the majority of contributions have been thoughtful and constructive. That is appreciated and I hope that it has led to an increased level of trust in our relationships.

Finally, I thank members of both the existing funding councils for the valuable contributions that they have made over the years. They have been instrumental in making real differences to the two sectors. As we move on, it is important to recognise that and to wish them all the best for the future. The merger will maximise the benefits of direct read-across between the experiences of two important and major parts of our tertiary system in Scotland. It will coherently link the objectives of post-school education with Scotland's economic goals.

On that basis, I move,

That the Parliament agrees that the Further and Higher Education (Scotland) Bill be passed.

16:27

Fiona Hyslop (Lothians) (SNP): First, I pay tribute to those who have been involved in the preparation and scrutiny of the bill. It has been transformed during its passage; the early proposal for specified tertiary education providers has been removed and a great deal of progress has been made in certain areas on the general principles of the bill. I also pay tribute to my colleague Alex Neil, who is convener of the Enterprise and Culture Committee, and to members of the committee. Through its consideration of the bill, there has been substantial movement and development on academic freedom, part-time and second-degree students and the skills committee, and the addition of social and cultural perspectives and sustainable development.

We now have a much-needed framework for legislation, but it is with real regret and concern that I will move what is called in procedural terms a reasoned amendment to regret

"the creation of a legislative framework for imposing variable top-up fees in Scotland's tertiary education system."

The bill should never have been allowed to be hijacked and used for the purposes of addressing issues that are to do with Westminster's legislation on top-up fees. Why should the Scottish further

and higher education system be manipulated to deal with problems that were caused by Westminster's vote for top-up fees in England? That is not the way our education system should go, and that is why it is with real regret that I rise to move the amendment in my name.

It is procedurally bad to make decisions before a consultation has ended, but to do so in the middle of a consultation is quite irresponsible. The fact that there are two on-going consultations that have major impacts on the legislation shows that the provisions on top-up fees in section 8 should have been considered separately. We are now in a ludicrous position whereby a statutory instrument that is subject to the super-affirmative procedure is being proposed and accepted by the Parliament. In a sense, that is so bad that we should have had a separate bill for the provisions. The Parliament should not necessarily follow that precedent in future. The proposal has been cobbled together at the last minute as a panic measure by the Liberal Democrats, who realise that top-up fees and variable fees, as proposed in the bill, are starting to hurt them politically, as well they should.

On a practical point, the British Medical Association was against the proposals in the bill. Committees of the Parliament and I harried the Executive about the Westminster top-up fees and their implications for Scotland, but the argument was primarily about the revenue that universities would lose. The minister has admitted that the bill will not increase or decrease the amount of money that is available to universities.

All that the minister will do is try to influence the behaviour of English medical students who come to Scotland, which he admits has not worked in the past and is unlikely to work in future. I say with sadness that we are left in the position that a good piece of legislation that should guide the higher and further education sectors has been hijacked by an irresponsible and ill-considered provision on student fees. I urge the Parliament to support my amendment and to register our serious concerns and reservations about section 8.

I move amendment S2M-2666.1, to insert at end:

"but, in so doing, regrets the creation of a legislative framework for imposing variable top-up fees in Scotland's tertiary education system."

16:31

Murdo Fraser (Mid Scotland and Fife) (Con): I echo the tributes that have been paid to the clerks who service the Enterprise and Culture Committee and to my fellow members of that committee, who approached the bill collaboratively. With one exception, the provisions of the bill attracted a fair amount of consensus.

I hark back to the stage 1 debate, at which we welcomed the bill. We welcome the legislative trend that started under the previous Conservative Government, which incorporated the further education colleges and established the Scottish Further Education Funding Council. The bill will merge that funding council with the Scottish Higher Education Funding Council. The incorporation of the colleges resulted in a flowering of the FE sector, because it brought outside expertise on to FE colleges' boards and drove the sector forward.

The bill is important, not least because it incorporates in legislation the principle of parity of esteem between the higher and further education sectors. Higher education and further education have complementary and equal roles. Higher education has a greater academic focus and more emphasis on research. In contrast, further education is usually more technically based and is more focused on skills and meeting the economy's needs. It is wrong to suggest that one sector is more important or has higher priority than the other. Having a single funding body for both types of organisation will help in confirming that point.

I am sorry that I had to step out of the chamber during the debate about amendment 12, on the skills committee, because I discussed that in the stage 1 debate. Originally, the bill provided for just one statutory committee for the new funding council, which would be a research committee. The point is important because a skills committee will be relevant to the funding council's work, particularly in connection with further education, and because of parity of esteem. It is inevitable that a research committee will deal primarily with the higher education sector, so it makes sense to have a skills committee to balance the research committee by dealing primarily with the further education sector. That will ensure that those who run the funding council give both sectors equal weight. It would make sense for a skills committee to have members from the business community and an enterprise body. I am pleased that the Executive listened to the arguments that were made and lodged an amendment to establish a skills committee, which has improved the bill.

We still have concerns about section 8, which gives ministers the right to set fees for students who undertake full-time courses of study. We debated the issue at length this afternoon and I do not intend to labour the point. As I said, I appreciate that the current situation is not of the minister's making. He is in the difficult position of trying to protect Scottish students' opportunities to gain places at Scottish universities. However, the bill will have an impact not only on English students but on some from Scotland, such as those who follow part-time courses, those who

have changed their course of study or those who are studying for a second or subsequent degree.

I have made it clear that the Conservative party opposes top-up fees for Scottish students and for all students in all parts of the United Kingdom. It is essential that no attempt is made to introduce such fees by the back door, even with the best of intentions. The best that can be said about the minister's powers in the bill is that they are premature. Given that a consultation is continuing and that the UK general election that will take place in two weeks' time could change the backdrop dramatically, the powers are not needed. Therefore, the Scottish Conservatives will support Fiona Hyslop's amendment. If that amendment is not agreed to, I regret to say that we cannot support the bill, which is a pity because we welcomed it at stage 1. We are enthusiastic about the formation of a new funding council and the strengthening of the FE sector, but we cannot stomach top-up fees in whatever form. If that means that we cannot support the bill, I regret that.

16:35

Richard Baker (North East Scotland) (Lab):

The fact that the Tories cannot support the bill on the basis that has been outlined is regrettable and short-sighted of them. The reasons that they have given show that there has been a misconception.

The bill is an important step forward for tertiary education in Scotland. It means that the new record levels of funding that the Executive is providing for our colleges and universities will be matched by a new structure and an ability to support institutions in establishing an ambitious strategy for higher and further education in Scotland.

We have focused on the power of ministers to fix a different fee level after consultation with stakeholders, but it is important to consider the bill's overarching principle of having a joint funding council. There is great consensus on that principle that should not be ignored—indeed, ignoring it would be to let down the sector. The proposal to have a single funding council was first promoted by the National Union of Students Scotland in the early 1990s and it was first promoted in the Parliament by the Enterprise and Lifelong Learning Committee in its report on lifelong learning. There is wide support for such a measure across the spectrum of those who are involved in tertiary education.

There was an effective consultation process for the bill. There was heated debate on the draft bill and ridiculous suggestions were made that we wanted to merge colleges and universities. However, the important point is that ministers

listened to concerns and made the appropriate changes, which led to the good bill that is now before us and the broad support that there has been for it. That is a tribute to the consultation process.

The bill is important and will help to encourage greater articulation between further and higher education institutions. It will give students in Scotland more and different points of access to education and will help to encourage collaboration and the sharing of best practice between colleges and universities. As we have heard, it will encourage skills, progress on academic freedom and excellence in research. Through the measures that we have agreed today, it will secure access to tertiary education for Scottish students.

The bill will ensure that the record levels of investment are used in the context of a clear strategy, which is vital to achieving our wider goal of creating prosperity in Scotland that is based on a knowledge economy. That goal is at the heart of Labour's ambitions in Scotland. We want continued high employment and prosperity in Scotland through partnership with Westminster—through successful management of the economy there and economic development here that is driven by a skilled workforce.

With the record funding to our colleges and universities—£100 million extra over three years—we are putting investment behind our ambition. The bill will ensure that there is coherence and strategy so that universities and colleges play their full role in making Scotland a nation of prosperity and skills. The bill will ensure that Scotland retains its current vital status as a world leader in academic excellence. That is why I support the motion that the bill be passed.

16:38

Alex Neil (Central Scotland) (SNP): I thank members who have complimented the Enterprise and Lifelong Learning Committee and its successor committee, the Enterprise and Culture Committee. I always enjoy being complimented and take the opportunity to compliment and thank those who have been members of those committees and the staff who have worked on them.

I remind members why the Enterprise and Lifelong Learning Committee recommended the merger of the two funding councils. Its recommendation was essentially based on three pieces of evidence that were received during its inquiry. One piece of evidence related to the development of the university of the Highlands and Islands, which is unique in being made up of 13 further education colleges. The distinction between further and higher education and

between colleges and universities was becoming very blurred there, as it was at the Crichton campus in Dumfries, which I think is the only place in the United Kingdom where a person can get a degree from any one of four universities. Finally, when we considered the figures and the flow of students between higher and further education and the fact that 40 per cent of HE students were in FE institutions, for example, it was apparent that the distinction between colleges and universities and between HE and FE was becoming much more blurred than it had been. That is not to say that there are not distinct roles for universities and colleges. However, in order to gain flexibility in those innovative ideas and projects, we felt that it made sense—given that we already had a combined executive—to have a combined funding council. It will also be easier for a joint funding council to work with other bodies in the field, especially Scottish Enterprise and Highlands and Islands Enterprise.

However, now that we are about to pass the bill, let us look not to the past but to the future. The new funding council has five key challenges in front of it. The first of those is the access challenge. Despite the fact that around 50 per cent of young people in Scotland now go to university, the figure for young people from working-class families is stubbornly still around 14 to 15 per cent. There is a huge untapped pool of talent that we need to try much harder to get into the university and further education sectors. The access challenge is of major importance.

The second challenge is the skills challenge. We recognise that, in certain sectors such as construction and the health service, one of the barriers to growth is the skills gaps that we face. Across the board, some of the softer skills are in shorter supply than some of the more hardware-type skills. The skills challenge exists and we must tackle it if we are to increase the rate of business growth in Scotland.

The third, and most important, challenge is the lifelong learning challenge. The knowledge life cycle is changing all the time. When I went to university, whatever a person learned at university often stood them in good stead for the next 20 or 30 years. However, what a medical graduate learns this year could be out of date next year or the year after. Therefore, the need for continuing professional development and real lifelong learning is the third challenge.

The fourth challenge is in research. We are excellent in public sector research and get a massive share of the public sector research budget, but we face a major challenge to increase private sector research and development.

Last but not least, there is the challenge of achieving excellence and quality. We have some

of the finest universities and colleges not just in the UK but in the world. Our universities are third in the world—and not just per head—in terms of the excellence of their output in academic journals and the like. Our job now is not only to keep up that level of excellence but to spread it throughout all the institutions in Scotland, so that we do not end up third but go for number 1. That is the challenge of the new council and we must support it in meeting that challenge.

Finally, I hope that the minister will take in the recommendation of the Enterprise and Culture Committee that, in considering the composition of the council, he should consider the possibility of bringing in one or two members from the international intellectual and training community as well as appointing members from within Scotland.

The Deputy Presiding Officer: We move to wind-up speeches. Mike Pringle does not appear to be here, so I call Bill Aitken. Mr Aitken, you have four minutes.

16:43

Bill Aitken (Glasgow) (Con): I have listened to this afternoon's debate with considerable interest. It has been worth while and the Enterprise and Culture Committee has clearly spent a lot of time in taking a constructive approach to what the Executive has introduced. It is unfortunate that section 8 is so objectionable to us; otherwise, the bill could have been approved unanimously by the Parliament. However, we could have no part in the imposition of top-up fees.

We welcome the creation of the funding council. It builds on the work of the previous Conservative Government and is, in every respect, an eminently sensible proposition. It is also important that we are now seeing legislation that puts further education on the same level as higher education. Vocational training has been lacking in Scotland for many years. In Glasgow, where I come from, there is a problem with youth unemployment as well as a lack of training opportunities, which is manifest in many respects, as anyone who has tried to get a plumber or an electrician recently knows. Employers are offering fewer and fewer apprenticeships because provision for training within the further education sector has not been at the level at which it should have been. The bill recognises the need for parity, or at least greater equality, between further education and higher education.

Christine May (Central Fife) (Lab): I am grateful to Bill Aitken for giving way despite his time being short. He posits the case that there is a lack of training opportunities. Does he accept that such a lack persisted until some years ago but, as was mentioned in last week's debate on skills, the

situation has now changed? Does he accept that the considerable numbers of modern apprenticeships and other training schemes—both those organised by industry and those organised by academic institutions—are now addressing that problem?

Bill Aitken: I accept that the problem is of fairly long standing, but the member will be aware—and will no doubt concede the point—that apprenticeships in skills were introduced by the Conservative Government. I certainly agree that anything that introduces a greater degree of parity between the further education sector and the higher education sector is to be welcomed.

The only note of contention in the bill is section 8. It is unfortunate that the Executive has introduced such provisions, especially at this stage in the game when the consultation period has not finished. As an inevitable consequence, people feel that the solution that was pencilled in during the consultation has been written in in biro from the start. The fact that the consultation will therefore be not nearly as effective as it should be is decidedly unfortunate. On that basis and, as Murdo Fraser said, on the basis that an incoming Conservative Government will remedy the clearly unworkable situation in England, the Executive had all the more reason for not introducing such provisions at this time. Accordingly, we will support the amendment in the name of Fiona Hyslop.

16:47

Mr Kenny MacAskill (Lothians) (SNP): The Scottish National Party's position at stage 3 is one more of sorrow than of anger. At stage 1, we abstained from voting on the bill, on the basis that we broadly supported its provisions but we wished to ensure that they would contain no Trojan horse. Sadly, that is what has happened and, accordingly, we are left with no alternative but to vote for our amendment and against the bill.

As Alex Neil and Murdo Fraser mentioned, matters have moved on such that our education system needs to be brought up to date to deal with the needs of contemporary society and economy in the 21st century. Accordingly, it is a tragedy that the bill's many eminently sensible and fully supportable provisions are undermined by the provision on variable and top-up fees. On that basis, we cannot support the bill.

That is a tragedy because Scottish education is something of which we should rightly be proud. In both higher and further education, as a small country we have punched well above our weight. We should be proud not only of our ancient universities but of our modern universities and colleges of further and higher education. Our education system has served well not only

Scotland but other nations and, indeed, humanity. Anyone who has read Arthur Herman's book "The Scottish Enlightenment: the Scots' invention of the modern world" will have noted his conclusion that the single most important reform that Scotland ever carried out was the education act that was introduced, I think, in 1698. Although the aim of that measure was to give our people direct access to the word of God, it created a literate population and thereby ended up giving them direct access to success and achievement, both economic and social. We have built on that foundation not only in primary and secondary but in further and higher education.

Clearly, the further and higher education sector also plays an important part in our economy. In Edinburgh, Glasgow and Aberdeen, the combined universities are the second largest employer. They provide not only menial jobs but top-of-the-range employment; they employ not only the senior academics who are involved in research but people further down in the other traditional jobs, for whom other work would otherwise need to be found. Our universities and colleges are an important part not just of our society but of our economy. As I said, we should build on that.

On the question of top-up fees, it is quite clear to us that the bill represents a Trojan horse. Scotland is a small country that is buffeted to some extent by things that happen elsewhere. However, we need to address these issues and to go in our own direction. Scotland cannot simply react to a measure that has been introduced south of the border—we need to seek analogies and examples elsewhere. In higher education, the clear example is that set by Finland, where people recognise the importance of the state doing what is necessary for higher education and providing the necessary funding for it. A small nation has the advantage of being able to move more quickly, although it is also disadvantaged in some matters. When institutions are not located in Cambridge, England, or Cambridge, Massachusetts, the state needs to fund some aspects of research and development that cannot be funded by the private sector.

There has been a failure properly to consult on the proposals. I disagree whole-heartedly with the suggestion by some members—I cannot remember which—that the correct procedure has been followed. If one is conducting a consultation, it is ignorant to act without allowing that to percolate through properly. That is an insult to those who participate in the consultation and a bad way of proceeding.

Why are we to have top-up fees? Is the intention to address a particular problem in medicine? That problem should be tackled not through an education bill, but as a health matter. The BMA and other organisations have proposed

mechanisms for dealing with it. In dentistry, even the Executive is considering specific health-related measures to solve the problem that exists. It should not create a Trojan horse. Wording and nomenclature are important in legislation. Clearly, the wording in the bill is not restricted to medical courses. If the Executive had wanted to restrict the proposals in that way, it could have done so. It has left the door open for it to introduce more variable or top-up fees, which is simply outrageous.

The real scandal is the Lib Dem position. The Lib Dems oppose what is happening south of the border and say that they seek to emulate there what they have done here. We all know that their claim that tuition fees have been abolished is fraudulent. The levels of debt testify to the fact that that is not the case. Now they seek to impose on Scotland something that they say is morally wrong and regrettable south of the border. Yet again we face a shameless act by a Lib Dem minister.

16:52

The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson): As Alex Neil and others have said, the proposal to merge the funding councils originated from the Enterprise and Lifelong Learning Committee's inquiry into lifelong learning. If it has not quite been a long march since then, we have certainly gone through a lengthy consultation process. At times, that process was difficult and vexed, but we have stimulated important discussions on a number of key issues that face higher and further education. In my opinion, those have produced a strong piece of legislation that, if passed, will serve people in both sectors well over the coming years.

I must refer to the last remaining controversial issue in the bill, hopefully for the last time—unfortunately, I suspect that we have not heard the last of it. The suggestion that we are introducing English-style top-up fees in Scotland is ridiculous; more important, as my good friend and colleague Jim Wallace said, it is irresponsible and potentially damaging for students who need to make informed choices about the options for further study that are available to them.

In our proposals, there is no ability to vary fees by institution. The bill will not raise additional revenue for institutions. SNP members, in particular—although Bill Aitken's remarkable address seemed to handcuff him to them—either have failed totally to understand those facts or are intent on misrepresenting them. The powers will allow ministers to set a general fee level or, in exceptional circumstances, a different fee level for specific subjects, but only after full consultation and with the express approval of Parliament. In direct response to the concern that was expressed, we made provision for that to be done

under the affirmative procedure. In a legislature, language is important. I would let down the Minister for Parliamentary Business if I did not make the point, which Sylvia Jackson and the Deputy First Minister made very effectively for me, that the procedure will not be super-affirmative but will involve additional consultation, which will be welcomed by all.

I have continually stated that the use of the powers should be limited. I make a commitment that, other than for medicine, we will not use these powers to differentiate for any other subject during this parliamentary session. What we are proposing is necessary to ensure that students who are ordinarily resident in Scotland continue to have fair access to opportunities to study in Scottish universities. I make no apology for that. Indeed, I am proud to make the commitment.

What can I say about the Tories? Other members and I are disappointed that they have chosen to take the stand they have in not supporting the motion. I am not sure which world Bill Aitken inhabits; it is certainly not one that I recognise. There seems to be an Aitkenesque view of the world that suggests that the way one addresses youth unemployment is by disbanding the new deal. That does not make sense in anybody else's world.

On parity of esteem, I agree with Murdo Fraser that merging the two councils will give us a more integrated view of lifelong learning by creating one strategic organisation to oversee the two major parts of the tertiary system in Scotland. That is a good thing, which will add to parity of esteem between different types of learning and learning providers, so why not take the next logical step and support the introduction of that measure? It is incredible that he will not do so.

I echo what the Deputy First Minister said in opening the debate by thanking those who have contributed, in particular colleagues on the Enterprise and Culture Committee for their careful and constructive consideration of the bill, and the wide range of organisations and stakeholders that have been closely involved throughout, including the NUS, the institutions and their representative organisations.

We believe that the bill will make important differences to our further and higher education sectors. It will give students access to the Scottish public services ombudsman and they will benefit from greater recognition of credit and qualification frameworks. Moreover, there will be more coherent links between further and higher education. The bill recognises the importance of academic freedom for staff who are involved in teaching, learning and research at our colleges and universities and, importantly, as Richard Baker said, it will give ministers, the Parliament

and the Scottish public confidence that the record levels of investment in further and higher education are being used effectively to support Scotland's economy, culture and wider society.

As I am talking about record levels of investment, I will conclude by addressing the points made by Ms Hyslop. As everybody in the chamber knows, she has not been shy in issuing the odd press release slamming this or condemning that. However, I do not recall seeing any press release welcoming the record funding for Scotland's colleges and universities that was announced last September—more than £1.6 billion in total by the end of this spending review period. I also recall a press release about golden handcuffs, which seems to have died a death in the interim. I do not know about golden handcuffs, but a golden gag might be a good idea in Ms Hyslop's case. No press release welcomed the 11 per cent increase in young students bursaries that was announced in January or the changes in eligibility criteria allowing a 60 per cent increase in the number of those eligible for the maximum bursary.

I did not know whether to laugh or cry when Bill Aitken said that he would support Ms Hyslop's amendment. It should have been clear to him that this has only ever been about headlines for Hyslop, rather than about a genuine interest in the future of Scottish universities, colleges, students and staff. If the Tories want to handcuff themselves to that agenda, more fool them.

The bill marks an important step towards the vision of a high-quality, responsive, relevant, coherent system of lifelong learning in Scotland, set out in a lifelong strategy. I commend the bill to the Parliament and ask members to reject Ms Hyslop's amendment.

Business Motion

16:59

The Presiding Officer (Mr George Reid): The next item of business is consideration of business motion S2M-2713, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a business programme.

Motion moved,

That the Parliament agrees—

(a) the following programme of business—

Wednesday 27 April 2005

2.30 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Executive Debate: Financial Services Strategy

followed by Business Motion

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Thursday 28 April 2005

9.15 am Parliamentary Bureau Motions

followed by Stage 1 Debate: Smoking, Health and Social Care (Scotland) Bill

followed by Financial Resolution: Smoking, Health and Social Care (Scotland) Bill

11.40 am General Question Time

12 noon First Minister's Question Time

2.15 pm Themed Question Time—
Environment and Rural
Development;
Health and Community Care

2.55 pm Executive Debate: Criminal Justice
Plan and Surrounding Issues

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 4 May 2005

2.30 pm Time for Reflection

followed by Parliamentary Bureau Motions

2.35 pm General Question Time

2.55 pm First Minister's Question Time

3.25 pm Themed Question Time—
Justice and Law Officers;
Enterprise, Lifelong Learning and
Transport

followed by Business Motion

followed by Parliamentary Bureau Motions

4.05 pm

Decision Time

followed by

Members' Business

(b) that the period for members to lodge questions for First Minister's Question Time on 4 May 2005 should end at 2.00 pm on Friday 29 April 2005, and

(c) that the period for members to lodge questions for First Minister's Question Time on 2 June 2005 should end at 5.00 pm on Thursday 26 May 2005.—[*Tavish Scott.*]

Motion agreed to.

Decision Time

17:00

The Presiding Officer (Mr George Reid):

There are two questions to be put as a result of today's business. The first question is, that amendment S2M-2666.1, in the name of Fiona Hyslop, which seeks to amend motion S2M-2666, in the name of Jim Wallace, that the Further and Higher Education (Scotland) Bill be passed, be agreed to. Are members agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)

Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 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)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Presiding Officer: The result of the division is: For 43, Against 62, Abstentions 0.

Amendment disagreed to.

The Presiding Officer: The second question is, that motion S2M-2666, in the name of Jim Wallace, that the Further and Higher Education (Scotland) Bill be passed, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 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)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 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)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)

Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)

ABSTENTIONS

Aitken, Bill (Glasgow) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Swinburne, John (Central Scotland) (SSCUP)
 Tosh, Murray (West of Scotland) (Con)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

The Presiding Officer: The result of the division is: For 68, Against 23, Abstentions 13.

Motion agreed to.

That the Parliament agrees that the Further and Higher Education (Scotland) Bill be passed.

The Presiding Officer: That concludes decision time.

Cairngorms National Park

The Deputy Presiding Officer (Murray Tosh):

The final item of business is a members' business debate on motion S2M-2376, in the name of John Swinney, on the boundaries of the Cairngorms national park. The debate will be concluded without any question being put.

Motion debated,

That the Parliament notes that the current boundaries of the Cairngorms National Park differ from those originally recommended by Scottish Natural Heritage (SNH) following extensive consultation on behalf of the Scottish Executive; notes that, as a result of these boundaries, large parts of Highland Perthshire and East Perthshire are excluded from the national park; recognises the strength of support within these areas for participation and involvement in the national park; considers that the case for designation of the Cairngorms as a World Heritage Site would be strengthened by the inclusion of the Perthshire area in the park, and considers that the Executive should conduct an early review of the boundaries of the national park and extend the current boundary to that originally proposed by SNH.

17:04

Mr John Swinney (North Tayside) (SNP): I am grateful to the Parliamentary Bureau for the opportunity to hold this debate on the boundaries of the Cairngorms national park and thank all the members of various political parties who have supported my motion. One member who has given enthusiastic support to the whole matter is Dennis Canavan, who is out of the country on Commonwealth Parliamentary Association business but has registered his support for the arguments that will be advanced tonight. I also pay tribute to the members of PARC—Perthshire Alliance for the Real Cairngorms—who have contributed so much to pursue the issues that we will debate this evening.

I very much welcome the establishment of the Cairngorms national park. I support its work and its role within Scotland. Many people will criticise, debate and evaluate the approach and the direction of the national park and its founding principles. To me, that is a separate debate from the debate that we will have tonight, which is about a fundamental problem with the design of the park, which I believe undermines the effectiveness of the park and brings damaging consequences for some of the constituents in highland and east Perthshire whom I have the privilege to represent.

In September 2000, ministers made a formal proposal, under section 2 of the National Parks (Scotland) Act 2000, to establish a national park in the Cairngorms area. Ministers invited Scottish Natural Heritage to undertake the consultation on the proposal. For 20 weeks, SNH listened carefully

to the views and opinions of interested parties on the boundaries, powers and functions of the park and the governance and financial arrangements for it.

The exercise was important in two respects. First, SNH was able to undertake a dispassionate assessment of the often controversial issues and give the Government a clear, robust and balanced proposal for it to consider. Secondly, SNH was able to engage local communities and individuals effectively, which gave people confidence that the park would be established on a sound footing. SNH is not exactly an organisation without its critics, but the evidence—in particular, the feedback from my constituents who took part in the exercise—is that it handled the consultation exercise on the Cairngorms national park extremely effectively.

In my view it is regrettable that the Government chose not to follow all of SNH's recommendations. I say to the minister that, as a result of that, public confidence in the consultation process has taken a heavy knock. Many of my constituents in the highland and east Perthshire areas, who spent a considerable amount of their time contributing to the debate about the national park to ensure that it would be established on a sound footing, have asked themselves why they bothered to take part when the results of such a detailed and rigorous exercise were not followed in full by the Government, which paid scant attention to the output of the consultation exercise.

On the question of boundaries, SNH recommended that the park area should include the central Cairngorms and the Lochnagar massifs, many of the straths that immediately surround them in Badenoch and Strathspey, Glenlivet, Donside and Deeside and, crucially, at the southern end of the park, in my constituency, the Angus glens and highland Perthshire.

The Government's first response to the proposals largely excluded the areas of my constituency in the Angus glens and in highland Perthshire. After an inquiry by the Rural Development Committee and much pressure from outside the Parliament, the Government revised its proposals and in the Cairngorms National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2003 made provision for the inclusion of the Angus glens. Unfortunately, the area of highland Perthshire remained excluded.

I welcomed what the Government did on the Angus glens. I thought that it was a sensible response to the opinions that were being expressed, but it was illogical alongside the decision to refuse the extension of the boundaries to the highland and east Perthshire area.

I am grateful to the Rural Development Committee in the first session of Parliament, which was chaired by Mr Fergusson, who I am glad to see is in the chamber. The committee pursued the issue with great vigour. In a letter to the Deputy Minister for Environment and Rural Development at the time, Mr Fergusson wrote:

"There appeared to the Committee to be almost unanimous dissatisfaction with the proposed boundary, along with a degree of bewilderment due to the fact that the Executive had not provided clear and transparent reasons for its departure from the recommendations of SNH."

I have enormous sympathy with the view that the committee expressed.

Yesterday, I read again the *Official Report* that charted the committee's discussions on the 2003 order. Despite repeated questioning, the then Deputy Minister for Environment and Rural Development could provide no explanation of why the area had been excluded on the basis of topography, land character or land similarity. All that he would say was that he needed to reduce the number of local authorities involved in the park. It seemed that the debate had more to do with politics than with establishing the national park on a sound footing. That was no way to design a national park. The committee unanimously recommended the inclusion of highland Perthshire, in accordance with the recommendations of SNH. In response to the committee's recommendations, the then Deputy Minister for Environment and Rural Development wrote:

"I recognise that there is a case for extending the Park area, not only to remove the anomalies which had arisen through the division of certain communities ... and to follow watersheds more closely, but also to include significantly larger areas."

However, the minister then ignored those views and reaffirmed the Government's existing position.

The debate presents ministers with a further opportunity to consider the matter. There is a compelling case for the inclusion of highland and east Perthshire in the national park. The area is similar in topography to the areas that are included to the north and east and includes natural gateways to the national park at Blair Atholl and through Glenshee. It includes areas of natural character that are as worthy of protection as the areas that are already in the park. The area is fundamental to establishing the credibility of the park in order to secure world heritage site status.

In a letter of 31 January to one of my constituents, the current Deputy Minister for Environment and Rural Development said that he accepted that the issue of world heritage site status issue is not simple or straightforward. However, he provided no reassurance about whether the park's ability to qualify for that

status—or to have a credible case for acquiring it—has been enhanced or diminished by the decisions that the Government has taken.

In his evidence to the Rural Development Committee, Roland Bean, the head of forward planning at Perth and Kinross Council, said of the boundary of the proposed park:

"it runs along the administrative boundary of Perth and Kinross Council, which follows the watershed, but it cuts right through the Drumochter hills, a site of special scientific interest and a Natura site. The question is, will the dotterels and the snow buntings recognise the boundary?"—[*Official Report, Rural Development Committee*, 10 December 2002; c 3931.]

He asked a fair question, which highlighted the illogical nature of the boundary that has been foisted on us.

In a number of parliamentary questions, ministers have told members that although there will be a review of the park after five years, we should not expend much energy on boundaries. I hope that the minister will reconsider such dismissive talk and undertake an early review of the boundaries. I hope that he will acknowledge that the Government did not get its position right and I hope that he will listen to the views of people in highland Perthshire, its advisers in SNH and a cross-section of parliamentary opinion. The people of highland Perthshire want to be part of the Cairngorms national park. I hope that the minister delivers that sooner rather than later.

17:13

Murdo Fraser (Mid Scotland and Fife) (Con): I commend John Swinney for securing the debate and for his assiduous pursuit of the issue during a number of years as the constituency member for North Tayside. Like him, I welcome members of the PARC campaign who are in the public gallery and I commend the way in which they have pursued the issue.

Perhaps unusually, I do not disagree with a word that John Swinney said. The debate is about righting a wrong. When the boundaries of the Cairngorms national park were drawn up, they included parts of Inverness-shire, Moray and Aberdeenshire and a small part of Angus, but no part of Perth and Kinross Council's area, despite the fact that all objective commentators said that the northern part of highland Perthshire should have been included. Even the Government's advisers, Scottish Natural Heritage, said that the boundaries should include parts of Perthshire. Only the Executive said anything different. Frankly, the Executive failed to marshal any objective evidence that their view was right and everyone else's was wrong. We can conclude only that the decision to exclude Perth and Kinross was taken for political reasons, because it would suit

the Executive if a majority of the people who were elected to the national park's board came from the Highland Council area.

The Executive's decision was wrong and we should right that wrong at the earliest possible opportunity. It would certainly make sense to do so before we incur major expenditure on gateway signs and on the promotion of the park based on its current boundaries. If the current boundaries become entrenched, it will be even more difficult to reverse the position.

The summer before last, I had the pleasure of climbing Beinn a' Ghlo, which is a magnificent and expansive mountain with three Munro peaks rising steeply above Blair Atholl. It is clear to anyone standing on top of Beinn a' Ghlo that it is at the heart of the Grampians and at the southernmost edge of the Cairngorm massif. If the minister would like to join me for a re-ascent one day, I will show him what I mean.

Why should Beinn a' Ghlo be given any less protection than Beinn Bhrotain or Ben Avon, or any of the other mountains in the Cairngorms? Why, for that matter, should Glen Tilt be given any less protection than Glen Feshie? The whole thing makes no sense whatever.

The extent to which Scotland has benefited from national parks at all is a debate for another day. For many years, while England had national parks, we stood against them. The evidence to date shows that, where national parks have been created, visitor numbers have risen—although I do not know what has happened to visitor numbers in areas outwith the parks' boundaries. However, I do know that, if we are to have national parks at all, it must make sense to include within their boundaries all those parts of the country that fall naturally within the park. We should not artificially exclude some areas for political reasons.

A practical issue arises. As one drives up the A9—which I suspect is the access route to the Cairngorms national park for most people—one enters the park at the Drumochter pass. There is nothing there, apart from a lay-by on a busy main road. One can stop and take a photograph, but there is nowhere to buy refreshments or even souvenirs. The first settlement one comes to is Dalwhinnie, and there is not a great deal there for the visitor apart from a shop and a hotel—although there is also the distillery, of course.

The obvious gateway to the Cairngorms national park is Blair Atholl. It is well equipped to cater for the visitor. There are a number of shops and hotels, as well as the major tourist attraction that is Blair Castle. It would make perfect sense to develop Blair Atholl as the gateway to the Cairngorms national park. However, it will be more difficult to do that if Blair Atholl lies outwith the park boundaries.

I understand that Atholl Estates is working with Perth and Kinross Council and others to establish Blair Atholl as just that gateway, notwithstanding the present park boundaries. However, it would make much more sense, and be much more to the economic benefit of the area, if Blair Atholl could accurately say that it was part of the park.

A similar situation occurs a little to the east, in Glenshee. The obvious gateway to the national park on the east side of Perthshire is the Spittal of Glenshee. With its hotels, it is the obvious stopping point. However, the current park boundary is at the Glenshee ski slopes. It would be substantially to the economic benefit of the area to have the park boundary brought south and to make the Spittal the gateway to the park for those coming up the A93.

Frankly, the current boundaries of the Cairngorms national park are nonsensical. The Executive should stop dragging its feet on the issue and take action to right its wrong of two years ago. That wrong was to the detriment of the Perthshire economy.

17:17

Nora Radcliffe (Gordon) (LD): I will make only a brief contribution, because my colleague Andrew Arbuckle is the one with the constituency interest.

I have strong feelings about this issue. I am proud of the Scottish Parliament and I am proud of most of what it has done. However, there are one or two glaring exceptions, and one of those was the Scottish Executive's decision not to adopt SNH's recommendation on the park boundary.

A key strength of the Parliament is that we engage in genuine consultation. Genuine consultation does not mean that we agree with every point made during that consultation, but it should mean that if we choose not to adopt a recommendation that has been arrived at through consultation, we must give a good reason for so doing. No relevant or persuasive argument was made for not accepting a park boundary that was arrived at after an extensive consultation that led to a hard-won consensus.

I agree with every word of John Swinney's motion and I hope that the Scottish Executive will move at the first sensible opportunity to review the boundary and to adopt the one that was extensively consulted on and that won a high degree of consensus.

17:19

Mr Mark Ruskell (Mid Scotland and Fife) (Green): I thank John Swinney for bringing this important topic of debate to the chamber and I join colleagues in thanking the Perthshire Alliance for

the Real Cairngorms, which has done an incredible job in building real cross-party consensus on the need to include highland and east Perthshire in the Cairngorms national park. The Green Party and its politicians have been proud to be part of that cross-party campaign. Robin Harper was very vocal on the issue as a Green Party MSP for Lothians in the first session of the Scottish Parliament. I have been proud to follow in his footsteps and, as a Green Party MSP for Mid Scotland and Fife, to support this campaign.

As part of its activities, the cross-party campaign undertook a Munro bash up to the top of Carn Liath to survey the nature of the land, to take a look at where the Cairngorms national park is and to think about where its boundaries could be. I was on the walk with John Swinney, Murdo Fraser, Dennis Canavan and Robin Harper. When we got to the top of Carn Liath, the mist lifted and we looked over at the Cairngorms massif. We could see how the nature of the land reveals that that area of highland Perthshire is intrinsically a part of the Cairngorms; that is obvious from the geography and the topography. That fact was recognised by the communities of highland Perthshire and by SNH, which is why they recommended that areas such as the forest of Atholl and Beinn a' Ghlo should be included in the Cairngorms national park.

As Murdo Fraser said, the economic argument is strong. The Cairngorms National Park Authority is starting to realise the importance of having highland Perthshire in the park. While reading a magazine the other day, I came across an advert for the national park that promoted various tourist opportunities, including a highland and east Perthshire walking festival. It is clear that the Cairngorms National Park Authority is aware that visitors are coming to the Cairngorms through a gateway at Blair Atholl, are residing in that area and are visiting other parts of the Cairngorms as well. Perhaps that is why Perth and Kinross Council is working to ensure that signs are erected at Blair Atholl so that it is recognised as a proper gateway to the park.

Underneath a map that describes the current boundary, the park authority's website contains a telling disclaimer:

"This map has been produced as a general guide only to the Park boundaries and its main roads, communities and features and the Cairngorms National Park Authority can accept no responsibility for errors or omissions."

It is time the Executive took some responsibility for the errors of the past and the omission of highland Perthshire from the Cairngorms national park. It is clear that the economic and physical geography dictate that the park boundary should lie in highland Perthshire and should not be dictated by Highland Council politics.

It is important that the boundary is changed soon; it should certainly be changed before the granite signs welcoming people to the park are erected in the wrong place. Ideally, the boundary should have been altered in September, before the correct change in the make-up of the park authority's board—to allow Perth and Kinross Council elected members to become members of the board—was made. The change should definitely happen before the quinquennial review.

The minister has a clear choice. If he does not instigate a boundary change before the quinquennial review, he faces the prospect of a member's bill being introduced that will seek to change the boundaries of the Cairngorms national park on the Parliament's terms rather than on those of the Executive. Such a bill would have cross-party support. The logic that the national park's boundary should lie in highland Perthshire is irrefutable. As a member of the Environment and Rural Development Committee, I welcome the prospect of that logic being tested in our committee.

The question is not whether we will get the boundary change, but when we will get it. I ask the minister to ensure that we get it before the quinquennial review.

17:23

Rob Gibson (Highlands and Islands) (SNP): I have great pleasure in supporting John Swinney's motion and congratulating him on securing the debate.

The Cairngorms National Park Authority is shaping up well. Week by week, we see it develop into the unified and thoughtful creature that was intended in the legislation that established it. Every week, I travel through upland Perthshire and find that it is excluded from the national park even though it is naturally attached to those areas that fall within the park's present boundary. I wonder what the Government has got against Atholl. I have climbed the mountains on both sides of the boundary—in my youth, I hasten to add—and thought about the human as well as the natural links that exist between those areas. I find the boundary highly illogical.

The great drove roads of the Minigaig pass, which links Strathspey and Atholl, and Glen Tilt, which links Deeside and Atholl, are naturally contiguous with the park area. Maybe we have a nomenclature problem. The park is called the Cairngorms national park, but the massif is far bigger and goes beyond the narrow area of the group of mountains around Aviemore. It is possible that that skewed Government thinking.

There are several local authorities around Loch Lomond and the Trossachs national park, but the

number of local authorities is not important. The important issue is the credibility of the national park board: it should be respected by the general public and the people who live in its area and it should achieve the purposes for which it was set up.

The natural heritage argument is clear. A new Deputy Minister for Environment and Rural Development is dealing with the issue. I hope that he will be able to justify the Government's past position. I would also like him to take us forward. Waiting for however long is left of the five years is too long. We do not need to be taking up the time of this Parliament with issues that should have been fixed a couple of years ago. I am sorry that the decision was taken just before an election but, frankly, it was a bad decision.

I hope that highland and east Perthshire can be included in the park as soon as possible, to make the Cairngorms national park a centre of excellence for national parks in Scottish terms and to show me—a sceptic about national parks—that it is possible for them to do good for our highland areas. I therefore have great pleasure in supporting John Swinney's motion.

17:27

Mr Andrew Arbuckle (Mid Scotland and Fife) (LD): The sun may be in my eyes, but it appears that it is the Executive that has been blinded on this issue. I congratulate John Swinney on securing the debate and echo his support and that of others for park authority members who have kept the campaign going.

John Swinney ably laid out the history of the creation of the national park and the lack of substance behind the exclusion of the highland Perth area. He, Murdo Fraser and others correctly highlighted the many logical reasons for inclusion—geographical, commercial and economic. He and other members also hinted at the political reasons for excluding the area. The decision to exclude the area was perverse, given the views of Scottish Natural Heritage.

My predecessor MSP left me with few instructions, but he did mention the anomalous boundaries of the Cairngorms national park. He was right. Although I am a new boy here, I have come across wide-ranging support for a change in the boundaries. I have encountered long-standing support for inclusion from across the rural political spectrum and from many rural bodies. Only the Executive seems incapable of seeing the need for change.

I have no wish to see the continual revision of legislation, but when there are wide-ranging, non-controversial, sensible reasons for change, the Executive should be big enough to accede to such

proposals. What the creator has put together, the Executive should not cast asunder.

17:29

Alex Fergusson (Galloway and Upper Nithsdale) (Con): I am in such a state at the moment that I came here tonight prepared to listen to Andrew Arbuckle's debate, which I think is scheduled for tomorrow night. However, I am delighted to be involved in this one because, as John Swinney said, I had the great privilege and honour of convening the Rural Development Committee, which considered the legislation that established Scotland's first two national parks.

It was a privilege because, during that process, the Rural Development Committee pioneered—if I may be so bold—a method of public involvement in committee meetings that has since been echoed by other committees. It gave members of the public who came to the meetings that we took out and about to all parts of Scotland a real sense of being involved and included.

Nowhere was the public keener to get involved than at a meeting in Kingussie. I will long remember it. They flocked to the meeting in droves. All had meaningful input for that committee meeting and none intimated a desire that highland Perthshire should be left outside the national park boundary.

As John Swinney said, Scottish Natural Heritage is not an organisation that does not court criticism. I, perhaps more than many other members, have found considerable cause to criticise it during this and the previous parliamentary session, but I did not do so in this case because every member of the Rural Development Committee believed that the exercise SNH had undertaken and the report and recommendations it published thereafter seemed totally logical, completely sensible and in accordance with the views of the vast majority of those who responded.

All members here have stated all the reasons why highland Perthshire should be—and I will always believe should have been—included within the national park boundary. When it became obvious that the Executive would not listen—only the Scottish Executive or, rather, the Labour part of the Scottish Executive would not listen—and would not be swayed, there were last-minute meetings between members of all parties and organisations such as SNH, Scottish Environment LINK, PARC, the National Trust for Scotland and all other serious bodies to try to get the Executive to rethink.

I was deeply disappointed to see a recent letter to Bill Wright from the minister in which he said that the park had to have a coherent identity and be of a manageable size, and that the existing

park boundary allows for better management and more efficient use of available resources. I simply cannot accept that. The only significant change is that the number of local authorities has been brought down to four from five.

Sadly, I can only agree with other members that the decision on the boundary was purely political. As John Swinney rightly said, that is no basis on which to establish a national park. As long as highland Perthshire is excluded from the national park, the park will be deeply flawed and incomplete and the Parliament will be rightly criticised for letting petty party politics get in the way of common sense and a logical conclusion.

In the letter, the minister also says that, in his view, it is too early in the life of the park authority to undertake a boundary review. I am sorry, but it is no such thing. Highland Perthshire should have been included in the first place. It would not be a review; it would be putting right an omission that was made at the start.

I am prepared to forgive the minister for everything if he will announce tonight that Scotland's third national park will be the Galloway national park. It is not likely that he will make that announcement and, on that ground, I urge him to please all Scotland by saying that highland Perthshire will, from here on, be included in the Cairngorms national park boundary.

17:34

The Deputy Minister for Environment and Rural Development (Lewis Macdonald): I begin by disappointing Alex Fergusson: his plea for Galloway is not on my agenda this evening.

I congratulate John Swinney on securing this debate on the Cairngorms national park. The boundaries of the park were approved by MSPs in December 2002 and the national park authority took on its full powers on 1 September 2003. Rightly, the Cairngorms National Park Authority has focused on getting established—from finding offices and recruiting staff to drafting its first corporate plan. It has developed an effective organisation and laid a sound foundation on which to build. It has progressed several excellent projects, one or two of which have been referred to in passing, in areas such as building partnerships with communities, sustainable tourism, biodiversity and economic development. That is what it exists to do.

Our first priority should be to support the board of the new authority in turning into reality the aspirations and objectives that the Parliament set out. That means supporting the four primary aims that are set out in the National Parks (Scotland) Act 2000, which cover areas such as natural heritage, the sustainable use of resources,

enjoyment by the public and social and economic development. It also means accepting the outcome of the debate on boundaries that we had two and a half years ago and letting the national park authority get on with its job.

Highland and east Perthshire are beautiful parts of Scotland. I have not had the pleasure of climbing Beinn a' Ghlo or Carn Liath but I have been up Glas Tulaichean and had a good look from the top of that hill at part of the area to which members have referred. I understand entirely why residents might wish to have the importance of that area recognised by inclusion in the park, which is why it is important to remind members of the full process that Ross Finnie and Allan Wilson followed to ensure that ministers got the boundary right.

Mr Swinney: Before the minister explains the full process of consultation, with which all members are painfully familiar, I ask him to clarify a point that has run through every speech that has been made in the debate: what was the basis for the inclusion of the Angus glens in the park and the exclusion of highland Perthshire? I asked his predecessor that question on numerous occasions at the Rural Development Committee and I am yet to get an answer to it.

Lewis Macdonald: John Swinney invites me to put the cart before the horse. I would rather describe the process and then describe the conclusions that it reached.

SNH produced a comprehensive report following consultation in 2001. A number of the respondents to the consultation felt that the nationally important features of the natural heritage were concentrated in the mountain core at the heart of the Cairngorms and that such a smaller and less diverse area would make for a more effective management unit. Therefore, ministers initially consulted on a park area based on the smallest of SNH's three identified options: the mountain core and the straths of central Strathspey and upper Deeside. That consultation attracted almost 500 written responses, and ministers accepted that there was a case for extending the park area to include significantly larger areas. Therefore, it was increased by more than 50 per cent to some 3,800km², which made the park easily the largest national park in Britain. The final designation order was approved by the Parliament and included significant additions in Laggan, Dalwhinnie, Glenlivet, Strathdon and the heads of the Angus glens.

I accept that parts of highland Perthshire were assessed as being of significant natural heritage quality and that one or two of the areas that were included in the park were considered not to be of the same quality, but it is important to stress the point, which was made at the time, that ministers

were looking for a coherent and workable boundary, and the boundary was defined on that basis. Ministers also took the view that to include a larger area than was included would have increased the number of interests and organisations with which the national park authority had to deal and would have increased the planning and administrative complexity of its task.

Members have talked about the number of planning authorities and suggested that there is a political explanation for ministers' view that a large number of planning authorities would increase the level of complication. There is nothing party political about that; their view simply recognises the fact that the more authorities were included in the area, the more complex the national park authority's task of conducting its work would become.

Although I hear the points that have been made, at this stage it would not be right to put at risk the progress that the authority has made. Clearly, the work that it has done on producing a national park plan over the past two years would have to be suspended, which would have an impact on the national park's credibility and raise doubts about its future direction. There would be disruption to the organisation due to a requirement to reorganise or reconstitute the board and to restructure committees and, therefore, considerable uncertainty among staff.

However, the national park authority should not ignore the broader geographical context in which it operates and I expect it to be mindful of the interests of people in the surrounding area. I urge those in highland and east Perthshire who are enthusiastic about inclusion in the national park to put aside their concerns about boundaries for now and instead to channel their efforts into supporting the park's development and helping to make it a success.

Alex Fergusson: Will the minister take an intervention?

Mr Swinney: Will the minister take an intervention?

Lewis Macdonald: Yes.

Alex Fergusson: I will let John Swinney in, as it is his debate.

Mr Swinney: I am grateful to the minister for giving way and to Mr Fergusson for letting me in.

I assure the minister that there is plenty enthusiasm in highland Perthshire for seizing the opportunities of working alongside the national park authority. Mr Fraser made a number of points about that in his speech. I am still at a loss to understand how a boundary line can be defined as harshly as it is to the east of the A93 between

Angus and Perth and Kinross, where the topography is identical left to right and right to left. The only foundation for that can be politics. The topography does not vary a whit from east to west in that area.

Lewis Macdonald: As I said, the number of local authorities that are included in the area is relevant not in a party-political sense but in relation to planning powers and the relationship between the planning processes that are carried out by local authorities—structure plans, local plans and so on—and those that are carried out by the national park authority, including the local plan for the national park area. Given that planning authorities remain development control authorities for the purposes of the National Parks (Scotland) Act 2000 in relation to the Cairngorms national park, the matter is relevant for the administrative boundaries. Given that the initial proposal was for a much tighter national park area centred around the massif, we are dealing with an extension beyond what was inherent in the Cairngorms design—namely the inclusion of the Angus glens—rather than the exclusion of an area that was initially intended to be included.

Alex Fergusson: I share the minister's enthusiasm for the work that the authority's board has done so far and the cohesion that it has brought to the process. Recently, I attended a reception that it gave and was impressed by what I saw and heard. Does the minister accept that none of the board members threw up their hands in horror at the prospect of the park being extended into highland Perthshire?

Lewis Macdonald: I acknowledge that point and I do not throw up my hands in horror any more than any of the board members do. It is not a case of saying that highland Perthshire does not in any way qualify. As I have said, highland Perthshire shares features with the areas included in the park—I have made that point and explained some of the reasons for the decisions that were made. It is important to acknowledge the critical significance for any new organisation of being able to establish itself, to settle in and to put in place structures that will last.

There is no closure on the question of the boundaries. Neither I nor my predecessors have taken the view that there is a holy grail that defines what the national park should be and that there is no question of that ever changing. We have said that the quinquennial review, which applies to all public bodies and which will take place in 2008, may consider the park boundaries. Ministers would still have to form a view on whether a change was justified at that time, but we are clear that then, with a stronger, well-established organisation, a national park plan in place and real improvements on the ground, the national park

authority would be far better placed to accommodate any proposed extension of the boundaries. That would be better than stopping in its tracks the process of establishing the authority and asking it to start again.

I come to the issue of world heritage status. Reference has been made to whether the current boundary will impact on the attainment of world heritage status for the Cairngorms. The Cairngorms are already on the United Kingdom list of potential world heritage sites, which was drawn up in 1999. The area that was nominated then centres on the Cairngorm massif—an area that is well within the current boundaries of the national park. It is certainly our view—and that of others—that the Cairngorms stand a far stronger chance of being designated a world heritage site by placing emphasis on the pre-glacial and post-glacial geological features of the massif, which are of recognised international importance. In any case, the first priority in making progress on such a designation is to get the national park established and to make it clear that there is a commitment to it. We believe that we should press on on that basis.

Until we reach the quinquennial review, I believe that we should all put argument and disagreement about the boundaries firmly behind us. Two years on, the priority must be to get the park firmly established in the interests of the areas within the park and the neighbouring areas. I urge all those who value the benefits that a national park can bring to get behind the Cairngorms National Park Authority in its efforts to secure sustainable development in the area and to make a real difference to both our national heritage and local communities.

Meeting closed at 17:45.

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