

# **MEETING OF THE PARLIAMENT**

Thursday 30 June 2005

Session 2

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## Scottish Parliament

Thursday 30 June 2005

[THE DEPUTY PRESIDING OFFICER opened the meeting at 09:15]

### Business Motion

**The Deputy Presiding Officer (Trish Godman):** Good morning. The first item of business is consideration of business motion S2M-3062, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Smoking, Health and Social Care (Scotland) Bill.

09:15

**George Lyon (Argyll and Bute) (LD):** It is my pleasure to move the motion in Margaret Curran's name.

I move,

That the Parliament agrees that, during Stage 3 of the Smoking, Health and Social Care (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 to 4 – 55 minutes

Groups 5 to 7 – 1 hour and 20 minutes

Groups 8 to 10 – 2 hours

Groups 11 to 13 – 3 hours.

**Alex Neil (Central Scotland) (SNP):** That is the best speech that George Lyon has ever made.

**The Deputy Presiding Officer:** It is the shortest speech he has ever made.

*Motion agreed to.*

## Economic Development (Cross-cutting Expenditure Review)

**The Deputy Presiding Officer (Trish Godman):** The next item of business is a debate on motion S2M-3031, in the name of Des McNulty, on behalf of the Finance Committee, on its second report of 2005, entitled "Cross-cutting Expenditure Review of Economic Development".

09:16

**Des McNulty (Clydebank and Milngavie)**

**(Lab):** I am particularly pleased to speak after George Lyon's first speech as a minister, which was the first time no one has opposed some element of what he said. However, although I am pleased to open the debate, I must note the frequency with which Finance Committee debates take place on the last morning before a parliamentary recess, whether it be the Christmas recess or summer recess. This morning's debate also takes place in the aftermath of the Scottish Parliamentary Journalists Association dinner last night, which I presume has contributed to the sparseness of people in the press gallery and to the sparseness of members in some sections of the chamber.

Nevertheless, the "Cross-cutting Expenditure Review of Economic Development" is an important report that involved a substantial amount of work, for which I thank committee members, our adviser Peter Wood, the clerks and all those who gave evidence to our inquiry. The inquiry considered how the Scottish Executive's budgetary arrangements reflect its top priority of promoting economic growth.

In our many parliamentary debates on budgetary and finance issues, there has been cross-party consensus—with the exception of one or two parties, none of whose members are present so far—among the major parties that Scotland's top priority should be economic growth. We need to work collectively to build as much consensus as possible not just among political parties but among the major players in Scotland so that we can ensure that the Scottish budget's substantial resources are used effectively to deliver economic growth, which is the basis of prosperity and of our ability to fund the public services that the people of Scotland require.

Our committee did some simple things, such as trying to work out from the budget the extent to which resources were deployed in a way that reflected the fact that economic growth is the Executive's top priority. I must report that we found some difficulty in that process, because it was difficult to see whether spending decisions were

rooted in an assessment or prioritisation process that linked them to their impact on economic development.

I do not, and would not, argue that the distribution of the Scottish Executive's whole budget should be determined on the basis of the economic development priority; other priorities need also to be taken into account. Priorities such as health and education expenditure have a dynamic of their own: they involve decisions on the help that we give to people who are ill and the resources that are required to maintain and improve our schools. Those matters would need to be addressed regardless of whether economic growth was the top priority.

However, given that the Executive has identified economic growth as its top priority, there should be some indication that spending decisions are being made with economic growth clearly in mind. We argue that that should be especially true of capital projects. We found that a number of issues that arose from our analysis of the budget suggested that, if economic growth is our top priority—I have indicated that there is broad agreement on that—we could co-ordinate our spending better and more effectively in order to deliver a greater economic impact.

In his research, Peter Wood separated expenditure that is linked to economic development into two categories: primary and support spending. He found that, since 1999, the increase in resources that are allocated to those categories has been smaller than the increase in spending in other areas, such as health and education.

We drew three possible conclusions from that finding. The first was that

“other policy objectives – e.g. improving health or social housing or raising school performance have, in fact, been higher priorities”

than economic growth. The second was that

“the Executive considers that the level of direct economic development spending which it ‘inherited’ was broadly adequate and did not need to be substantially increased”

and the third, following from that last, was that

“the Executive does not consider that increased spending on economic development activities (such as those of Scottish Enterprise)”

or Highlands and Islands Enterprise

“would necessarily be effective in promoting economic development and that this objective is better pursued in other (unspecified) ways”.

In its response to the report, the Executive does not embrace any of the three options. Perhaps they are uncomfortable options for the Executive, which raises a fundamental issue. If delivery of economic growth is the Executive's top priority, but

it is spending a smaller proportion of the overall increase in the budget on that priority than on others, an explanation is required. That explanation should focus less on volumes of spending—ultimately, the Wood research into volumes of spending is not the key finding of the report—than on prioritisation of spending, which is key. In that context, we must determine the extent to which documents such as “The Framework for Economic Development in Scotland” and “A Smart, Successful Scotland: Ambitions for the Enterprise Networks” set out a process for clearly identifying expenditure that delivers the best possible outcomes in economic growth. Choices should be made on that basis.

As all of us in politics know, there are endless worthy things on which we would like to spend our resources. An endless number of people tell us that their interests, concerns and locality are and should be priorities. At one level, it is hard to say no to people, but the reality of politics is that we have a limited budget. Regardless of Scotland's constitutional status, there will always be limitations on our budget. If we go down the road that the SNP favours, there will be even more stringent limitations on our budget than exist at present but, given that there are such limitations, we must have a mechanism that enables us to say, “We're going to do this, rather than that, and we're going to do it for these good reasons.”

The committee found that within “The Framework for Economic Development in Scotland”, there are not sufficiently clearly developed criteria that are being acted on systematically to ensure that the resources that are being invested deliver the best possible benefits. I argue that that is especially true in relation to transport decisions. We found that major transport projects are not being assessed from first principles in terms of their contribution to Executive policy or in relation to one another. In Edinburgh, there are five different major transport projects, none of which seems to relate to any of the others—they are seen as independent projects. In my view, some of those projects should have higher priority than others, because they are more important for all of Scotland. That is not to say that the other projects are irrelevant or should not be considered; it is merely to say that, given the totality of available resources, it makes absolute business and Government sense for us to make decisions on the basis that resources should be invested where the best outcomes can be delivered.

**Stewart Stevenson (Banff and Buchan) (SNP)**  
rose—

**Des McNulty:** I do not think that I have time for an intervention. I have two or three other points to

make and the Deputy Presiding Officer will be tapping on her microphone soon.

The committee agreed that it is not enough to judge individual major projects purely using criteria that are specific to the appropriate portfolio. There must be comparative assessments of schemes' benefits, of how they link to economic development priorities and how they contribute to wider growth. That is absolutely fundamental to delivering a better return for our investment.

The committee also found that there is a serious lack of co-ordination between the different agencies—the Executive, the economic development agencies, local government and other players such as Communities Scotland. The links and mutual reinforcement that those agencies could achieve by co-ordinating their spending and by planning better for delivering spending are inadequate. In that context, I welcome yesterday's planning white paper and the idea of a national planning strategy, which the committee called for.

However, looking at the disposition of local government and enterprise organisations throughout Scotland, we need to ask questions not just about efficiency—on which the Minister for Finance and Public Service Reform is focusing—but on effectiveness. The number of those organisations and the fragmentation of their boundaries and responsibilities are getting in the way of efficient co-ordination. If the burden of partnership working and co-ordination is such that it is taking longer to make decisions and to implement them for Scotland, that is a fundamental problem that needs to be considered. That is a task for this Parliament. Let us remember that devolution was superimposed on an existing system of local government and other organisations' arrangements, which have continued. Six years on from devolution, there is a case for beginning the debate about how Scotland should be better governed to deliver what we all need, which is better economic growth and the better services that are consequent on economic growth.

There have been huge increases in the budget in Scotland since 1997, but especially since 1999. I am not convinced on the basis of the work that we have done that we have picked up the opportunities as well as we should have. It has taken us time to consider at all the matters that we have looked at and to make the decisions that needed to be made.

There will be debates about mechanisms, but if we want economic development, Scotland expects its Parliament to consider carefully and in a businesslike way how that development can best be achieved. We need to take significant steps. Simply to carry on as we have done and to get into

a bidding war of promises about this project or that activity, and to spend the budget in an unco-ordinated way to deliver economic growth is not sustainable. It is time that this Parliament grew up, matured and delivered for the people of Scotland.

I move,

That the Parliament notes the recommendations contained in the Finance Committee's 2nd Report, 2005 (Session 2): *Cross-cutting Expenditure Review of Economic Development* (SP Paper 312).

09:28

**Jim Mather (Highlands and Islands) (SNP):** I take some hope from what Mr McNulty has just said that we might have yet another conversion on our hands. There is no doubt that the current economic management of Scotland is based on a flawed and failed model. As for Des McNulty trying to pitch us into a cycle of overspend—that is simply not going to happen. Other countries manage to grow and compete; they cut their cloth to optimise outcomes for their people, and would reject unanimously the deal that we have. I do not see Ireland clamouring to come back into the union and accept a Barnett formula deal.

It is therefore no surprise that the "Cross-cutting Review of Economic Development" also proved that the current economic model is flawed and has failed absolutely. Primarily, the review exposed the disconnection between the Executive's rhetoric on economic growth and the difficulty of achieving that end with our current powers.

Ministers claim successes, but yesterday evening we had a debate on Clydesdale Bank branch closures after 24 months of growth. However, growth at any level is not success. For growth to be meaningful, it must close the gap between the current performance of Scotland and the rest of the United Kingdom, and it must close the historic gap that has built up over 30-plus years. Not only is there no evidence that that is happening, but there is plenty of evidence to suggest that the current and accumulated historical gaps are widening. That is why the Scottish Executive and Scottish Enterprise advocate long-termism in a fast-moving world. We are told, "Wait, auld horse and you'll get corn," but that simply would not be tolerated elsewhere. In what is a potentially resurgent new era in Scotland, we have had four enterprise ministers and two voluntary resignations in six years. Where else would that happen on the cusp of a new beginning?

The Executive's response to the Finance Committee's report states:

"It is overly simplistic to suggest that a given percentage increase in expenditure reflects a lack of priority. It is outcomes that matter—and it is outcomes which determine expenditure needs."

What are the outcomes? Our economy has lagged behind that of the United Kingdom for 30 years. Last year, Scotland's economy grew by 1.9 per cent, while the UK's grew by 3.1 per cent. This year, the forecast is for the gap between the two to be 0.7 per cent, which is still more than the trend gap of 0.5 per cent. That is no cause for celebration; it is certainly not okay when the gap is the direct cause of low life expectancy and demographic problems in Scotland.

The Executive's response also states:

"We aim to build up economic activity throughout Scotland by promoting skills, enterprise and innovation everywhere."

We support that, but surely we should have much better mechanisms to measure progress. We need answers to the question why the Government allows those objectives to be undermined by UK policies and UK tax harmonisation. In the European context, Mr Blair and Mr Brown have said that harmonisation would stifle growth and kill jobs; that is exactly what happens here. The pensions policy will reduce the stock of affordable housing as people put residential property on to their personal pension portfolios. We lack a national spatial strategy to target and hone relocation and to rebalance the population and opportunities throughout Scotland. I look forward to the new Deputy Minister for Finance and Public Service Reform taking that on board and making a name for himself in the process.

The committee's review exposed the fact that, although the Executive is high on programmes and analysis, there is not much to show for that in outcomes. That is exactly in line with John Bradley's analysis in his Fraser of Allander institute lecture. We are awash with programmes: we have "A Smart, Successful Scotland: Ambitions for the Enterprise Networks", the efficient government plan, the infrastructure plan, a national transport strategy, "Building a Better Scotland", "The Way Forward: Framework for Economic Development in Scotland", the national planning framework and even the partnership agreement. Is there scope for consolidation? I think so. Is there scope for clarification? I certainly hope so.

The Executive response to the committee report says that

"there is a need to develop still further joint working between different parts of the public sector".

That is clutching at straws, because such work has been happening for 30 years. If it was going to work, it would be working by now. Such measures will result only in arid meetings of 20 to 25-plus people. Tom Peters, the American business consultant's clear view is that such meetings create a tendency for more and more initiatives

and are clear evidence of over-manning and lack of focus, which are what we have here.

The Executive's non-responses are coupled with some really worrying aspects. In recent months, Scottish Enterprise has suppressed two major reports because, in essence, they did not bolster the Executive's argument. "The Geography of the Scottish Knowledge Economy", a report that was produced on 17 December last year, and the "Corporate Headquarters in Scotland: Their Nature and Contribution to Scotland's Economic Development" report that was produced in April this year slipped out with no fanfare. Why have we not debated the content and implication of those reports? It is time for us to consider radical change—Mr McNulty eloquently moved towards that. We should even consider what has been done elsewhere. For example, in Kansas, the equivalent of Scottish Enterprise has been contracted out—the training and property people and consultants have been pushed out to the private sector. The organisation is now focused on managing the pot of money and on providing loans and guarantees, with the aim of making much more prolific progress.

It is time to change. The economic powers that both Liberal Democrat leadership candidates advocated are the only answer and the only means to foster growth and stop the damaging mismanagement of Scotland. The "Government Expenditure and Revenue in Scotland"—GERS—exercise now puts us down with Venezuela and Argentina in terms of national viability. We must recognise that economic growth is not possible with low productivity and a falling working-age population.

What I really want is for us to subject our economic development to scrutiny that is similar to that which is done by the Prime Minister's delivery unit. I would like ministers to step up to a wonderful little exposé by the Reverend Anthony Campolo in the States, who interviewed people aged 95 and over asked them what they would do if they had a chance to live life over again. First, they said that they would reflect more on life while they were living it. I urge the minister to consider the data and to reflect more on performance while he is living that. Secondly, they said that they would take risks and avoid letting unforeseen risks creep up on them. I urge the minister to do that—Scotland would be with him on that front. Finally, they offered Campolo the advice that they would do something that lived long after them. Only when we grasp economic powers will the minister have something that will live long after him.

09:35

**Mr Ted Brocklebank (Mid Scotland and Fife)**  
(Con): I echo Des McNulty's gratitude to the clerks



and to the various witnesses who gave evidence and helped us with the report, and I express my personal gratitude to Des for his wise counsel through sometimes difficult financial meetings. We have produced an interesting—and even perhaps dynamic—report.

Today, another 30 employees will join the growing Scottish public sector work force. Thirty does not sound a lot, but 30 were recruited yesterday and another 30 will be recruited tomorrow; indeed, in 2004 no fewer than 10,733 extra staff were recruited to join the 700,000 people who already work in Scotland's bloated public sector, in which salaries are rising by an overall £1 billion a year. Was it really only last September that Jack McConnell was telling us that bureaucracy north of the border was a drain on economic growth and that to make us more competitive the Executive would be making cuts that would go even further than those that were announced by Gordon Brown?

**Stewart Stevenson:** Will the member take a brief intervention?

**Mr Brocklebank:** I will make a few more points.

Just how much more competitive are we? Well, facts are chieftains that winna ding. Economic growth in Scotland continues to lag far behind that of England and we are way behind in entrepreneurial activity. Scottish manufacturing has been down every year since 1998, and in the latest IMD world competitiveness league, Scotland came 35<sup>th</sup> after countries such as Thailand and Estonia. Even more embarrassingly, in a survey of 10 Organisation for Economic Co-operation and Development nations with populations of less than 9 million, Scotland's economic record was the worst. The best small country in the world? Certainly not in economic terms.

As a member of the Finance Committee, I am happy to endorse phase 2 of our report on economic development, but I am less happy about the gaping hole that it blows in the Executive's enterprise strategy. The Executive claims that growing the economy is its top priority, but the Finance Committee's conclusion is that the Executive's spending does not live up to its rhetoric.

**Stewart Stevenson:** In the light of Ted Brocklebank's comments about growth in the public sector, would he care to indicate his view on what percentage of public sector employees can be described as bureaucrats?

**Mr Brocklebank:** I will not be tempted into putting any percentage on those figures, but what I will say is that when more than a third of the people who work in Scotland are being supported by the other two thirds, something is out of kilter.

Somebody has to pay the wages of the bloated public sector.

As the committee's report makes clear, the principal tool that is available to the Executive in pursuing its priority is the overall budget. Research that was undertaken by the Finance Committee concluded that just 5 per cent of the budget is spent on activities that are intended directly to promote economic development. If the top priority is worth only 5 per cent of investment, how much do lesser priorities attract?

**George Lyon (Argyll and Bute) (LD):** Will the member tell us by how much the Tories would increase that spend?

**Mr Brocklebank:** The debate is on the Finance Committee's report into economic development. It is about the Executive's record, not any potential or putative record that the Tories might have.

There is also the problem of assessing whether economic development spending is making any impact. As the committee discovered, spending decisions are not systematically assessed or prioritised on the basis of their economic development impact. There was also damning criticism of "The Framework for Economic Development" and the smart, successful Scotland initiative. According to evidence that was gathered by the committee, there was little to indicate that FEDS or SSS

"were playing a major role in shaping spending".

In other words, nobody—least of all the Executive—has the faintest idea whether the money spent is doing anything for economic development.

As Des McNulty pointed out, the committee suggested three possible explanations as to why economic spending has grown more slowly than public spending as a whole. The first is that other policy objectives have been higher priorities; in other words, the Executive has misled the public. The second is that the Executive is satisfied with the spending levels that it inherited in 1999, but that hardly sits comfortably with its subsequent claim to making the economy its top priority in 2003. The third explanation is that the Executive believes that spending areas other than economic development might better achieve its aims. If that is the case, why does not the Executive come clean and tell us?

On transport—surely one of the key areas in the promotion of economic development—the report found that

"spending growth in transport has been most strongly driven by priorities other than economic development".

From the committee's point of view, what is required is detailed economic assessment of the

highly expensive transport projects that are currently being pursued. For example, where does upgrading the M74 rank relative to the proposed Borders railway, and how should the various transport infrastructure proposals around Edinburgh be prioritised according to their likely economic development contribution?

The situation is the same in health. In evidence, Tom McCabe has claimed that spending on health has made a direct contribution to economic development, but the committee was not impressed. It noted that

“a high proportion of health spend is concentrated in the last three years of a person’s life”,

which makes it hard to argue that health spending as a whole is geared towards economic growth.

If the Executive persists in claiming that the economy is its top priority, it is vital that it provide detailed assessments and tackle barriers to growth. As a matter of urgency, the Executive should at least cut non-domestic rates to the level at which they are in England. I look forward to an early announcement from the new Minister for Enterprise and Lifelong Learning that he will be as good as his word and—as he promised in his leadership campaign—that he will slash business rates. I am sure that he will have the full support of Allan Wilson in that.

We have consistently voiced our concerns about the size of the public sector in Scotland, which now accounts for as much as 54 per cent of gross domestic product. As Professor David Bell told the committee:

“the public sector is gradually taking over a larger and larger share of economic activity in Scotland”—[*Official Report, Finance Committee*, 2 November 2004; c 1810.],

and private sector activity is being crowded out. The message could not be clearer. Scots are among the most ingenious and entrepreneurial people in the world—they have proved that over many years at home and abroad. However, these days, Scots are voting with their feet. The economic climate simply does not exist in Scotland to encourage our go-getting businessmen and women, so they are moving to places where their entrepreneurial skills are better appreciated and rewarded. No initiatives to attract fresh talent can succeed if the talent recognises that the playing field is uneven. What we need from the Executive is less rhetoric and political dogma and far more encouragement for those who have to pick up the wage bill for Scotland’s ever-growing, yet ominously creaking, public sector.

09:42

**Mr Andrew Arbuckle (Mid Scotland and Fife) (LD):** I landed in the Finance Committee in the

middle of its review, but I enjoyed the part that I played in the committee’s work. Just as every business must constantly assess the efficiency of its expenditure, so must the public sector. That is certainly the case in a country in which more than half of the spending power now lies with the Government. As Des McNulty remarked, there has been a large increase in the Scottish Executive’s spending, which has given an added edge to the debate.

Earlier this week, Ted Brocklebank described Scotland as a socialist country—he often chooses approximations rather than actualities in order to get a reaction. I would not demur if he called Scotland a country that still has a social conscience and is prepared to pay for it, but he might reflect on the fact that the more that he despises that position, the fewer votes the Conservative party will get. I refer Ted Brocklebank to the comments of Donald MacRae—a financial guru for Lloyds TSB Scotland—on public sector spending. Admittedly, he was speaking at quarter to 7 on Tuesday morning, but he said that the issue was not critical when Scotland was in a period of investment in infrastructure.

The whole thrust of the cross-cutting review into the economic development of Scotland has been to ensure that Government support has ended up in the sectors where the maximum benefit to the country can be achieved. There is a danger, as we have witnessed, that Opposition members will concentrate on the minutiae and fail to see the long-term picture and where the Scottish Executive aims to grow the economy efficiently.

**Stewart Stevenson:** Will the member take an intervention?

**Mr Arbuckle:** I will, provided that Stewart Stevenson does not take us down some intellectual cul-de-sac.

**Stewart Stevenson:** Cul-de-sacs are fascinating. The member talked about the long term. What does he think our long-term growth should be and what target would he set?

**Mr Arbuckle:** I do not know how many minutes or hours you are going to give me, Presiding Officer, but unless you are going to extend my time dramatically, I will not be able to expand fully on long-term objectives. Basically, our objective is to grow the Scottish economy and to improve the education, hospitals and roads infrastructure.

I did not find the arbitrary split between primary and supportive expenditure helpful to the Finance Committee in coming to our conclusions, but no one was able to put forward more effective criteria. However, I was pleased with the number of committee recommendations that have been taken up, including the one announced yesterday for a

national planning framework to help to co-ordinate and prioritise project growth and programme spend. The framework will link expenditure to areas, whether geographical or social, where strategies are being implemented. That single, simple move should help to address the major area of concern that Des McNulty highlighted about breaking down the barriers between departments and public sector agencies where some goals could be achieved in common rather than through individual, stand-alone projects.

Another of the committee's concerns was that there is often a lack of an explicit rationale for projects that receive major spending. That situation was not created overnight in 1999 when the Scottish Parliament was born; it was inherited as part of the old Scottish Office management system. The situation is particularly prevalent in major transportation schemes, for which, in future, the economic case should be based on the wider ripples of benefit, rather than on an apparently straightforward solution to a transport problem.

When the Parliament was set up, there was concern that it would operate on a central-belt axis, yet the committee found that expenditure has increased in rural areas of Scotland. Having a country background, I am bound to say that that is a healthy position and that I fully support it, but, again, the committee was unable to winkle out any explanations for that expenditure.

There has been gradual enlightenment in the Finance Committee's work in this area, which has shown that the Scottish Executive is keen to ensure that public spending is effective. However, I am sure that colleagues on the committee would agree that there is more to be done if Scotland is to have a totally targeted expenditure programme.

I believe that our investigations were hampered by the fact that differing financial systems operate in the various public agencies, so that data from one body are not immediately or easily comparable with data from another body. There is still a reluctance to provide financial information that would open up the entrails of some of the public bodies. Although there might be more transparency than there used to be, there still appears to be a view that the less politicians know about budgets and forward financial plans, the better.

We are helped by our budget adviser on the Finance Committee, but his solitary resources against the might of the civil service finance divisions do not allow for the scrutiny that we should be carrying out. The biggest financial nut that we in Scotland have to crack is the one generated by traditional civil service thoughts such as, "If we have it in our budget, we must spend it," "If we do not spend it, we will lose it," and, "Whatever we do, we must make sure that any

project is as risk averse as possible." Politicians have a responsibility in the last case in particular, as we actively encourage bomb-proof policies and blame our civil servants when they occasionally go wrong. The review by the Finance Committee has put Government on the right track in achieving better targeting, but there is a great deal still to do.

09:49

**Ms Wendy Alexander (Paisley North) (Lab):**

Today is the last day of term. Decades on, most of us remember the last day of the school term, which had about it a certain predictability: we could turn up in our own clothes; we could bring a game; if there were any speeches, they were about what we were doing during the holidays; and we got away at lunch time. As members who are concentrating will know, our strike rate is one out of four—we are allowed to turn up in our own clothes.

There was, of course, another given about the last day of term: even if one had the most Calvinistic heidie in Scotland, one would not be expected to do any mental arithmetic. However, today's debate is really about a clever piece of mental arithmetic concerning whether we are putting our money where our mouth is.

It will relieve the front-bench team to learn that, with a mere 180 seconds left to me this morning, I will focus on just one statistic from the report. One in three Scots now lives in rural Scotland—although I suspect that, the day after tomorrow, that number will be a little higher. However, that part of Scotland benefits from two thirds of the total economic development spend.

That is an interesting statistic. I am not arguing that rural Scotland does not deserve two thirds of the spending. Indeed, the recent performance of rural Scotland, particularly the Highlands and Islands, rather makes the case for high spending and I commend that example to the Conservatives—there is little evidence that high spending has held back the Highlands, which has growing numbers of migrants, strong growth, good entrepreneurial instincts and a host of other good things.

I ask us to do two things over the holidays. We should consider how different rural Scotland is today for children leaving school from the rural Scotland that we knew. Rural unemployment has been all but eliminated. Previously exploited workers in the tourism industry now have a minimum wage and holiday rights. Ferries that were falling to bits in our day have been replaced by a smart new fleet.

**Jim Mather:** Will the member give way?

**Ms Alexander:** No, I want to pursue this point.

Families used to be isolated and rural schools were falling to bits, but all that is changing. Furthermore, the idealistic land reform pipe dreams of the Brian Wilsons—and, indeed, the Rob Gibsons—are now a reality. That tells us that cleverly spent money matters. It can pump prime and not simply crowd out.

Of course, this would not be a proper debate if we did not pose a challenge. This summer, as we look around rural Scotland, we need to ask ourselves how we can serve tomorrow's generation. Of every 100 children who leave Scottish schools tomorrow, only two will ultimately make their living in farming the land or fishing the sea. Together, those two young Scots out of every 100 will get £400 million from the common agricultural policy and another £400 million from the Scottish Parliament. They will get more than the total budget of Highlands and Islands Enterprise, which supports all other industries, more than double the environmental protection budget for the whole of Scotland, four times what we spend on ferries and air services and 10 times what we spend on the Scottish tourism industry.

Scottish teachers made us do mental arithmetic because numbers tell a story. The story that we need to deal with next term concerns the question whether, despite the successes of recent years, we are spending too much supporting the rural Scotland that our grandfathers knew and not enough on the rural Scotland that our children who will leave school tomorrow deserve to know.

09:54

**Stewart Stevenson (Banff and Buchan) (SNP):** I feel that we are beginning to get into quite an interesting debate, in which we should have the liberty to put forward some new ideas rather than unduly pursuing partisan positions—so I will not, although my colleagues will.

The word “growth” has come up one or two times during the debate. According to my count—which the *Official Report* will confirm tomorrow—Des McNulty used it 15 times. It occurs 22 times in the report, which means that, in percentage terms, Des McNulty used it three or four times as much as the report did. The report uses other interesting words. The word “expenditure” occurs 61 times, but the word “benefit” is used only 11 times and the word “return” only twice. The phrase “rate of return on investment” does not occur at all and neither does the word “competition” or its derivatives such as “competitive”. The word “asset” does not appear, but “infrastructure” occurs nine times and “comparative” or “compare” four times. “Succeed” and “fail” do not appear at all.

What does that tell us? It tells us something about the emphasis of the report and about the

real difficulty that the committee had in engaging with the issue. We do not know how we are doing or what bangs we are getting for our bucks, so inevitably the committee focused on the bucks. I do not unduly criticise the committee for doing that, but that approach limits the effectiveness of the analysis in the report and tells us something about the challenges that will face the committee—and all of us, as parliamentarians—in the future.

We have already heard some spurious comparisons between the public and private sectors. I say that they are spurious because, of course, the public sector is a major contributor to economic activity and is not simply a drain on the public purse. The public sector is capable of delivering services more cost effectively than the private sector and in many instances it does so. I ask members to consider the cost of health care as a share of GDP in the United States and in this country. The cost in the US is twice the cost here. Not only that, but child mortality is higher in the US and its figures on many other health measures are also worse than those for the UK. The comparison between the public and private sectors is spurious. It is not the case that one is good and one is bad. We must look at things analytically.

The problem is largely down to us. The public sector has a major millstone around its neck. We expect the public sector to be more risk averse than the private sector. When we have a risk-averse sector trying to encourage a risk-taking sector, however, there is a mismatch in expectation. The report does not entirely develop that point. I meet small businessmen—after all, almost all our entrepreneurs are in small businesses—whose major problem in growing their businesses is access to risk capital. That is undoubtedly a subject to which we should return.

One of the difficulties with the statement that the rural third gets two thirds of the economic support is that a lot of that support is not economic support. There is a miscategorisation. In many cases, it is social support and I defend it on that basis. We must be careful—fishing and farming account for 2 per cent of economic activity, but they create the environment within which large amounts of manufacturing can take place. The interactions between different parts of our economy—public and private—are much more subtle than this debate allows us to recognise.

Perhaps we are in a cul-de-sac, but perhaps we are in a laager of our own making. We are boxing ourselves in. We must not artificially pose social responsibilities against economic ones. The reality is that we need economic development so that we can pay for our social objectives.

09:58

**Christine May (Central Fife) (Lab):** Following on from the bean counting of my colleague Stewart Stevenson, I want to talk—initially, anyway—about process. My colleague Susan Deacon frequently castigates us for being obsessed with process at the expense of outcome, but this debate is about the process that is used to analyse, to examine, to judge and to balance. The Finance Committee's report urges the Executive to sharpen up that process and I support the committee's position on that.

The community planning principles that were announced some years ago were embraced—certainly by me, in my previous life—with great enthusiasm. They urged public bodies locally to engage in that analysis, examination and prioritisation and then to allocate their combined budget resources effectively and in pursuit of those priorities. I note that the report commends Highlands and Islands Enterprise and the Highland region for doing that. Yesterday's announcement of the planning white paper and the national planning framework gave some support to the Executive's wish to travel in that direction. The inclusion of spatial issues first in national and then in local considerations will certainly help to improve our planning process.

We need clear Government priorities. Localities and communities need to know what the most important element is. For me, economic growth is the most important element, but it must drive towards certain ends.

The Executive has done much. Last week, I spoke about how well the infrastructure investment plan has been done and about the sharpening up of planning. The committee's report urges an even better focus, sharper analysis and real justifications for spending decisions. The committee says in paragraph 15:

"This lack of analysis by the Executive makes it extremely difficult to judge whether particular allocations at project, programme or departmental level are delivering the best return in terms of the promotion of economic growth."

If we target better, we will know better why and how to plan schools, transport and leisure facilities.

We need a sense of what we want to achieve when we embark on, for example, nursery provision or the M74, which was referred to. How many extra people will be better qualified and to what level? What will that mean for our universities? In road and rail investment, how much time will be saved and how many more goods will be taken to market more quickly, with a result for the economy? On the urban-versus-rural question, my colleague Wendy Alexander gave the best argument yet for further reform of the CAP and all European spending.

Why do we spend and what will we get out of it? The perception is that the Government's focus is not yet sharp enough in Scotland. If we have additional spending on services, we need to know to what extent economic growth will be supported.

In the chamber last week, I called for ministerial responsibility for such a focus across the whole budget. For a start, I would like to hear the Deputy Minister for Enterprise and Lifelong Learning talking about how he will sharpen the focus for the Enterprise, Transport and Lifelong Learning Department by pulling together at least twice a year all the agencies that are collectively responsible for enterprise and calling them to account for how they deliver on our key priorities. I support the motion and the report and I look forward to hearing the minister's response to my suggestions in due course.

**The Deputy Presiding Officer (Murray Tosh):** I call Derek Brownlee.

10:03

**Derek Brownlee (South of Scotland) (Con):** Thank you. [*Applause.*] That should surely come at the end.

I recognise that time is tight but, before I address the matter in hand, I will say a few words about my predecessor, David Mundell. He was well known in the Parliament for the workload that he maintained, for his involvement in many local issues throughout his area and for working across party lines whenever possible. In my time in the Parliament, whether it be two years or—voters permitting—rather longer, I hope that I can build a similar reputation.

I thank members and parliamentary staff for the courtesy and helpfulness that have been extended to me in the past week.

The Finance Committee is well known—at least in the Parliament—for the volume of work that it covers and it is blessed with having to deal with a subject that can be rather dry. I was interested to read the committee's report. I will not pretend that I read it back in March, because the aforementioned Mr Mundell was keeping me rather busy at that time and there is a limit to the amount of excitement that an accountant can take in any given week. However, I have now had the opportunity to read the report in detail and I know that it contains much common sense.

The Executive's response to the report was interesting. In it, the former Deputy First Minister said:

"Growing the economy is our top priority. A successful economy is key to future prosperity and a pre-requisite for building first class public services and social justice."

I am sure that most, if not all, of us agree with those sentiments.

However, it gets better. The former Deputy First Minister continued:

"The Executive's role is to create the right environment for business to flourish and to facilitate economic growth."

For the first time in this chamber—and we will see whether it will be the last—I will say that the Executive is absolutely right. Whether the undoubted good intentions have been matched by good deeds is another matter—the report makes a number of valid observations in that respect.

The poorest people in society have the most to gain from economic growth and, as members are aware, many communities throughout the South of Scotland suffer from low wages, scarce employment opportunities and depopulation. We have to encourage economic growth in those communities; after all, it is all too easy for commentators and even parliamentarians to fixate on the more visible pockets of deprivation in the larger cities.

As the South of Scotland faces particular geographical issues that inhibit economic growth, investment in transport and communication networks is particularly important. The Executive no doubt believes that it is tackling such matters, but the committee's report has posed some valid questions. Is the Executive tackling those matters in the most effective manner? Is it getting value for money? Is it maximising potential for economic growth from its spend? The impression from the committee's report is that the Executive would be hard pressed to produce evidence to show that its approach is the most effective.

I know that the report focuses on the impact of the Executive's spending decisions but, if economic growth is to be the top priority, we also need a strong focus on the burden of taxation. Members might have seen a report by a former colleague of mine, Graeme Leach, on the impact of taxation on economic growth. Based on eight international studies, his report concluded that, as levels of taxation rise, economic growth slows. As Des McNulty said, it is always possible to highlight the benefits of a particular programme of public spending. However, when we assess the impact of that spending, we must not be blind to the impact of the burden of taxation that is necessary to fund it.

I know that my colleague Ted Brocklebank has touched on the issue of business rates. Perhaps it is naivety on my part, but I think that a consensus is emerging on the matter. If the Executive's priority really is economic growth, we will not have to wait long for a cut in business rates.

10:07

**Dr Elaine Murray (Dumfries) (Lab):** I congratulate Mr Brownlee on making his maiden

speech. However, I will resist the impulse to make any remarks about his predecessor.

The Finance Committee's report says:

"This has been a complex review and has shown that there are no easy answers to the question of how resources can best be allocated to promote economic development."

For that reason, the inquiry was rather frustrating. Although everyone felt that economic growth was a good idea, there was no real consensus about the best way of investing money in order to promote it.

As Andrew Arbuckle has pointed out, it was difficult to identify the relative importance of what Peter Wood described as "primary spend" and "support spend" on economic development. For example, does the £418 million that Scottish Enterprise received and the £75 million that HIE received last year contribute more to the economy than the £242 million that was put into the roads budget or the £1.724 billion that was invested in higher and further education? Just because such investment is classed as primary spend, it does not mean that it is any more effective.

The Executive also argued—with some justification—that other parts of the budget contribute substantially to its top priority. Ted Brocklebank pointed out that the majority of health spend might be aimed at our retirement years. However, later today, we will discuss the prevention of smoking. Health improvement spend can contribute significantly to economic growth by prolonging people's working life and enabling them to work more productively. The committee found that there was no subsystem—systematic—*[Interruption.]* Sorry. It is the day after the Scottish Parliamentary Journalists Association dinner.

The committee found that there was no systematic analysis of how spending is prioritised. Des McNulty made some important remarks about transport in that respect. As evidence from across the UK shows, investing in the transport infrastructure makes areas more economically successful.

In my remaining two minutes, I will comment on two rather parochial issues. We did not touch in great depth on the concept of city regions, but I know that the Executive believes that they are important drivers of economic growth. I do not doubt that that is true in much of Scotland, but it is not applicable to Dumfries and Galloway, so my plea is that we should not go too far down that route. If Dumfries and Galloway looks towards any city at all, it is Carlisle, which is not in Scotland. We need to think about town regions. Eventually, Dumfries may become a city and at that point we can have a city region; at the moment, however, that analysis is not particularly helpful for us.

My second point concerns the idea of rural and urban spend. I was rather less persuaded by some of the arguments that were presented to us than some of my colleagues were, because I felt that the information was based on a rather crude categorisation of whole local authority areas. For example, the 34,000 people who, like me, live in the town of Dumfries are all classified as rural, whereas the farmers and fishermen of North East Fife are all classified as urban. I did not find that analysis terribly helpful, although some of what Wendy Alexander said bears further examination.

I noticed that, even in some of what was identified as rural primary spend, £128 million was spent on research. Most of the Scottish agricultural and biological research institutes are based in or near towns, so the research workers live in the towns and the expenditure on their salaries benefits the local economies of those towns. Although the research may be of an agricultural nature, its consequences do not necessarily contribute solely to the rural economy. Indeed, the not insignificant expenditure on scientific equipment probably does not benefit Scotland at all, because much of it is manufactured elsewhere.

I do not think that we should overinterpret Peter Wood's finding that, for example, 47 per cent of the primary spend, excluding the CAP moneys, is being spent on 27 per cent of the Scottish population. However, there must be a much deeper analysis and a better understanding, for both urban and rural areas of Scotland, of what actually makes the difference. That applies both to the inquiry into economic development and to our next inquiry, which is on deprivation, where we may find that a similar set of equations needs to be made.

**The Deputy Presiding Officer:** We come now to the closing speeches. I call Andrew Arbuckle to close for the Liberal Democrats.

10:12

**Mr Arbuckle:** We have had a good and worthwhile debate on how the Scottish Executive will look at its future expenditure plans. I am sorry that some Opposition members have concentrated so much on the present position and not on the Finance Committee's review, which, as I said in my earlier speech, exemplified the roads that we must follow and the measures that we must take to break down the barriers between departments and to provide a rationale for the Executive's major expenditure plans.

During the debate, the situation was excellently set out by the convener of the Finance Committee, who explained the reasons behind the review and the fact that the Executive is now spending more

on the country's infrastructure than has ever been spent before. That was backed up by good contributions from Christine May and Elaine Murray. I worried a little bit about Wendy Alexander's contribution on the country-versus-urban issue.

**Ms Alexander:** The critical point that I made was not that we should dispute the total spend in rural Scotland, but that we should simply ask whether two out of every 100 people in rural areas of Scotland should benefit from sums that are 10 times what we spend on the tourism industry, which supports 10 or 20 times as many people in those communities. I am more than happy to have the debate, but I urge Mr Arbuckle not to characterise it as an urban-versus-rural issue. It is a rural-past-versus-rural-tomorrow issue.

**Mr Arbuckle:** I thank Wendy Alexander for that intervention. As someone who has been involved in the rural past—and hopes to be involved in the country in the future—I would be pleased to continue the debate with her. Elaine Murray said that we have to look further into the figures, because things are not always as they appear on the surface. I am happy to have further discussions on that point.

I do not have much more to say other than to welcome the Finance Committee's initiative in stimulating the debate through its review. There is a lot more to do. The committee should consider undertaking a further phase of the review as soon as possible to ensure that we know whether we are getting efficient Government expenditure and that the money is being spent where it needs to be spent in order to achieve economic development.

10:15

**Murdo Fraser (Mid Scotland and Fife) (Con):** I congratulate my colleague Derek Brownlee on his excellent and thoughtful maiden speech. On the evidence of today's speech, I am sure that he will be a valuable addition both to the Conservative benches and to the chamber as a whole. However, I welcome him with some mixed feelings because, with his arrival, I lose my mantle of being the youngest member of the Conservative group. Derek is considerably younger than I am—in fact, he is the youngest member of the Parliament. I wish him a long career at Holyrood, if he does not emulate his illustrious predecessor and seek a transfer to another place.

The debate started off as the usual groundhog-day debate on the economy and finance, with members on the Executive benches saying that everything is wonderful, Opposition members saying that everything is terrible and Mr Mather making his usual plea for independence/fiscal autonomy, depending on which side of the bed he

got out of in the morning. However, as the debate went on, it became a bit more interesting. We have heard some new ideas and thoughtful speeches from members on different sides of the chamber. I join other members in commending the Finance Committee on its report, which has highlighted some important points.

We all agree that growing the economy should be the top priority; that is the Executive's stated aim. The report makes it clear that the Executive's current budget does not support that aim:

"research undertaken for the committee concluded that just 5% of that budget is spent on activities which are intended to directly promote economic development and, moreover, that the share of this item in the Scottish budget has been falling since 1999."

Serious questions need to be put to the Executive on the issues.

As Ted Brocklebank said, there is a lack of proper assessment of some of the spending. For example, if we look at spending on transport, we begin to question the relevant importance to the Executive of projects such as the M74 and the Borders rail link, both of which the Conservatives support. Which of those projects will deliver higher economic growth? It is clear that more work needs to be done.

The really important question is the one that Des McNulty highlighted in referring to the report. The committee offered three possible explanations for why expenditure on economic development has grown more slowly than expenditure on public sector spending as a whole. The first explanation is that the Executive may be misleading us that economic development is its top priority, when other priorities are more important. The second explanation is that, because it has not increased them, the Executive is satisfied with the spending levels that it inherited in 1999. The third explanation is that the Executive believes that spending on areas other than economic development may better achieve its aims. It will be interesting to hear the minister's response. Which of those three explanations does the Executive agree with? That is the crucial question on which the committee is looking for an answer.

My colleague Ted Brocklebank livened up the debate somewhat by referring to the size of the public sector. As he said, 10,733 extra staff were recruited to the public sector in 2004. None of us would dispute the recruitment of additional doctors, nurses, teachers or policemen, but we know that many of the extra staff are not in front-line services but in backroom operations and, sadly, that they do not deliver the contribution towards economic growth that we want.

Professor David Bell said in evidence to the committee last year:

"We are moving to a situation in which the public sector is gradually taking over a larger and larger share of economic activity in Scotland."

He also said:

"If economic growth is the Scottish Executive's key objective, some attention must be paid to the possibility that private sector activity is being crowded out."—[*Official Report, Finance Committee*, 2 November 2004; c 1805-1810.]

My questions might be uncomfortable for some of those members on the Labour benches who have no experience of the private sector and think that it is simply a cash cow to fund the public sector. The issue is important: those of us who live in the real world know that a strong private sector is vital.

In response to Stewart Stevenson's comments about the difference between the public and private sectors, I say that the private sector creates the wealth that means that we can raise the tax revenue to fund public sector activity. That is why we need a strong, growing private sector. If it is the case that the larger the public sector, the more that private sector activity is crowded out, as Professor Bell said, we must be careful about the continuing expansion of the public sector in relation to gross domestic product and the payroll.

There are simple, but important lessons for the Executive. It must start to cut back on excessive costs and regulation. It must cut business rates and consider a new model of economic development. As Jim Mather said, we do not have to follow rigorously a model of enterprise that is not delivering the economic success that we need. The Executive must also consider examples from elsewhere in the world.

I am sorry that the new Minister for Enterprise and Lifelong Learning is not in the chamber, because I am sure that he would have learned much from the debate. I hope that he makes a new resolution to take action and make the changes that are needed if the economy is to be driven forward. If he does so, he will have our full support.

10:21

**Alex Neil (Central Scotland) (SNP):** I, too, congratulate Derek Brownlee on his maiden speech. Given the quality of his speech, he, too, must be in the running to succeed as leader of the Tories in Scotland. I pay tribute to Derek Brownlee's predecessor, David Mundell, who was a member of the Enterprise and Lifelong Learning Committee during my tenure as convener. He made an exceptional contribution to the committee's work, despite his Tory philosophy, and I am sure that he will do extremely well at Westminster.



I must be honest and say that the Finance Committee asked the wrong question in its report. The percentage of total expenditure that is spent on economic development does not matter a great deal; what matters is that the right level of money is spent on economic development and that the money is spent effectively and in the right areas. The percentage of total spend is almost incidental if we are doing what is necessary.

The first thing that we must do is to decide what we are trying to achieve. The Enterprise and Culture Committee is grappling with the issue in its inquiry into business growth. Are we trying to close the gap between the Scottish and United Kingdom average growth rates? That would certainly be an achievement, as the gap has been closed in only two years during the past 30 years. Alternatively, are we looking further afield to our international competitors? The economies of countries that are at the same stage of development and are roughly the same size as Scotland are growing at a rate that is twice the long-term growth rate of the Scottish economy. That is the ambition that we should set ourselves. If we compare the UK average during the past 30 years with that of the Organisation for Economic Co-operation and Development countries, it is clear that the UK economy has not been particularly fast growing. Therefore, it would be entirely wrong to benchmark our ambitions against an economy that is not doing particularly well. We should be aiming to double the long-term growth rate of the Scottish economy.

I am a nationalist, so members will expect me to say that we cannot achieve that ambition if we manage only the microtools and do not have control over the macrotools, in particular interest rates. If members compare the real level of interest rates—

**Ms Alexander:** Will the member give way?

**Alex Neil:** Not at the moment, but I will give way to Wendy Alexander later.

Interest rates in the UK are set by the Bank of England to meet the needs of England—indeed, the small part of England that is the City of London—and are not matched to the needs of the Scottish economy. As *The Scotsman's* own shadow monetary policy committee—which includes Donald MacRae—said, if we were setting interest rates on the basis of the needs of the Scottish economy, they would be about half the rate of those that are set by the Bank of England.

**Ms Alexander:** Will the member give way?

**Alex Neil:** I know what the member is dying to ask me: am I talking about being inside or outside the euro? It does not matter. Countries that are inside the euro have had an interest rate that is half that of the Bank of England, despite their low

economic growth, and those that are outside the euro have had much lower interest rates as well. When it comes to being in or out of the euro, the position is neutral; either way, our interest rates in real terms have been far too high.

**Ms Alexander:** Will the member give way?

**Alex Neil:** I will do something that Wendy Alexander would not do and take an intervention.

**Ms Alexander:** Alex Neil said that it is critical to set interest rates. Do we take it that he will set the interest rates for Scotland? It is a deeply dishonest pretence to suggest that he will have the power to set interest rates if he believes either in a European Central Bank—which goes with being part of the euro—or in staying in the UK and having interest rates set independently. As a politician he may think that he can make a better choice than any independent mechanism, but I would be grateful for Scotland's sake if he were to clarify who would make what he regards as the most important decision.

**The Deputy Presiding Officer:** I will give you one further minute, Mr Neil.

**Alex Neil:** Thank you, Presiding Officer.

There is absolutely no question. If Wendy Alexander reads our party policy, she will see that we would have an independent central bank in Scotland, which would be given ground rules in the same way that the Bank of England gets its framework from Gordon Brown, a Scottish Chancellor of the Exchequer. Mr Mather or Mr Morgan, whoever gets the job—

**Stewart Stevenson:** It might be Alex Neil.

**Alex Neil:** It might be me, but I do not think so.

Whoever gets the job would set the ground rules for an independent central bank in Scotland. There is nothing wrong with that, because they would take their decisions based on the needs of the Scottish economy, not on the needs of the south-east of England.

Since we are on the subject, and we are talking about money that is devoted to economic development, I remind Ms Alexander of the point that she made a year ago about the volatility of the oil price. It so happens that on Friday night I was sitting next to Lord Oxburgh, who is the chairman of Shell. I asked him, "Is Wendy right about the oil price?" He said, "No, she's completely wrong. The oil price will be \$40 to \$60 a barrel for 20 years." It is high time that we got our share of that money to spend on economic development and growth in Scotland.

10:28

**The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson):** Perhaps we should return to reality, although I was interested

that Jim Mather—whose speech was slightly more on this planet than Alex Neil's—counselled us to look to Kansas, which he said was the best example of how to proceed. That was a welcome departure from the cherry picking of small European nations that usually goes on, and the cherry picking within small European nations of those parts of their fiscal, economic and monetary policies that SNP members like as opposed to those parts that they do not like.

It is welcome that the nationalist policy on growing the economy has matured from the famous sprinkling of fiscal fairy dust, which was the last solution, to following Dorothy down the yellow brick road, where presumably we will all meet up with our own wizard of Oz. I seem to recall—I could be wrong—that the moral of that story was that there was no wizard of Oz. No single supreme being existed who could wave a magic wand and make it all right. The answer actually lay within. In Scotland and the UK, dare I say it, we have to look to ourselves for the solution.

**Stewart Stevenson:** The minister is getting there.

**Allan Wilson:** I will add a couple of statistics, which I think suggest that we are indeed “getting there”. The number of unemployed people is an important marker of the strength of the economy. I recall the days when millions were unemployed in this nation. The claimant count for unemployment in Scotland has gone down 45 per cent since May 1997, which means that 45 per cent more of our fellow citizens have not been consigned to the dole queue since Labour came into Government. That number is down 35 per cent since May 1999, when the present Scottish Executive came into power.

The number of people in employment, which is also an important indicator of economic success, is currently 2,441,000. That seasonally adjusted figure is up 8 per cent since spring 1997, when the Labour Government came to power, and it is up 7 per cent since spring 1999, when the Scottish Executive assumed responsibility for some of the supply side measures that we have been discussing.

**Alex Neil:** Has the minister read the report from the University of Glasgow that points out that the real level of economic inactivity and unemployment in Glasgow is 28 per cent? After eight years of Labour Government, that figure is seven times the claimant count.

**Allan Wilson:** Alex Neil and I have had a number of exchanges on this subject. I have no doubt that one of the greatest tasks facing us in the delivery of the economic growth that we all seek lies in giving those people who are

economically inactive the opportunity to make a contribution. Glasgow is a classic case in point. We know that at least half of those who are economically inactive would welcome the opportunity to get back into employment and to make a contribution. Were we able to achieve even a proportion of the growth that would come from getting those people back into the labour market, growth rates would undergo a very welcome increase.

Population forms part of the same equation. Indeed, Jim Mather counselled me in his speech to do something about it. Having a broader pool of labour upon which to draw is an important feature of economic growth. In the context of this debate, it is worth referring to the report from the Ernst & Young Scottish independent treasury economic model club—the Scottish ITEM club report—which came out just this week. The club's summer update predicts:

“Scottish growth will hold up better over the course of 2005 than that in the UK as a whole”.

The Scottish economy is expected to close the growth gap with the UK as a whole from 1.2 per cent, as it was last year, to 0.7 per cent in 2005. The Scottish ITEM club views the news of renewed migration as evidence that Scotland's prospects are

“not as gloomy as some commentators would like to portray.”

I wonder who the report's authors could have been talking about. The report says that Scotland enjoyed a net gain of

“26,000 migrants in 2004 ... an unprecedented gain, with both domestic and international migration contributing to the upturn.”

**Jim Mather:** I hear exactly what the minister is saying, but I invite him to consider, compare and contrast the performance of Norway, where the population has grown from 2.2 million to 4.6 million over 100 years; that of Scotland, whose population has been oscillating around 5 million over the same 100 years; and that of Ireland, which is poised to double its population in 50 years. Is the Executive's performance on population growth adequate in that context?

**Allan Wilson:** Kansas did not last very long, it has to be said. All of a sudden, it is Ireland and Norway. To help illustrate the point, I continue to quote from Dougie Adams, the economic adviser to the Scottish ITEM club. He says:

“The idea of an irreversible decline in the Scottish population needs to be revised.”

That is good counsel for the nationalists. Dougie Adams continues:

“Nearly 100,000 people arrived to stay in Scotland between the middle of 2003 and mid 2004, offset by just

over 70,000 who left, 26,000 of whom went abroad. In the past, periods of gain from migration have tended to coincide with recession in the greater south, but this latest experience looks different."

Therefore, the recent population increase is not a freakish one-off but represents a success for our strategy of growing the economy and making Scotland a place to which people want to come so that they can stay and work here.

Murdo Fraser made some interesting points about current levels of public spending on economic development. There is no universally accepted definition of what constitutes expenditure on economic development, but it is arguable that all public spending has some impact on the economy. Some spending, such as our funding of Scottish Enterprise, is directed immediately at promoting entrepreneurialism, dynamism, business growth and skills development. However, although expenditure on things such as health is not directed primarily at promoting economic development, such spending has an important role to play in supporting such development because it helps to maintain a healthy and productive workforce, which is a fairly elementary prerequisite of economic activity.

The assumption that all public sector spending stifles private sector growth is simply untrue. According to the OECD, many of the fastest-growing European economies have public sectors that are of a similar size to, or larger than, that of Scotland. For example, over the past decade, levels of economic growth in Denmark and Sweden, which are the OECD countries with the largest public sectors, have exceeded both the European Union and euro-zone averages.

Who could credibly claim that increased investment in basic education and skills and more resources for research and development, innovation, investment in the electronic and physical infrastructure and for the promotion of investment opportunities in Scotland is holding back growth? It is not true. What stifles growth, in both the public and private sectors, is waste and inefficiency. For our part, we are committed to do all that we can, through the efficient government initiative, to secure better efficiency, effectiveness and productivity for every pound of public money that is spent in Scotland.

**Murdo Fraser:** Although the minister is right to point out that there are exceptions to the general rule, in that countries such as Norway have shown high levels of economic growth, does he accept that countries that have lower levels of taxation and state intervention generally deliver higher economic growth levels?

**Allan Wilson:** That is why we have one of the lowest levels of business taxation of any of our comparator OECD countries.

The other myth, which Ted Brocklebank propagated and which is perpetuated even in some of our more celebrated national newspapers, is that public sector employment is necessarily a constraint on growth. I accept that that could be the case if private sector development were restricted by virtue of the fact that skills that would otherwise be available to facilitate growth were denied to the private sector because they had been sucked up by the public sector. However, an interesting statistic—on which the Presiding Officer will be pleased to learn I will conclude—is that, of the 150,000 Scots who have entered employment since the creation of the Scottish Parliament in 1999, some 110,000 are in the private sector.

Only one quarter of the recent huge expansion in employment has been in the public sector and less than 3 per cent of the increase is accounted for by central Government. The remainder represent those who now work in the national health service and in local government, including front-line personnel such as teachers, police officers, care workers and firefighters. If the Tories really believe public sector employment to be a constraint on growth, they should say how many of those front-line staff—teachers, police officers, care workers, firefighters and others—they would no longer require for delivering our public services.

On that progressive note, I conclude by commending the Finance Committee for its insightful look at the Executive's spending plans.

**The Deputy Presiding Officer:** I am afraid that we have spent so long in Kansas that I can give Mr Morgan only six minutes.

10:39

**Alasdair Morgan (South of Scotland) (SNP):** I am glad to see that the chamber is filling up in anticipation of my speech.

In closing for the Finance Committee, I congratulate Derek Brownlee on his maiden speech. Despite suffering under the burden of the fact that his arrival doubles the number of accountants in the chamber—members might like to know that the other is Mr Mather—he made an excellent maiden speech on what he said can be a very dry subject. I am sure that he will be a worthy successor to David Mundell.

The committee's starting point was the importance of economic development. Economic development is the Executive's number 1 priority, delivers the resources that enable us to have the other services that we enjoy and is the engine for the scientific advance that betters our lives on a daily basis, so it is reasonable to ask how the Executive budget feeds into that priority.

I want to touch on two of our recommendations that have not yet been mentioned. We spoke about the efficient use of resources in relation to government structures. In paragraph 88 of the report, we say that we have concerns

“over the efficient use of resources arising from the number of local authorities and public agencies with overlapping remits and boundaries.”

As someone from Dumfries and Galloway, I am conscious of how much more effective it is down there when all our agencies—the council, the enterprise agency, the NHS and the police and fire services—cover exactly the same geographical area. That helps co-operation and effectiveness, and the model has much to offer.

I will touch briefly on one or two of the other speeches that were made. As some have said, analysis of spending proved to be a controversial area. One of the most controversial elements of that was the rural-urban split. During the first session of Parliament, I was a member of the former Rural Affairs Committee, which conducted an inquiry into changing employment patterns in rural Scotland. We found it difficult even to come up with a satisfactory definition of rural Scotland—there are many such definitions. That points to some of the problems and dangers that are associated with comparing rural and urban areas.

Wendy Alexander seems to have a rose-tinted view of what is happening in much of rural Scotland. I will comment briefly on three of the points that she made. She said that unemployment has been vastly reduced. Unemployment statistics are automatically reduced if people emigrate from rural areas to get employment somewhere else. She said that schools have been refurbished. I agree that there has been refurbishment, except of those schools that are falling down or have closed. She even mentioned the minimum wage—as if that were a charge on the Executive’s budget, for goodness’ sake. I agree with the Executive’s comment in its response to our report that the rural-urban split is “inappropriate—and potentially misleading.”

Jim Mather considered the relative performance of the Scottish economy. Although I will not labour some of the points that he made, given that I am summing up on behalf of the committee, one issue that he highlighted that is worthy of consideration is the number of enterprise ministers that there have been since the Parliament was established. The same point applies to much of the ministerial team. We can all agree with it, because the Opposition parties are also guilty of shuffling around their spokespeople. If we do not get more continuity, it is at least arguable that decisions will be made not by politicians but by the civil service.

Ted Brocklebank made the valid point that, according to many witnesses, it was difficult to

discern any link between the “Framework for Economic Development in Scotland”, which allegedly underpins much of the Executive’s policy, and actual policy implementation.

It is reasonable that the Finance Committee should seek evidence that spending is being directed towards the Executive’s main priority. I do not think that we have the answers, so the committee is right to continue to probe the issue. After all, it was the Executive, not the Finance Committee, that said that economic growth was the top priority. As the custodian of getting on for £30 billion of spending, the Finance Committee has a duty to seek to ascertain—if not precisely, indubitably with greater certainty than at present—just how that money contributes to economic growth. We will have to consider the issue in the future.

The committee will find the minister’s response disappointing. I know that he could not resist the attraction of attacking the SNP and Tory front-bench positions, but he spent the entire 10 minutes of his speech doing that and no time addressing any of the committee’s concerns. He did so against the background of a written response to the committee’s report that was also a bit disappointing. As a result, I am sure that the committee will return to the issue in detail in the future.

## Smoking, Health and Social Care (Scotland) Bill: Stage 3

10:45

**The Deputy Presiding Officer (Trish Godman):** We now move to stage 3 of the Smoking, Health and Social Care (Scotland) Bill. First, we will deal with amendments to the bill and then we will move to the debate on the motion to pass the bill. For the first part, members should have the bill, as amended at stage 2; the marshalled list, which contains all the amendments that I have selected for debate; and the groupings that I have agreed. I will allow an extended voting period of two minutes for the first division. Thereafter, I will allow a voting period of one minute for the first division after a debate on a group and 30 seconds for all other divisions.

### Section 1—Offence of permitting others to smoke in no-smoking premises

**The Deputy Presiding Officer:** Group 1 deals with exempt places and the exclusion of tobacco retailers, theatre performances and rehearsals. Amendment 33, in the name of Brian Monteith, is grouped with amendments 34 to 37, 40 to 44, 46 to 50, 52, 54, 59, 66 and 62.

I point out that amendment 53 in group 3 will pre-empt amendment 54 in this group.

**Mr Brian Monteith (Mid Scotland and Fife) (Con):** Amendment 33 seeks to ensure that we separate public health concerns, which are a legitimate aspect of the bill, from the artistic performance that takes place on a theatre stage. We shall debate the principle of the bill at a later stage today. However, it strikes me and many other people as particularly odd that, in pursuit of public health goals, it is necessary to ban the smoking of tobacco or any other product such as herbal tobacco on stage.

There is no doubt that smoking features in the canon of Scottish plays, such as John Byrne's "The Slab Boys", and in plays by writers such as Terence Rattigan that portray the 1930s, 1940s, 1950s and even 1960s. In "Private Lives", Noel Coward holds a cigarette and stands conversing with Amanda and Elyot Chase, not necessarily smoking that cigarette but simply holding it.

I point that out to members because it has been suggested that there are alternatives to smoking on stage. However, the proceedings of a play are such that in setting the tone, in describing the characters and in setting the mood, people have to light up. People interact—somebody lights a cigarette for somebody else, perhaps in the dark so that the audience might see the lighter or the

smoke. One might see Amanda or Elyot Chase in "Private Lives" standing with their cigarettes, not puffing at all, but the silver plume of smoke rises and signifies the whole scene. To use alternatives means that one cannot light up on stage—that interaction of the characters when one lights a cigarette for another cannot take place in the play. Standing with a cigarette in 1920s or 1930s fashion, not even consuming it but allowing the smoke to rise, cannot happen with alternatives if those alternatives require one to puff on them to generate the plume.

**Carolyn Leckie (Central Scotland) (SSP):** Does Brian Monteith have no imagination at all?

**Mr Monteith:** I suggest to Carolyn Leckie that she should get out more and go to Scottish theatre.

Lorne Boswell, a spokesman for Equity, has said that, although Equity supports the general principles of the bill, it is not happy about the measure that we are discussing. Mark Thomson, the artistic director of Edinburgh's Royal Lyceum Theatre Company, who certainly has a livelier and more creative imagination than I have, has stated:

"I don't think smoking is cool, but this ban represents an editing and a censoring and it is completely unnecessary and hysterical."

I agree with that.

**Stewart Stevenson (Banff and Buchan) (SNP):** Will the member take an intervention?

**Mr Monteith:** No. I have taken an intervention and I must make progress.

The majority of theatre stages are large open spaces. There is no reason to believe that smoke in those cavernous spaces does any harm to the public. Indeed, if we are concerned about smoke and its interaction with the audience, we should be concerned about smoke machines—they do not burn tobacco, but they create fog, which is necessary for some plays.

**Stewart Stevenson:** That is the member's job.

**Mr Monteith:** I hear in the comments from a sedentary position a messianic belief that brooks no other view. Members say, "We are right, despite any evidence. We shall censor the theatre and exclude smoking no matter what writers, directors or actors wish to portray." In India, where a similar ban has been introduced, it has been extended to films—smoking has been taken out of all films there.

**Stewart Stevenson:** Superb.

**The Deputy Presiding Officer:** Order.

**Mr Monteith:** Presiding Officer, I am being heckled constantly by Mr Stewart Sutherland.

**Stewart Stevenson:** He cannot even get that right.

**Mr Monteith:** I will not take the member's interventions. I certainly do not appreciate his heckling—he will have the opportunity to speak.

In India, not only is smoking being taken out of films, but smoking scenes in old movies are being extricated. The messianic belief and the political correctness of those who wish to impose such censorship have nothing to do with public health.

We must accept that a case can be made for some exemptions, for example for specialist cigar retailers. Only 18 specialist cigar retailers operate in Scotland, although probably only 12 would fall under the terms of amendment 37. On behalf of those retailers, I point out that, for the conduct of their business, it is necessary to test products, not just for quality, but to check that they are not counterfeit. There is a difference between cigarette and cigar smoking. A market exists for counterfeit high-quality cigars, so retailers must check whether the goods that they receive are proper. I appeal for an exemption for that small number of retailers in the industry.

I am interested in members' responses, because I believe that the debate is detached from the genuine concerns about public health.

I move amendment 33.

**Mr Stewart Maxwell (West of Scotland) (SNP):** Rarely have I heard such a litany of complete and utter nonsense. If actors are on stage performing a play, perhaps by Irvine Welsh, should they inject heroin or take other illegal drugs because that would be realistic and correct? Just perhaps, they should act and pretend that they are doing that. The audience, using their imagination, would understand and the theatrical impact and artistic integrity of the acting would not be disputed. It is unbelievable that it is beyond the wit and wisdom of the theatrical entertainment industry to produce fake cigarettes that produce smoke.

If one goes to the theatre, as I am sure Brian Monteith does, one can see 17<sup>th</sup> century France or watch explosions and war portrayed on the stage. Yet, for some reason, Brian Monteith believes that theatres are unable to produce a small puff of smoke from a small white tube. That belief is illogical and irrational. The Tories' arguments on the theatre are nonsensical. All workers have a right to enjoy their evenings and weekends in a place that is smoke free. It is wrong of the Tories to try to restrict that right to some workers. Exemptions in the bill are for humanitarian reasons.

**Phil Gallie (South of Scotland) (Con):** Stewart Maxwell will no doubt realise that workers' rights are the responsibility of Westminster. That apart,

does he think that, given the forthcoming ban on smoking, smoking on stage gives the wrong message? If so, is he for censorship of the arts?

**Mr Maxwell:** That is beyond belief. I am opposed to censorship of the arts, but we should at least allow the arts to use—

**Alex Johnstone (North East Scotland) (Con):** Will the member take an intervention?

**Mr Maxwell:** Allow me to respond to Phil Gallie's points.

We should at least allow the arts to use a small white tube such as the one that I am holding now, which is a theatrical prop that produces smoke. Its effect looks realistic to me and it does not take away from the integrity of the play to use a theatrical prop rather than a real cigarette. I do not know where Phil Gallie is going with that argument.

The main reason for rejecting the amendments is that they are nothing more than subterfuge and an attempt to hide behind an argument about artistic integrity. The cry of artistic freedom from the Tories is a cover for punching holes right through the bill, when it is in fact a bill about protecting public health. To be polite, I think that it is unreasonable of the Tories to try to use artistic freedom in that way. Artistic freedom is not the issue and it is in no way damaged by the bill. There is no censorship of the arts, which can carry on as normal.

On the amendments seeking to exclude more premises than are currently listed in the bill, I point out that the bill excludes certain premises on humanitarian grounds. A tobacco shop is not a place of residence; it is not a care home and it is clear that nobody lives there. In the case of the illicit trade in expensive cigars—I am sure that Brian Monteith knows more about such cigars than I do—if the owner of a cigar shop needs to test a cigar, why would it be beyond their wit and wisdom to step outside to smoke that cigar and test whether it is real? It seems perfectly reasonable to do that.

The Tory party has tried to wreck this bill and the Prohibition of Smoking in Regulated Areas (Scotland) Bill right from the start. It has never been interested in artistic integrity and artistic freedom, or the rights of workers and of the vast majority of the population who believe that their health should be protected. This is about wrecking the bill and punching holes in it. The Tories failed to do that with my bill; they failed to do it at stage 2 of this bill because they had no support from any member of the Health Committee; and they will fail to do it today. I urge members to reject the amendments.

**Donald Gorrie (Central Scotland) (LD):** I would like some clarity from the minister on the issue that Brian Monteith has raised. Although I am not in favour of punching holes in the bill, I am in favour of sensible dramatic representation. Section 4(1) states:

"In this Part, 'smoke' means smoke tobacco, any substance or mixture which includes it or any other substance or mixture; and a person is to be taken as smoking if the person is holding or otherwise in possession or control of lit tobacco, of any lit substance or mixture which includes tobacco or of any other lit substance or mixture which is in a form or in a receptacle in which it can be smoked."

My interpretation of that, which may be wrong because I am coming fresh to the bill, is that a person simulating smoking in the way indicated by Stewart Maxwell could be caught by the legislation. I would like the minister to make it absolutely clear that that is not the intention.

**Mr Maxwell** *indicated disagreement.*

**Donald Gorrie:** If there is a better interpretation, I would like to hear it from the minister. I think that I understand English and that is what the bill says. That gives some substance to Brian Monteith's point on dramatic issues.

11:00

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

**Donald Gorrie:** If Stewart Maxwell knows better than the minister, I will give way.

**Mr Maxwell:** The section that Donald Gorrie just read out says that there has to be a "lit substance". The prop that I am holding is not lit. It is clear that smoke can be produced from something that accurately resembles a cigarette but which is not lit. The prop would not be caught by the bill, as it poses no health risk, so there is no problem.

**Donald Gorrie:** The section does not say anything about health risks; it talks about smoking any substance whatsoever. There may be occasions in plays when it is an important part of the drama that the actor puffs away at something. If the minister can make it quite clear that the actor and the manager will not be put in jail because of that, I will accept that. However, we need that clarification. As Brian Monteith has said, there is concern among people in theatrical circles who have nothing to do with Tory plots but who just want to put on plays in an effective and convincing manner. I would like that assurance.

**The Minister for Health and Community Care (Mr Andy Kerr):** I am disappointed by the start of the debate. This is the most major piece of public health legislation in a generation, but we have

heard nothing but trivialisation and a fairly blatant attempt to undermine a bill that is well supported in Scotland. The bill is comprehensive and is based on the principle of protecting people from environmental tobacco smoke in enclosed public places. The Executive has been clear, consistent and fair in its consideration of exemptions from the smoking prohibition. We have made it clear that exemptions will be limited and granted only on humanitarian grounds. These amendments are completely unnecessary, as the bill already makes adequate provision for the definition of no-smoking premises.

I fail to understand why Brian Monteith believes that his approach could be any better. Yet again, he is advocating exemptions from the prohibition for a highly selective group of premises—his personal wish-list. Mr Monteith fails to grasp the fundamental point of the bill, which is to address a very real public health issue and to protect the public from the harmful effects of second-hand smoke. That includes theatre audiences and employees of theatres and retail premises, as well as passengers in airport departure lounges.

During the stage 1 debate, Mr Monteith warned of the development of so-called smokeasies—a subject to which he returned earlier today. It seems that he is now seeking to create those smokeasies to meet his own agenda, under the guise of specialist tobacco retailers. I am sure that he will protest that the exemption is merely to allow customers to test cigars before buying them. However, as Stewart Maxwell has pointed out, it would be simple for a customer to step outside the shop to test the product. I am concerned that, in the future, such retailers might decide to bring in a couple of comfortable chairs and perhaps provide some refreshments for customers who came to test the products, which would result in the type of smokeasy that Mr Monteith warned us about. How could we protect the staff and non-smoking customers who walked in off the street? Where would the protection of public health be in that scenario?

As was said in reply to Mr Monteith's amendments on theatres at stage 2—and as has been ably demonstrated today—it is not beyond the wit and wisdom of those who are involved in the dramatic arts to come up with an alternative to smoking on stage, which addresses the points that Mr Monteith has made about the prohibition somehow shackling and undermining our arts community. It must be remembered that we are seeking to present smoking—including smoking in a dramatic performance—as not being a normal social activity, so I ask our arts community to think again about that. We are trying to denormalise smoking, and—as has been demonstrated—there are alternatives to the smoking of real cigarettes on stage.

The issue has been raised of what we should use on stage instead of whisky. Should we use cold tea? Of course we should, or we could use another similar product. That is what we do; we get round these issues by being creative. That is what the arts industry is about and it will of course get round them. I hope that we proceed with the rest of the amendments in a slightly more mature way that represents to Scotland why the Parliament is so confident that the bill is so important to our communities. I therefore ask Brian Monteith to withdraw amendment 33.

**Mr Monteith:** I have absolutely no intention of withdrawing amendment 33. People who are portrayed as smoking dope in a play quite often have to roll it up and then light it. Stewart Maxwell's example of a prop would not apply in that case. People getting together to light a cigarette could not use that prop, because they would create smoke by lighting it, which is the point that Donald Gorrie made. People wishing to portray a cigar or pipe would not be able to use that prop. Stewart Maxwell could not speak in a play while puffing on that prop to create the smoke. On the consumption of heroin, or tea that is meant to be whisky, the point is that holding a cigarette and allowing it to smoke is in itself part of a scene—one does not have to consume it, just as one does not have to consume heroin. The alternative that is being suggested is a nonsense.

Not allowing the exemptions that I am suggesting is draconian and disproportionate. We have heard no argument that shows what effect allowing the exemption for theatres will have on public health, except that we want to denormalise smoking. If that is not censorship, what is? The Parliament wants to denormalise smoking on the stage; it wants to censor it from the stage. That is why amendment 33 should be supported.

**The Deputy Presiding Officer:** The question is, that amendment 33 be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Aitken, Bill (Glasgow) (Con)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brownlee, Derek (South of Scotland) (Con)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Johnstone, Alex (North East Scotland) (Con)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)

#### AGAINST

Adam, Brian (Aberdeen North) (SNP)  
 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)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Frances (West of Scotland) (SSP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Fox, Colin (Lothians) (SSP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kane, Rosie (Glasgow) (SSP)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 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)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)



Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Swinney, Mr John (North Tayside) (SNP)  
 Tosh, Murray (West of Scotland) (Con)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### ABSTENTIONS

Gorrie, Donald (Central Scotland) (LD)

**The Deputy Presiding Officer:** The result of the division is: For 13, Against 93, Abstentions 1.

*Amendment 33 disagreed to.*

*Amendments 34 to 37 not moved.*

**The Deputy Presiding Officer:** Amendment 38, in the name of Brian Monteith, is grouped with amendments 39, 45, 51 and 60.

**Mr Monteith:** Although one never knows in this type of debate, amendment 38 is possibly a less contentious amendment than the previous one that we discussed. I lodged it in order to reverse the wording of the bill in order to reflect the idea that one is innocent until proven guilty. The amendment's purpose is to ensure that clear language is used. The bill says:

"It is a defence for an accused charged with an offence under this section to prove"

that they took reasonable precautions to ensure that the offence was not committed or that they could not reasonably prevent someone from smoking in the premises. However, that suggests that the defendant is already guilty. We seek simply to change the tone of those words so that it is clear that the defendant is innocent. I seek to hear what arguments the Executive has for avoiding such a simple but necessary change.

I move amendment 38.

**Mr Maxwell:** If only that were the case. The amendment—which, again, met with no support on the Health Committee—is not about clarifying the bill or making it fairer for those who might be prosecuted under this law; it is a wrecking amendment. Its intention is to make it much more difficult to carry out a prosecution. Indeed, it is

clear that it is designed to make it almost impossible for enforcement authorities to achieve a successful prosecution, which would completely undermine the purpose of the legislation. I ask the chamber to reject the amendment.

**Mr Kerr:** The only commendable thing about amendment 38 is the member's persistence in bringing the matter that it relates to back to us for our consideration despite the fact that, as has been mentioned, he received no support for his position at stage 2.

**Mr Monteith:** Is the minister aware that there were no votes on the amendments that dealt with this matter at stage 2, which means that there is no record of whether there was support for them or not? In fact, at least one member of the committee supported my position. To say that there was no support is highly inaccurate.

**Mr Kerr:** The point is that nobody pressed the amendments on this subject, which means that there was no support for them other than from the Conservatives, who have been unique in their approach to this legislation.

As we made clear during the stage 2 consideration of the amendments relating to Mr Monteith's position, amendment 38 is a full attack on the enforcement of the bill. It would undermine the provisions by making it more difficult for those enforcing the bill ever to win a case in court. I do not want to waste Parliament's time any further by explaining the defences that there are in part 1 of the bill. Suffice it to say that the amendment seeks to make it even easier to prove the defences and, in so doing, move the balance back towards encouraging evasion, which clearly would undermine the public health benefits that the bill will provide. I appeal to Brian Monteith to withdraw the amendment.

**Mr Monteith:** The minister is loose with his words, as I clearly indicated in my intervention, and I must say that loose words make bad law. Amendment 38 seeks to tighten up the bill and ensure that it is clear that people are innocent before being proven guilty. Stewart Maxwell is right to say that the amendment might make it more difficult to obtain a prosecution, but that reasoning could apply to every crime. Why not make everybody guilty until they prove their innocence? That way, there would certainly be many more convictions. However, that is not desirable.

It is quite clear that, unless the burden of proof is reversed in the bill, questions are raised about the bill's compatibility with the right to a fair trial under article 6.1 of the European convention on human rights and the right to a presumption of innocence under article 6.2. For that reason, the minister should be aware that the United Kingdom

Government has dealt with similar situations in other pieces of legislation by the use of amendments that are similar to amendment 38. There is a precedent for it. There must be a concern that people will be presumed guilty until they are proved innocent. That is the wrong way round in Scots law. Whether it means that there are more or fewer convictions, a fair trial is required.

11:15

**The Deputy Presiding Officer:** The question is, that amendment 38 be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Aitken, Bill (Glasgow) (Con)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brownlee, Derek (South of Scotland) (Con)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Johnstone, Alex (North East Scotland) (Con)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)

#### AGAINST

Adam, Brian (Aberdeen North) (SNP)  
 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)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marilyn (North East Scotland) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)

Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kane, Rosie (Glasgow) (SSP)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 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)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### ABSTENTIONS

Tosh, Murray (West of Scotland) (Con)

**The Deputy Presiding Officer:** The result of the division is: For 15, Against 91, Abstentions 1.

*Amendment 38 disagreed to.*

*Amendment 39 not moved.*

## Section 2—Offence of smoking in no-smoking premises

*Amendment 40 moved—[Mr Brian Monteith].*

**The Deputy Presiding Officer:** The question is, that amendment 40 be agreed to. Are we agreed?

**Members:** No.

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

### FOR

Aitken, Bill (Glasgow) (Con)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brownlee, Derek (South of Scotland) (Con)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Johnstone, Alex (North East Scotland) (Con)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)

### AGAINST

Adam, Brian (Aberdeen North) (SNP)  
 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)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kane, Rosie (Glasgow) (SSP)  
 Kerr, Mr Andy (East Kilbride) (Lab)

Lamont, Johann (Glasgow Pollok) (Lab)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 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)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Swinney, Mr John (North Tayside) (SNP)  
 Tosh, Murray (West of Scotland) (Con)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

### ABSTENTIONS

Gorrie, Donald (Central Scotland) (LD)

**The Deputy Presiding Officer:** The result of the division is: For 15, Against 92, Abstentions 1.

*Amendment 40 disagreed to.*

*Amendments 41 to 43 not moved.*

*Amendment 44 moved—[Mr Brian Monteith].*

**The Deputy Presiding Officer:** The question is, that amendment 44 be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Aitken, Bill (Glasgow) (Con)  
 Brownlee, Derek (South of Scotland) (Con)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Johnstone, Alex (North East Scotland) (Con)  
 McGregor, Mr Jamie (Highlands and Islands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)

**AGAINST**

Adam, Brian (Aberdeen North) (SNP)  
 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)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
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 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 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, Marlyn (North East Scotland) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kane, Rosie (Glasgow) (SSP)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 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)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Swinney, Mr John (North Tayside) (SNP)  
 Tosh, Murray (West of Scotland) (Con)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**ABSTENTIONS**

Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)

**The Deputy Presiding Officer:** The result of the division is: For 13, Against 93, Abstentions 1.

*Amendment 44 disagreed to.*

*Amendments 45 not moved.*

**Section 3—Display of warning notices in and on no-smoking premises**

*Amendments 46 to 51 not moved.*

**Section 4—Meaning of “smoke” and “no-smoking premises”**

*Amendment 52 not moved.*

**The Deputy Presiding Officer:** Group 3 is on the restriction of smoking in exempt places. Amendment 53, in the name of Irene Oldfather, is in a group on its own. If amendment 53 is agreed to, I will not be able to call amendment 54 because it will have been pre-empted.

**Irene Oldfather (Cunninghame South) (Lab):**

Amendment 53 was lodged on Friday with the intention of protecting staff and residents of adult care homes and psychiatric hospitals from the implications of a blanket exemption, albeit one on humanitarian grounds.

In discussions between the minister and the cross-party group on tobacco control, concern was expressed that it should be clear that exemption is not a presumption for smoking. Consequently, establishments should have designated smoking rooms and decisions should not be left to the discretion of exempt establishments.

I am delighted that in publishing draft regulations last night, the minister has made it clear that, following discussion, he has decided that the exemption will apply only to designated rooms and not to whole premises. The minister will appreciate that, although he agreed in discussions with the cross-party group to consider the matter, the position was unclear in the absence of the regulations.

I would welcome clarification from the minister on a couple of points about implementation. I ask him to be vigilant about smoke drift from smoking rooms to non-smoking environments. Does he see scope to work with establishments on implementation guidance to minimise the health hazards from smoke drift for employees and others? Will he give an assurance that he will put in place a review process for exempt premises or designated rooms to consider the implications further down the line? Will he also give an assurance that he will back the exemptions with strong cessation measures, to encourage best practice in developing tobacco control policy?

I move amendment 53.

**Mr Maxwell:** As Irene Oldfather knows, I sympathise with amendment 53. I support the presumption of no smoking throughout premises and I responded to the consultation along those lines. I had concerns about some premises having a blanket exemption. Nevertheless, I understand some of the complications that would arise if we agreed to the amendment, which might be complicated to implement. It might be better to cover the issue in tightly drawn regulations that make absolutely clear the necessity of having strong smoking policies in exempt premises.

The proposal would be complicated to implement and it has been suggested rather late in the day, at stage 3. It might have been better to lodge such an amendment at stage 2, when we could have discussed it more. I am not sure about the amendment's wording.

I would like the minister to confirm that the regulations on the matter will be tightly drawn and that the Executive will push for strong smoking

policies in exempt premises, so that, as Irene Oldfather said, even such premises will make a presumption in favour of no smoking and protecting the health and well-being of residents of such premises who do not smoke.

**Karen Gillon (Clydesdale) (Lab):** I draw members' attention to my entry in the register of members' interests, to my membership of Unison and to the fact that my husband is a psychiatric nurse.

I have some sympathy with Irene Oldfather's points. As the minister knows, I represent the area that includes the state hospital at Carstairs. Particular issues relate to people with psychiatric illness and the management of that illness. Will the minister assure us that any room will not be designated at the expense of a common room that is generally available to people and that a separate smoking room will be available? In general hospitals, such as Wishaw general hospital, where problems exist at the moment, will it be possible to do that in a ward setting? Will he assure us that any designation to allow smoking in such settings will not be at the expense of facilities that are available to all residents who do not smoke?

**Mr Kerr:** As Irene Oldfather said, amendment 53 addresses an issue that the cross-party group on tobacco control raised with me. The bill provides ministers with powers to exempt premises, parts of premises and classes of premises from its provisions. That flexibility is important in dealing with circumstances that pose practical or humanitarian issues, and the draft regulations that I have sent to the Health Committee reflect that point.

However, I have always made it clear that the protection of staff, visitors and non-smoking residents of exempt premises from other peoples' smoke is equally important. Following my discussions with the cross-party group on the matter, I have decided that it is not appropriate to exempt adult care homes and psychiatric hospitals in their totality from the bill's provisions. Therefore, the draft regulations have been amended so that care homes and places of residential psychiatric care will now be defined as no-smoking premises. However, the exemptions will allow for specific smoking rooms to be designated within those places for the use of those smokers for whom it is their permanent or temporary home. I hope that Ms Oldfather and the cross-party group agree that that approach strikes a better balance between the rights of smokers and of non-smokers in those places.

I reiterate that an exemption in no way constitutes a right to smoke and I strongly urge the management of premises that are currently smoke free to maintain that status. We will continue to

discuss with Parliament issues such as smoke drift, guidance and smoking policies as we develop the regulations. I want all those institutions to have strong no-smoking policies to ensure that non-smokers' rights are protected.

Although we will advocate making the regulations as comprehensive as possible, I am not able to talk about particular locations or premises. I share the view that the cessation measures in which we have invested considerable additional resources will assist the situation in the different environments that members have highlighted.

We want to add to the collective knowledge of the influence of no-smoking policies, which I hope will be adopted today, because we want to be part of the worldwide effort to ensure that other nations develop no-smoking policies. As a result, we must ensure not only that we take very positive steps today but that we continue to review particular exemptions as the matter progresses.

**Phil Gallie:** I respect and accept the minister's aims. However, does he agree that some people in care homes have reached a considerable age, have lost mobility and are more or less confined to their own rooms, which have effectively become their homes? Is the minister able to ensure that the regulations will allow such individuals to have the opportunity to smoke, even if it imposes on the care home a requirement to provide adequate ventilation?

**Mr Kerr:** As we discussed earlier, we will have to rely on the regulations. In the process of agreeing those regulations and consulting those who run care homes, we will try to achieve the best possible result. Although I sympathise with Phil Gallie's point, we want the legislation and the supporting regulations to be as comprehensive and as clear as possible in order to protect non-smokers' rights. Unravelling such matters might simply open the legislation to abuse.

**Brian Adam (Aberdeen North) (SNP):** As the minister is aware, during discussions with the cross-party group on tobacco control, I raised concerns that some care homes will not be smoke free and that a number of adults in those homes will want to have a smoke-free environment. Is he able to assure us that the regulations will address the concerns and protect the rights of adults and others who do not smoke? Will he encourage care home providers to ensure that people who might be exposed to secondary tobacco smoke, no matter how good the ventilation is, have genuine choices?

**Mr Kerr:** I reassure the member that, through the process of agreeing the regulations and carrying out consultation in many parts of Scotland, that will indeed be the case. I look

forward to discussing with the cross-party group and others how the regulations will work effectively for non-smokers.

**The Deputy Presiding Officer:** I call Irene Oldfather to wind up and to indicate whether she will press or withdraw amendment 53.

**Irene Oldfather:** The minister's positive comments clearly show that the regulations will do exactly what amendment 53 calls for. The move from a blanket exemption to having designated rooms represents significant progress.

I also welcome the minister's commitment to ensuring that the legislation will have the widest possible coverage while still being workable.

I am content with the minister's comments on tobacco control and his commitment to continued dialogue on smoke drift. I welcome the opportunity for the minister and the cross-party group to discuss that further.

*Amendment 53, by agreement, withdrawn.*

*Amendment 54 not moved.*

11:30

**The Convener:** Group 4 is on no-smoking areas in outside premises. Amendment 55 is grouped with amendment 56.

**Irene Oldfather:** Amendment 56 seeks to extend the definition of "premises" to outdoor areas, to bring pavement cafes and beer gardens within the scope of the legislation. Amendment 55 calls for designated no-smoking areas in such premises. My fear is that, without the amendments, the legislation, when it comes into force, will force smokers outside, so that pavement cafes and beer gardens become visible smoking areas. There are a number of problems with that. First, it means that families with children and non-smokers—some of whom may be asthmatic—who want to enjoy a meal, snack or drink outside in good weather will have to do so surrounded by smokers. That is unpleasant for the seven people in every 10 who do not smoke.

Another point concerns normalisation and the prevailing culture. The legislation is absolutely groundbreaking in what it does. In my opinion, the further we push the boundaries on no-smoking environments—along the lines of having designated areas even outside—the more we encourage young people to see non-smoking as the norm. It sends out the wrong signal to children and young people if they walk past pavement cafes that are full of smokers, so there is an argument about the visibility of smoking and normalisation.

Having considered the evidence that has been provided in the past couple of days, I recognise

that my proposed extension might create some uncertainties about enforcement. I would be interested in the minister's comments on that, and I seek a reassurance from him on how some of the difficulties might be addressed. I look forward to his comments and clarification.

I move amendment 55.

**The Deputy Presiding Officer:** This part of the debate has to end by 11.40, so I will give the next three members two minutes each.

**Shona Robison (Dundee East) (SNP):** I will be brief. I oppose amendments 55 and 56 for two reasons. First, the bill's whole purpose is to take public health measures based on concerns about the health impact of environmental tobacco smoke in enclosed public spaces. To try to extend that to outside areas undermines the argument.

The second issue is almost as important. As far as possible, we must try to take the public with us. We know that the move is controversial and that views on it are mixed, but I believe that a majority of people in Scotland support the bill and that we would lose public support by trying to extend the ban into outside areas. That would be a step too far. It would be overly zealous, it is not required and the SNP will certainly not support the amendments.

**Mr Monteith:** I welcome Shona Robison's words in opposition to the amendments. I feel that the bill is already disproportionate in its efforts to—as the minister put it—denormalise smoking. It is quite clear from the evidence that the committee took that the ban worked in Ireland partly because smokers could go outside to smoke, with heaters, awnings and suchlike to protect them from the elements. My fear about Irene Oldfather's amendments is that even that opportunity would be denied, making a disproportionate measure even more disproportionate. For that reason, the amendments should be opposed.

**Tricia Marwick (Mid Scotland and Fife) (SNP):** Throughout the progress of the bill, we have been told that it is a public health measure. Although we all now accept the facts about the effect of tobacco smoke in enclosed public spaces, there is, to my mind, no evidence at all to support the view that tobacco smoke is harmful in outside public spaces.

There has been much discussion of the Irish experience of which I have had great experience over the past three or four months. In response to Brian Monteith's point, I can say that it is true that publicans in Ireland have been extremely creative in creating outside spaces with awnings and the like for smokers. However, by moving the argument, at stage 3, from one of public health to an attack on people who smoke serves only to undermine the bill. Frankly, that argument will lose public support for the bill.

**Mr Kerr:** I share many of the views that members have expressed on the amendments in the group.

I am sympathetic to what Ms Oldfather is trying to achieve and her desire to reduce exposure to environmental tobacco smoke. However, I believe that to agree to her amendments would be a step too far. The provisions in the bill are evidence based and there is not enough evidence to support the argument that environmental tobacco smoke in an unenclosed setting is harmful. Clearly, as with all our legislation, the Executive will continue to monitor the situation. However, without evidence, I cannot support the amendments.

The bill reflects the Executive's intention to protect members of the public in wholly or substantially enclosed premises in relation to which the evidence of harm from second-hand smoke is overwhelming. I hope that at some stage in the future evidence may become available to justify taking other steps, but I cannot support such measures at this time.

It is extremely important that the legislation is consistent, fair and easily enforceable by proprietors of establishments and environmental health officers. Any legislation for outdoor areas would need to be carefully defined to provide the same clarity. The bill does not provide for that.

As they stand, the amendments in the group risk compromising the enforcement measures that are contained in the bill. Although I understand where the member is coming from with the amendments, I echo the comments that were made about their complexity and about the fact that the member did not signal early enough her intention to lodge them.

Amendments 55 and 56 would undermine the enforcement measures in the bill. I hope that Irene Oldfather will consider withdrawing amendment 55.

**Irene Oldfather:** Some of the arguments that we have heard this morning would have been used five years ago in a debate on banning smoking entirely.

I welcome the minister's comments on the intention behind amendments 55 and 56 and I hear what he and other members said about enforcement. We have made much progress and I do not want to compromise the bill or to bring any lack of clarity to its enforcement. I hope that the Parliament will revisit the issue. I think that I heard in what the minister said a commitment to consider the issue at some point in the future, as and when evidence develops. If so, that is welcome.

I seek leave to withdraw amendment 55.

*Amendment 55, by agreement, withdrawn.*

*Amendment 56 not moved.*

**The Deputy Presiding Officer:** That ends the debate on group 4, which brings us to the end of this part of the debate on the bill.

## Question Time

### SCOTTISH EXECUTIVE

#### General Questions

11:40

#### Disclosure Scotland

**1. Michael Matheson (Central Scotland) (SNP):** To ask the Scottish Executive whether it plans to reform Disclosure Scotland. (S2O-7329)

**The Minister for Justice (Cathy Jamieson):** We monitor the performance of Disclosure Scotland closely. Since September, Disclosure Scotland has consistently exceeded its target of processing 90 per cent of all valid applications within 10 working days. Our response to Sir Michael Bichard's recommendations following the Soham tragedy will involve Disclosure Scotland and we will of course consider what changes might be required.

**Michael Matheson:** Is the minister aware of the problems that are encountered by individuals who work with children across a range of agencies? Such individuals have to go through a disclosure check for each organisation. I recently received representation from an outdoor instructor who has undergone nine disclosure checks this year because of the range of organisations with which he works. In addition, I learned recently that social work students, who have to undergo a disclosure check before they are accepted on their course, have to undergo further checks before they can attend placements during their training. Will the minister acknowledge that there is a need to amend the system to ensure that we reduce the undue bureaucracy that it is creating, while continuing to protect children?

**Cathy Jamieson:** As I indicated in response to a similar question from another member during general questions last week, I acknowledge that a number of issues to do with multiple disclosures have been raised. We are trying to make children's safety a priority and adults who want to work with children might sometimes have to put up with a bit of bureaucracy if we are to protect children. However, I have given a commitment to investigate the possibility of streamlining the process and preventing the problem whereby multiple checks take place, often over a short time.

**Lord James Douglas-Hamilton (Lothians) (Con):** I welcome the minister's comments, but can she confirm that everyone who is currently working in child care has been disclosure checked to the best of our knowledge?



**Cathy Jamieson:** I am not in a position to be able to speak about every individual case. However, it is the responsibility of the employing organisations to ensure that the appropriate checks are under way and I expect those organisations to have done that.

### **Events (Economic Impact)**

**2. Sarah Boyack (Edinburgh Central) (Lab):** To ask the Scottish Executive what impact major events such as T in the park and the Edinburgh festival have on the economy. (S2O-7345)

**The Minister for Tourism, Culture and Sport (Patricia Ferguson):** Major events bring significant benefits to Scotland's economy. For example, research on Edinburgh's summer festivals that was published earlier this year found that the festivals are worth more than £125 million to the city's economy.

**Sarah Boyack:** In Edinburgh we are well aware of the economic impact of the festivals, which also bring social and cultural benefits to the city and its residents. Will the minister say what work has been done on the wider, regional impact of festivals such as the Edinburgh international festival? Will she also say what scope there is for spreading those benefits not just throughout the region but throughout the year, in relation to the promotion of tourism?

**Patricia Ferguson:** Ms Boyack is right to emphasise that the festivals are not just advantageous to the towns and cities in which they take place. If my memory serves me correctly, I think that about 28 per cent of the people who visit the Edinburgh festivals spend at least one night outwith Edinburgh. We very much want to develop the possibility of using Edinburgh, Glasgow and our other major cities as a gateway to the rest of the country. That is part of our tourism strategy. VisitScotland and EventScotland work closely together when major events are planned to ensure that all the benefits that such events can bring can be realised.

**Mr Jamie McGrigor (Highlands and Islands) (Con):** Will the minister acknowledge that the activities of the Royal Highland and Agricultural Society of Scotland bring an estimated £250 million to the economy of Scotland every year? Will he assure us that a compromise that is satisfactory to all parties will be reached in the planning of the Edinburgh airport extension?

**Patricia Ferguson:** I think that the member presumed that his question was for a different minister. Not only do I not deal with the specifics of the matter that he raises, but I am certainly not a "he". It is important that events such as the royal highland show should be able to operate, but it

would be best to raise such issues through the consultation that is going on elsewhere.

### **Licensing (Scotland) Bill (Licensing Boards)**

**3. Michael McMahon (Hamilton North and Bellshill) (Lab):** To ask the Scottish Executive whether it considers that the licensing boards proposed in the Licensing (Scotland) Bill will adequately represent community interests. (S2O-7365)

**The Minister for Finance and Public Service Reform (Mr Tom McCabe):** Yes. Licensing boards will continue to be made up of local authority councillors who, as we know, have a democratic legitimacy in their own right. In addition, boards will receive input from the new licensing standards officers and directly from communities themselves. That will happen first through the new local licensing forums, which will require to be consulted on boards' policies, and secondly through the right of any person to submit an objection.

**Michael McMahon:** The minister will be all too aware of recent problems with pub violence in Hamilton—the town that we both represent—where the licensing board felt it necessary to introduce temporary licence removals. What assurances can the minister give that the proposed changes to licensing boards in the Licensing (Scotland) Bill will provide sufficiently effective and robust powers to tackle those premises that continually prove to be hotspots for violence and other forms of antisocial behaviour, and become no-go areas for the majority who wish to socialise in a safer community atmosphere?

**Mr McCabe:** There are a number of assurances. There is far greater community involvement in the system. If there are community concerns there is a far more comprehensive system to allow them to be expressed, and there are facilities for immediate closure if the police and boards feel that that is appropriate. Therefore, if disturbances at locations are causing particular concern to the community, the bill provides that effective action can be taken to address those concerns.

### **Antisocial Behaviour etc (Scotland) Act 2004 (Powers)**

**4. Christine May (Central Fife) (Lab):** To ask the Scottish Executive whether all local authorities and police forces are now utilising the powers available to them under the Antisocial Behaviour etc (Scotland) Act 2004. (S2O-7362)

**The Deputy Minister for Justice (Hugh Henry):** A number of local authorities and police forces are blazing the trail in using the provisions of the Antisocial Behaviour etc (Scotland) Act 2004, which has brought relief and respite to their

communities. Monitoring systems for the use of the act are being put in place to ensure that the provisions are used effectively throughout the country.

**Christine May:** Will the minister join me once again in commending the actions of Fife constabulary and other agencies in Fife for their innovative implementation of the act? What steps are he and the Executive taking to ensure that best practice in Scotland is disseminated widely?

**Hugh Henry:** The agencies in Fife are to be congratulated on their efforts. It is clear that they have brought relief to some hard-pressed communities. The public response shows just how much they appreciate what has been done. I invite anyone who wants to know how the act can be used effectively to look at Fife and other areas in Scotland that have successfully used the new powers.

We intend to produce a regular newsletter showing exactly where the act is having an effect and to disseminate it throughout Scotland. We want to encourage best practice. We want to ensure that everyone is aware of what can be achieved. We will look at ways to ensure that that best practice note is not just confined to police, local authorities and other agencies. We want community councils, tenants organisations and the wider public to see what is happening throughout Scotland. I will take steps to ensure that MSPs get copies of that good practice note so that they can distribute it to their constituents.

#### **National Concessionary Travel Scheme**

**5. Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** To ask the Scottish Executive whether the national concessionary travel scheme will be introduced in April 2006, as announced by the Minister for Transport on 22 December 2004, and whether the scheme will include the use of the smart-card system. (S2O-7317)

**The Minister for Transport and Telecommunications (Tavish Scott):** Yes.

**Fergus Ewing:** Does the minister—who I welcome to his new responsibilities—agree that the smart-card machinery that was intended to be used will not be available; that no financial modelling was done; that local authorities will find it difficult if not impossible to collate the details of the estimated 1.2 million qualifying people; and that Scots in rural areas where there are no bus services will have no benefit from the scheme? Does the minister agree that his new leader has bequeathed him a bit of a boorach?

**Tavish Scott:** I fear that Mr Ewing exaggerates the problem and is obsessed with finding problems where we are determined to solve problems. We are working with bus operators to pay for and

install new electronic ticketing machines with smart-card readers on all buses in Scotland. I would have thought that Mr Ewing would welcome that.

**Mr David Davidson (North East Scotland)**

**(Con):** I draw the attention of the new Minister for Transport and Telecommunications to the fact that the concessionary fares scheme will not reach all the people of Scotland, as many of them live in rural areas. What solutions does the Executive have in order to implement its inclusion policy and to guarantee that services will be supplemented, perhaps by voluntary sector buses, dial-a-bus schemes and so on? Will the Executive itself get involved in that process?

**Tavish Scott:** The concessionary scheme is a national scheme. It will build on existing local arrangements. If Mr Davidson wishes to highlight specific examples, I would be more than happy to consider them. However, we are determined to ensure that, in conjunction with general Executive policies relating to solving the difficulties of exclusion, we adopt a national approach.

#### **G8 (Role of Scottish Universities)**

**6. Marlyn Glen (North East Scotland) (Lab):** To ask the Scottish Executive what role it envisages for Scottish universities in addressing some of the issues to be discussed at the G8 summit, particularly in relation to Africa. (S2O-7351)

**The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson):** Scottish universities have an important role to play in this area, for example in the development of education programmes and through their expertise in research and innovation. The universities of Glasgow and Abertay Dundee are currently hosting academic conferences that are considering G8 issues, and many Scottish universities are already active in Africa. Concept notes seeking support from the Scottish Executive's international development fund include proposals from several Scottish universities for work in sub-Saharan Africa.

**Marlyn Glen:** I invite the minister to join me in congratulating in particular the University of Dundee on its work in Africa on tropical disease research, health care education and training and expertise in the critical fields of energy, mineral and water law. Mercy scholarships for Rwandan women are just one example of the university's work. Can the minister assure me that recognition and support will be given to those important initiatives, which have now been extended to a number of Scottish education institutions?

**Allan Wilson:** Marlyn Glen is right to draw the Parliament's attention to the very good work that

Scotland's universities are doing on development in Africa, preceding the G8 summit and undoubtedly succeeding it. We are considering proposals for international development funding that include projects to deliver direct assistance overseas, applications for administrative resources based here in Scotland and funding for activities aimed at exchanging knowledge or raising awareness. We will consider applications for projects based in or linked to sub-Saharan Africa and areas that were affected by the Asian tsunami. Additional weight will be given to projects that are based wholly or partly in Malawi, which we wish to prioritise.

### **Rape and Serious Sex Offences**

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

To ask the Scottish Executive how many cases of rape, or serious sex offences, were reported to the police in the last two years and how many of these led to convictions in the High Court. (S2O-7352)

**The Solicitor General for Scotland (Mrs Elish Angiolini):** There are two available sources of information about rape statistics. Police information on reported crime is kept by calendar year. In 2002 and 2003, 2,176 serious sex crimes were recorded by the police, 1,539 of which were rapes. In that period, 106 people were convicted in the High Court of serious sex crimes, 73 of whom were convicted of rape.

Crown Office information on reports received and proceedings raised is kept by financial year. Information is recorded according to the particular charge which is reported and, as such, "serious sex crimes" does not represent a readily available classification. Crown Office statistics on the crime of rape reveal that, in the financial years 2002-03 and 2003-04, the Crown Office and Procurator Fiscal Service received 1,282 reported charges that featured references to rape; 335 charges were subject to criminal proceedings, of which 150 resulted in conviction.

**Trish Godman:** The Solicitor General will know from those figures that Scotland has one of the worst conviction rates for rape and other sex offences in Europe. Can the Solicitor General tell me why no sustained analysis has been carried out of the number of cases that are dropped or marked "No proceedings"? When will women police surgeons be appointed? Will the Solicitor General consider the introduction of specialist prosecutors for sex offence cases?

**The Solicitor General for Scotland:** The conviction rate for rape is not at all good, but it is apocryphal to suggest that Scotland has the worst conviction rate in Europe. The problem is worldwide as concerns rape, which is one of the most difficult crimes to prove, given its very nature.

The situation regarding the evidential barriers is being considered by the Scottish Law Commission. Indeed, the sufficiency and reliability of evidence are factors that are also being carefully considered by our prosecution service in the context of a major review of investigative processes and of how we present such cases in court.

On the subject of specialist prosecutors, consideration is being given to that matter. However, we already have a group of 21 specialist High Court prosecutors in Scotland, unlike in many other jurisdictions where barristers for such serious cases are simply briefed per case. We are actively considering how we can improve what we do to enhance the quality of the prosecution process.

On the issue of women police surgeons, I understand that the Association of Chief Police Officers in Scotland is actively looking at the topic. Indeed, we are currently engaged in discussions about establishing a sexual assault referral centre for Glasgow.

**The Presiding Officer (Mr George Reid):** Question 8 has been withdrawn.

### **Olympic Games (Mountain Biking)**

**9. John Farquhar Munro (Ross, Skye and Inverness West) (LD):** To ask the Scottish Executive whether it will give its full support to Fort William to host the mountain biking events at the Olympic Games in 2012 if the United Kingdom's bid to host the games is successful. (S2O-7312)

**The Minister for Tourism, Culture and Sport (Patricia Ferguson):** London 2012 has already decided—and proposed in the candidate file that it submitted to the International Olympic Committee—that the mountain biking event should be held in the Weald country park.

**John Farquhar Munro:** I thank the minister for that response, but I am sure that Fort William will still come out top of the bidding.

I am glad that the Scottish Executive will support Fort William. However, does the minister accept that, if we are to attract such events to Fort William and to Scotland, medical cover will be a crucial consideration, so it will be vital that hospitals such as the Belford hospital in Fort William continue to have accident and emergency cover 24 hours a day?

**Patricia Ferguson:** As the member will no doubt be aware, such matters are for the local health authority and, ultimately, for the Minister for Health and Community Care. However, I can point out that, so far, the possibilities of medical cover do not seem to have been an influencing factor for Fort William, given that the town staged the world

mountain biking championships this year and last year and is due to host the 2007 world championships, which will take place before the qualifying stages for the 2008 Olympics in Beijing.

### **Road Safety (A9)**

**10. Mr John Swinney (North Tayside) (SNP):** To ask the Scottish Executive what steps it is taking to improve road safety on the A9. (S2O-7333)

**The Minister for Transport and Telecommunications (Tavish Scott):** The Executive is constantly looking to improve safety and a full accident analysis of the route has just been completed. The results will be used to direct the future roads programme for the route, which will be aimed at improving overtaking opportunities, junction layouts and reducing driver fatigue. That is over and above some £40 million-worth of work that is programmed to be carried out on the A9 over the next three years.

**Mr Swinney:** I welcome Tavish Scott to his new ministerial post, in which he can look forward to the A9 issue being raised as frequently with him as it was with his predecessor.

Now that the minister is in office, will he share with us his views about the concerning fact that, in two circumstances in my constituency, the Executive has approved improvement measures for the A9—at Ballinluig and Kindallachan—but the timetable for delivering those improvements has slipped considerably from the one that was originally promised? Will he deploy some urgency to ensure that those vital road improvements are undertaken? Will he also commit the Executive to examining seriously whether the route action plan for the A9 might include proposals to upgrade the road to a dual carriageway?

**Tavish Scott:** I can certainly give a commitment to look closely at the issues that Mr Swinney has raised about why the projects for those two sections of the A9 have not proceeded as quickly as might be desired by the member, his constituents and all who use the road. I am happy to look into that and I will respond to him as quickly as I can.

**Mr Andrew Arbuckle (Mid Scotland and Fife) (LD):** Does the minister consider that the only long-term solution for improving the A9's accident record is to dual the complete length of the road? Only by doing so will we be able to ensure that the many visitors to Scotland who tend to drive on the wrong side of the road drive on the right side, which we know is the left side.

**Tavish Scott:** Mr Arbuckle is seated beside me, but I make it clear that I had no advance warning of that question.

I understand the strength of the member's argument, which I have heard in many previous parliamentary debates on the subject. However, Mr Arbuckle and other members will be aware that the estimated cost of dualling the entire length of the A9 is some £600 million, which is a considerable commitment for any Government to make. At this time, it would appear that, in terms of public resources, it is not within our budget to meet such a cost.

## First Minister's Question Time

12:00

### Prime Minister (Meetings)

**1. Nicola Sturgeon (Glasgow) (SNP):** To ask the First Minister when he will next meet the Prime Minister and what issues will be discussed. (S2F-1767)

I also wish the First Minister a very happy birthday.

**The First Minister (Mr Jack McConnell):** Thank you very much. *[Laughter.]* I am speechless—but I am not waffling.

I hope to meet the Prime Minister at Gleneagles next week. I take the liberty this afternoon of saying that today, in advance of the summit, I had intended to wear a tie bearing the G8 tartan. However, this week I was sent something that I thought would be even more appropriate. The tie that I am wearing today was devised by the pupils of St Stephen's Primary RC School in Paul Martin's constituency, which is the most multicultural school in Scotland—pupils of some 35 nationalities study at that school. They thought that it would be appropriate to change their historic school tie to one that reflects all the different nationalities that are woven into the school. They say about the new tie:

"Our tartan is a celebration of uniqueness, a symbol of harmony and togetherness, a sense of identity and belonging."

They have been able to welcome people into their community—I hope that next week the whole of Scotland will welcome the world to Gleneagles and beyond.

**Nicola Sturgeon:** Very nice it is, too.

Will the First Minister join me at the make poverty history march in Edinburgh on Saturday when, I hope, tens of thousands of us will uphold the proud Scottish tradition of peaceful protest? Does the First Minister recall that, when the G8 met in Birmingham seven years ago, thousands of people demonstrated and lots of fine words were spoken by the world leaders, but far too little was delivered? Will he join me in demanding from this G8 summit not more empty rhetoric, but real action backed by new money to start improving the lives of the poorest people on our planet?

**The First Minister:** I very much hope to be present at the march on Saturday. Of course, I hope that the G8 Scotland summit will deliver the kind of change—and the resources to back it up—that is required in Africa and elsewhere in the world. This is a unique opportunity for our country to take centre stage in historic decisions that could

change the face of a continent and, therefore, the rest of the world. Two hundred years ago, Scots with their ideas, invention, commitment, ingenuity and internationalism helped to shape the modern world. At the beginning of the 21<sup>st</sup> century, we have a chance to be the place where that happens again. I hope that all the G8 leaders will respond.

**Nicola Sturgeon:** Does the First Minister realise that people do not want just vague assurances, but tangible results from the summit? For example, does he agree that it is immoral that many countries are forced to spend more on debt repayments than they spend on basic health and education services for their citizens? Does the First Minister agree with the make poverty history campaign that money that is provided by the G8 for debt cancellation must be

"in addition to the funds for overseas aid, and not simply reallocated from aid budgets"?

Does the First Minister also agree that, if we really want to make poverty history, the rich countries will have to dig deeper and put new money on the table?

**The First Minister:** We need action on aid, on debt and on trade. We should all welcome the action early this month of the G8 finance ministers. That action secured real change to debt repayments for the poorest countries of Africa and for many more countries in the years to come. I hope that at next week's summit that action will be matched by firm commitments to increase aid, not just from Europe—where such commitment has already been secured—but from other G8 countries far from Europe. I hope that that will spur on other countries to join in.

We also need changes in trade. I hope that next week the G8 summit will say clearly, in advance of the World Trade Organisation negotiations in Hong Kong later this year, that the G8 is committed to changing the trade rules that currently disadvantage the poorest countries of the world, and to giving those countries a fair chance not just to receive increased aid and to have reduced or eliminated debt, but to grow their economies, to be self-sustaining and to ensure that their people have a future of which they can be proud.

**Nicola Sturgeon:** The First Minister mentioned aid. Does he share my disgust that 35 years after the United Nations set its modest target for international aid, some of the richest countries in the world still come nowhere near meeting it, and countries such as the United Kingdom and the United States, which can at the drop of a hat find billions of pounds to fight a war, have not found the money to stop children starving to death?

Does the First Minister agree that if next week's summit is to mean anything, it must deliver as an

absolute minimum a commitment on the part of all G8 countries to follow the example of small nations such as Norway, and meet the UN aid target well before the end of this decade?

**The First Minister:** I very much welcome the fact that after many years of cuts in the overseas development budget by the Conservative Administration, we now have a firm commitment from the Government not just to double the aid budget from this country, which has happened in the past eight years, but to reach that 0.7 per cent target. I hope not only that the G8 leaders will achieve that target, but that they will be able to bring it forward in the years to come. I hope that they will also be able to secure from the other major countries of the world a similar, if not better, commitment. If we do that next week, it will be a great thing to have happened in Scotland.

**Nicola Sturgeon:** Will the First Minister finally understand, in the spirit of consensus, that although we have heard many vague assurances and warm rhetoric from some of the world leaders over the past few weeks, what the people who will march in Edinburgh and around the world next week want are tangible results that will save lives in Africa and the other poorest parts of the world? Does he agree that if the G8 leaders who will meet in our country next week do not deliver those tangible and specific results, they will not be forgiven?

**The First Minister:** We have made it clear for months that this is a unique opportunity. The host nation of the G8 summit is firmly committed to the agenda and we have been driving it for months, if not for years. The Commission for Africa report that the Prime Minister published earlier this year produced a comprehensive set of solutions that can transform the continent of Africa.

It is incumbent on the G8 leaders to respond next week, but I believe that there is hope. The G8 finance ministers replaced rhetoric with real action earlier this month. If that is a signal of a new commitment on the part of the G8 countries, then we can hope for even better next week. If they achieve that, Scotland will be delighted to have had them here.

### **Cabinet (Meetings)**

**2. David McLetchie (Edinburgh Pentlands) (Con):** To ask the First Minister what issues will be discussed at the next meeting of the Scottish Executive's Cabinet. (S2F-1768)

**The First Minister (Mr Jack McConnell):** The next meeting of the Cabinet—unless an unexpected meeting has to take place—will take place in August and the agenda will be determined nearer the time.

**David McLetchie:** Perhaps the Cabinet will reflect on the outcome of the G8 summit at that meeting. In his speech yesterday at the University of Glasgow, the First Minister reportedly accused people in Scotland of being “wasteful, greedy and materialistic”. I believe that that is a travesty of the truth. Let us not forget that it was our so-called greedy people who contributed so generously to the tsunami relief appeal only six months ago and who have contributed hundreds of millions of pounds to helping people in developing countries in Africa and elsewhere over the years. In that light, will the First Minister reconsider his statement, which was not only wide of the mark, but obscures the real problems that face many countries in Africa today?

**The First Minister:** I would happily endorse any statement to the effect that the Conservative representatives in Parliament regularly adopt the approach of being “wasteful, greedy and materialistic”. At the same time, it is absolutely right that we as politicians discuss the nature of the society in which we live in addition to fulfilling our responsibilities for public services and legislation.

I believe absolutely that we in the rich and developed west live in a society that is far too often wasteful, greedy and materialistic, and that our young people are driven unnecessarily and in ways that damage them by consumerist ideals that at times go far too far, and by peer pressure that damages them, their families and their communities.

We are absolutely right to want to help people in the developing world who require our assistance, and to celebrate what is good about our society, but we should also occasionally admit what has gone wrong in our society. We should be honest about that and learn from others who, despite the poverty and disease that afflicts their societies, show the hope, sparkle, clarity and ambition that are sometimes missing here and throughout the developed world. We have a duty to talk about that honestly. I intend to continue to do so.

**David McLetchie:** The First Minister is right that we have a duty to talk about the matter, but I do not share his pessimistic analysis. The fact that hundreds of thousands of people are coming to Scotland on Saturday to demonstrate shows the depth of generosity and the concern that people have. A few weeks ago, after the First Minister's visit to Malawi, I asked him how people in Scotland could be assured that the money that they donate will actually help people in Malawi and not line the pockets of corrupt politicians and officials. Since then, we have heard of the Malawi president's farm in Zimbabwe, which is protected by Robert Mugabe; the impeachment charges that Malawi MPs have brought against the president;

and Malawi's failure to qualify for the G8 debt-relief programme because it does not meet targets for good governance and tackling corruption. Against that background, will the First Minister repeat the assurance that he gave in Parliament to people in Scotland that every penny of the money that they donate to the appeal fund will go directly to help people in Malawi and will not be skimmed off?

**The First Minister:** I will make two comments on that. The first will probably get me in trouble, but that happens from time to time and I want to speak honestly. I believe that some people who are writing about the issues are determined to ensure that the instinctive generosity of Scots is undermined and is not directed towards the people who most need their support. I absolutely condemn the people who have in recent weeks written about Malawi and Africa in ways that grossly distort the truth, and which are intended deliberately to damage the aid charities and others who try to help people in Africa, and to damage the prospects of next week's G8 summit in Scotland, which might change the face of Africa.

Secondly, everybody who is involved, from the Prime Minister of the United Kingdom to the ministers in the Executive to the people in the aid charities to the African leaders who were part of the Commission for Africa report, has been consistently against corruption, misuse of money, waste and lack of transparency in the government and finance of African countries. No one anywhere proposes that we should give money to African countries or Governments, or to organisations in Africa that are perceived as, or that might be caught in the act of, misusing such money. Not one penny of the fund that I established recently, or of the other funds that are being raised in Scotland will go to the Malawi Government; all the money will go to charities and organisations that feed people, save lives and do good work in Malawi. Questions in Parliament that attempt to undermine that effort will cost lives. Members who ask them should think about that.

**David McLetchie:** A welcome dose of reality on the situation in many African states will, in the long run, do the people of those countries far greater service than will wilful blindness to problems. Does the First Minister agree that, if the money that was given to African countries in the past had been spent properly on the necessary infrastructure for economic growth—roads, schools and telecommunications—the massive debts that are now being written off would not have piled up in the first place and those countries would be well on their way to prosperity? Does he accept that we will never make poverty history until we make corruption history?

**The First Minister:** Of course we should make corruption history, but we should remember that corruption happens in the developed world, too. Secondly, in making poverty history we could wait until every Government in Africa is perfect then channel all the money through them, or we can act today and use the charities and the organisations that raise money in this country and which feed people and save lives in African countries. That is precisely what we will do.

In my view, a lot of rubbish has been spoken in recent weeks about Mr McLetchie's taxi bills. He is not in difficulty, and the Tory party is not in difficulty, because of expenses. The Tory party in Scotland is in difficulty because it is selfish, because it does not care enough about the issues that we are discussing and because it is out of touch with Scottish public opinion. Mr McLetchie's questions show that that is the case. People in Scotland are generous in spirit and they want instinctively to help in Africa. They know that the money should not be misused, so they will direct their money where it is most required and they will do so with enthusiasm. They will speak next week with a voice that the G8 leaders will have to listen to, and we will be right behind them.

### G8 (Right to Peaceful Protest)

**3. Colin Fox (Lothians) (SSP):** To ask the First Minister whether the Scottish Executive will intervene to insist that Parliament's decision to uphold the right to peaceful protest at Gleneagles is implemented on 6 July 2005. (S2F-1778)

**The First Minister (Mr Jack McConnell):** I support absolutely the right to legitimate peaceful protest. I expect to see that commitment given by Mr Fox, too. If any members of his party are next week involved in disruptive or dangerous activities that break the law, I expect them to be expelled from the Scottish Socialist Party.

**Colin Fox:** I remind the First Minister of motion S2M-2506, regarding the right to protest at Gleneagles, which I moved and which was agreed by Parliament on 3 March this year. The motion said:

"That the Parliament ... resolves to uphold and support the right to peaceful assembly and protest ... at the summit itself in Gleneagles."

Will the First Minister accept that the meaning of that motion is that there should be a peaceful legal protest at Gleneagles within earshot of G8 leaders? Will he work constructively with G8 Alternatives this week to facilitate everyone's right to protest against the world leaders whom we hold responsible for world poverty?

**The First Minister:** Chief Constable John Vine and the police forces in Tayside and elsewhere in Scotland have behaved in an exemplary fashion in

the past few months. They have learned lessons from other international summits, they have liaised closely with local people and they have worked hard to ensure that those who wish to protest have a decent opportunity to do so. They have tried time and again to compromise with G8 Alternatives to ensure that, while exercising their right to protest, they do so reasonably, without overly disrupting local people and their lives and without creating dangerous situations. The police have done a great job, for which I applaud them. I urge G8 Alternatives, even at this late stage, to work closely with the police and the local authority to reach agreement about where to protest. I urge them not to break the law, not to cause disruption, not to do anything dangerous and not to damage the good name of Scotland.

**Colin Fox:** The First Minister has the responsibility for upholding motions that are passed in Parliament. Negotiations on the protest have been going on for a year, the motion was passed in Parliament four months ago and the Public Petitions Committee reinforced the decision earlier this week. With one week to go before the summit, will the First Minister provide us with specific details of where that protest will assemble, where it will have the right to march and where the rallying point will be? Will he provide a guarantee to Parliament, based on the motion that was agreed to, that he will work to ensure that a legal peaceful protest takes place in Gleneagles, within earshot of G8 leaders, on Wednesday of next week? Will he give us that guarantee and uphold the motion that was passed by Parliament?

**The First Minister:** People have the right to peaceful protest in Scotland; Parliament supports that right. However, peaceful protest should be organised properly and co-ordinated with the appropriate authorities. That is what is happening in this case. No-one is stopping G8 Alternatives from organising a protest, but it must organise that protest in consultation with, or with the agreement of, the appropriate authorities. There is an absolute duty on Parliament and the agencies that we fund to take account of the needs of local people and the security of Scotland next week. That is what will happen. I repeat my call to Mr Fox: if any members of the SSP are involved in illegal activity next week, I hope that he will take action against them.

**Roseanna Cunningham (Perth) (SNP):** Does the First Minister agree that there is a danger that arguments about the right to protest and the threats surrounding that are likely to overshadow significant local achievements in dealing with the issues to do with the G8 summit? Will he, in that spirit, join me in congratulating the people of Dunning for this week's local Dunning summit? Will he join me in congratulating the students of Perth and Kinross on last night's sterling

performance on the BBC programme "G8: The Road to the Summit"? Will he also join me in urging the Prime Minister to declare that the Crieff High School song "Build a Bridge" becomes the official G8 anthem? Does he agree that, instead of arguments about protest, those positive moves should be what we talk about over the next week?

**The First Minister:** In one day, Nicola Sturgeon has wished me a happy birthday and I agree with Roseanna Cunningham. It is a remarkable moment for our Parliament.

I absolutely endorse what Roseanna Cunningham has said. There are some very interesting things happening locally around Gleneagles, and the people of Dunning are to be congratulated on their mini-summit. That was a fantastic creative idea which has, I am sure, helped the village and people from elsewhere who attended the event. The pupils of Crieff High School and the other pupils in Perthshire are also to be congratulated on their efforts to make the summit an opportunity for them to express their creativity. Although I cannot guarantee what might or might not be the anthem before, during or after the summit next week, I will take the opportunity tomorrow, in London, to mention the song to the Prime Minister.

**Des McNulty (Clydebank and Milngavie) (Lab):** Does the First Minister agree that our focus must be on what we can do to help Africa, which is why so many people will be demonstrating on Saturday? In that context, will he reinforce the message that Gordon Brown expressed very eloquently this week about the moral case, as well as the business case, for intervention and assistance for Africa? Will he encourage the Prime Minister—a leader of a major country in the G8—to carry on with the strong leadership that has got the issue on the agenda and which promises to make significant progress?

**The First Minister:** Of course. In addition, I hope that the G8 leaders have not just the good sense to recognise their moral responsibility, but the moral and political courage to show leadership, even the leaders from countries where Africa is not as big an issue in public opinion as it is in the United Kingdom. I hope that they will show the moral and political courage to make the decisions that are required and that they will be remembered for ever as the people who made the right decisions at the beginning of the 21<sup>st</sup> century and who changed the face of Africa.

**Carolyn Leckie:** On a point of order, Presiding Officer. The motion that was referred to by Colin Fox was passed because people shamefully stand by while 30,000 children die every day. [Interruption.]



**The Presiding Officer:** Order. I have to listen to what Carolyn Leckie says.

**Carolyn Leckie:** Parliament agreed to uphold the right to demonstrate at the summit at Gleneagles. What action has the Presiding Officer taken to uphold the will of Parliament, and what further action will he take? Can he reassure us that Parliament's will to uphold the right to protest at the summit will be upheld, or is the Parliament just a tourist attraction?

**The Presiding Officer:** That, clearly, is a request for a policy statement on a policy question, and is not a matter for me.

**Carolyn Leckie:** This is a peaceful protest. *[Interruption.]*

**The Presiding Officer:** Order. That is clearly unacceptable behaviour. I order you to withdraw from the chamber. As this is a repeat performance, I will consult members of the Parliamentary Bureau on the penalties that are to be enforced. I must suspend the meeting for a few minutes while the Scottish Socialist Party members are removed.

12:25

*Meeting suspended.*

12:28

*On resuming—*

**The Presiding Officer:** Given that SSP members are not moving, I suspend the meeting until 1 o'clock.

12:28

*Meeting suspended until 13:00.*

13:13

*On resuming—*

## **Presiding Officer's Ruling**

**The Presiding Officer (Mr George Reid):** What we witnessed earlier from some members of the Scottish Socialist Party was an absolute disgrace. For elected members to act in such a grossly undemocratic fashion shows an absolute contempt for Parliament. Those members have compounded that contempt by refusing to leave the chamber. They cannot hope to be simultaneously on the barricades and on the benches of this Parliament.

My powers as Presiding Officer are limited to suspending the offending members up to the end of the next sitting day. I so now suspend them. It may be that Parliament judges that penalty to be insufficient, given the gravity of the offence. I shall convene the Parliamentary Bureau and invite my colleagues to consider sanctions that will make it very clear that the business of democracy will continue in this place without let, without hindrance and without disorder.

This is a matter of democracy. Those who claim to speak for others should never deny that right and that privilege to other elected members. *[Applause.]*

## First Minister's Question Time

*Resumed.*

13:15

**The Presiding Officer (Mr George Reid):** We now continue with First Minister's question time. I am grateful that the First Minister has stayed with us.

### G8 (Climate Change)

**4. Sarah Boyack (Edinburgh Central) (Lab):** To ask the First Minister what contribution the Scottish Executive will make to the G8 summit's discussions on climate change. (S2F-1772)

**The First Minister (Mr Jack McConnell):** I want to start by expressing my regret to the schoolchildren who were waiting for me to present prizes to them in Our Dynamic Earth this afternoon. In recent months they have done a great deal of work on climate change. Ross Finnie is currently deputising for me, but I will try to see the schoolchildren before they have to leave to return to their communities. [*Applause.*] Perhaps they, too, will have learned a lesson today about the importance of democracy.

The Executive recognises that climate change is the single most important long-term threat that faces our planet. The G8 summit is an opportunity to progress the debate on climate change at the highest political level, and to help to forge a common vision. We want to lead by example, so I am pleased to clarify our position ahead of the G8 summit. I can announce that we will establish climate change targets in areas of devolved responsibility. We will do that in our strategy, which will be published later this year.

**Sarah Boyack:** I welcome the First Minister's very strong commitments. Many of us fear that the G8 might not make the radical breakthrough that the world needs, so I particularly welcome the First Minister's new commitment today on setting targets to tackle climate change in Scotland.

I ask the First Minister to take early action so that Scotland takes a lead on climate change, as he desires. I suggest that he might start with energy efficiency and renewables, particularly in urban Scotland, where we might deliver both social and environmental justice, as well as tackling climate change.

**The First Minister:** We have an obligation and an opportunity here in Scotland. The time is right for us to set targets in appropriate areas. When we publish our strategy, those targets will be based on evidence and proper analysis and they will be realistic but challenging. The targets will, of course, include both energy and renewables.

### Caledonian MacBrayne (Employees)

**5. Murdo Fraser (Mid Scotland and Fife) (Con):** To ask the First Minister what discussions the Scottish Executive has had with Caledonian MacBrayne regarding the status of its employees. (S2F-1769)

**The First Minister (Mr Jack McConnell):** Our officials have discussed the status of CalMac's employees with representatives of CalMac's management on a number of occasions.

**Murdo Fraser:** Does the First Minister agree that it is extraordinary that a company that is owned by the taxpayer and which is to a large extent funded by the taxpayer is aiming to offshore its employees to avoid payment of national insurance? Does the First Minister not see the irony of a publicly owned company operating in a manner that would—if the company were privately owned—be greeted with howls of protest from the Labour benches behind him?

**The First Minister:** It is extraordinary that the party that used to support competition believes that CalMac should not be allowed to compete. That is really extraordinary, but it shows—as Eleanor Laing showed earlier this week—the utter contempt for the company and its services that the Tories have shown in the past.

Caledonian MacBrayne is a very important part of the fabric of our public sector in Scotland. The services that it provides are vital for island communities, but it needs to be able to compete with other shipping companies and to be as efficient as it possibly can. With or without the tendering exercise that we are currently discussing with the European Commission, we want to ensure that Caledonian MacBrayne is as efficient as possible and that it is able to cut its costs. The United Kingdom Government has a regime in place that is designed to ensure that there are more British people employed on ships as a result. Caledonian MacBrayne should certainly be taking up that opportunity.

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** Will the First Minister confirm that, if the Scottish Executive decides that the tender of the Clyde and Hebridean ferry services must proceed, and if CalMac were to lose that tender, CalMac's pension fund would have to close, and will he confirm that the actuarial valuation of the cost of closing the fund is, at present, £24.8 million? Does the First Minister accept that, in those circumstances, the Government would have to pay that amount, and does he accept that that amount is vastly in excess of any conceivable savings that might possibly derive from the decision to go ahead to tender? Does the First Minister agree that to

proceed to tender those services would be utter folly?

**The First Minister:** I suspect that the question will be part of an attempt by Mr Ewing to scaremonger among CalMac employees. We have made it absolutely clear that, regardless of the outcome of the tendering exercise, CalMac employees will retain their current pensions rights. We also make it absolutely clear that questions that are being asked about the tendering exercise will be answered properly.

It is not automatically the case that the Government would have to pay the sum to which Mr Ewing referred. He will receive a full and proper answer from the Minister for Transport and Telecommunications when we have the information that he requires.

### Young Sportspeople

**6. Mr Andrew Arbuckle (Mid Scotland and Fife) (LD):** To ask the First Minister how the Scottish Executive is supporting the development of talented young Scottish sportspeople. (S2F-1782)

**The First Minister (Mr Jack McConnell):** We are investing in provision of high-quality facilities for training and competition, which will complement lottery investment in athlete support, the Institute of Sport network and performance coaches. I take this opportunity on behalf of Parliament to congratulate Andy Murray on his outstanding performances at Wimbledon last week. [*Applause.*] Two years ago, I visited Wimbledon for the first time in my life and was told that all the best young tennis players in Britain were Scots. I was genuinely not sure whether to believe that, but it is clearly the case. Andy Murray is a fantastic talent for the future and deserves the support and patience of the Scottish and British public. If he gets those, he may very well succeed.

**The Presiding Officer:** The members' business debate that should have been held over lunchtime is a casualty—

**Mr John Home Robertson (East Lothian) (Lab):** On a point of order, Presiding Officer. From your experience in another Parliament, you will recall that if any arrogant and self-indulgent individual were to try to obstruct the democratic work of that Parliament, their feet would not touch the ground. Will you take steps to ensure that you get the power that you require, and that the Parliament's security staff and police get the training and powers that they require, to ensure that nothing like what happened today ever happens again?

**The Presiding Officer:** I have already applied the maximum sanctions that are within my powers. However, I have no doubt that colleagues in the

Parliamentary Bureau will want to discuss with me the matter that Mr Home Robertson raises.

I apologise to Mr Arbuckle, who was a casualty a moment ago. The process is slightly back to front, but we will now take a supplementary from Mr Arbuckle.

**Mr Arbuckle:** I concur with the First Minister's congratulations to Andy Murray, but I point out to him that the present policy of concentrating on supporting core sports and excluding other sports, such as tennis, is wrong. Could that policy be reconsidered?

**The First Minister:** Over recent years, there has been a considerable amount of investment in Scottish tennis—not just in talented individual athletes such as Andy Murray and his colleagues, but in facilities including the planned new national indoor facility, which will expand next year at Stirling to include other courts. Those new facilities and the individuals who are receiving support are demonstrating through results that support can work. We need to keep under constant review whether the support is being targeted properly and whether any additional support is required.

**The Presiding Officer:** As I said, the members' business debate falls as a result of the disorder that we had earlier. Under rule 7.4.4 of standing orders, I have the power to make any necessary alteration to the daily business list as a result of suspensions. I rule that the members' business debate will be taken at 6 pm tonight.

## Scottish Parliamentary Corporate Body

13:23

**The Presiding Officer (Mr George Reid):** The next item of business is election of a member of the Scottish Parliamentary Corporate Body. I have received three valid nominations for appointment to the corporate body. In alphabetical order, the nominations are Mark Ballard, Nora Radcliffe and Jean Turner.

Copies of guidance explaining the procedure that will be followed have been placed on each member's desk. I will ask members to cast their vote for their preferred candidate. A separate vote will be called for each candidate. I remind members that they must vote only once and that they must use only their yes buttons when voting. If any member casts more than one vote, their vote will be treated as having been spoiled. Any members who wish to record abstentions will have the opportunity to do so at the end of voting for candidates. Once the voting has been completed, there will be a short delay of a few minutes while the result is verified. I will then announce the number of votes cast, the votes for each candidate and the votes to abstain.

A candidate will be elected if an overall majority is obtained. If no overall majority is obtained, the candidate or candidates with the smallest number of votes will be eliminated and a further round or rounds of voting will take place until the vacancy is filled.

We now commence voting. Members who wish to vote for Mark Ballard should press their yes buttons now.

*Members voted.*

**The Presiding Officer:** Members who wish to vote for Nora Radcliffe should press their yes buttons now.

*Members voted.*

**The Presiding Officer:** Members who wish to vote for Jean Turner should press their yes buttons now.

*Members voted.*

**The Presiding Officer:** Voting for the candidates has now been concluded. Any member who has not voted for a candidate and who wishes to abstain should press their yes button now.

The total number of votes cast in the SPCB election was 109. I declare that the results are as follows: Mark Ballard 7, Nora Radcliffe 99, Dr Jean Turner 3, Abstentions 0. There were no spoiled papers.

### VOTES FOR MARK BALLARD

Baird, Shiona (North East Scotland) (Green)  
Ballance, Chris (South of Scotland) (Green)  
Ballard, Mark (Lothians) (Green)  
Canavan, Dennis (Falkirk West) (Ind)  
Harvie, Patrick (Glasgow) (Green)  
Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
Scott, Eleanor (Highlands and Islands) (Green)

### VOTES FOR NORA RADCLIFFE

Adam, Brian (Aberdeen North) (SNP)  
Aitken, Bill (Glasgow) (Con)  
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)  
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
Brown, Robert (Glasgow) (LD)  
Brownlee, Derek (South of Scotland) (Con)  
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)  
Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
Davidson, Mr David (North East Scotland) (Con)  
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
Douglas-Hamilton, Lord James (Lothians) (Con)  
Eadie, Helen (Dunfermline East) (Lab)  
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
Ewing, Mrs Margaret (Moray) (SNP)  
Fabiani, Linda (Central Scotland) (SNP)  
Ferguson, Patricia (Glasgow Maryhill) (Lab)  
Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
Fraser, Murdo (Mid Scotland and Fife) (Con)  
Gallie, Phil (South of Scotland) (Con)  
Gibson, Rob (Highlands and Islands) (SNP)  
Gillon, Karen (Clydesdale) (Lab)  
Glen, Marlyn (North East Scotland) (Lab)  
Godman, Trish (West Renfrewshire) (Lab)  
Goldie, Miss Annabel (West of Scotland) (Con)  
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)  
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
Johnstone, Alex (North East Scotland) (Con)  
Kerr, Mr Andy (East Kilbride) (Lab)  
Lamont, Johann (Glasgow Pollok) (Lab)  
Livingstone, Marilyn (Kirkcaldy) (Lab)  
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)  
Matheson, Michael (Central Scotland) (SNP)  
Maxwell, Mr Stewart (West of Scotland) (SNP)  
May, Christine (Central Fife) (Lab)  
McAveety, Mr Frank (Glasgow Shettleston) (Lab)

McCabe, Mr Tom (Hamilton South) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Tosh, Murray (West of Scotland) (Con)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

13:37

*Meeting suspended until 14:15.***VOTES FOR DR JEAN TURNER**

MacDonald, Margo (Lothians) (Ind)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

**The Presiding Officer:** Nora Radcliffe is duly elected to serve on the Scottish Parliamentary Corporate Body.

**Susan Deacon (Edinburgh East and Musselburgh) (Lab):** On a point of order, Presiding Officer. I know that members from all parties would wish to reiterate today of all days our widespread and full support for the make poverty history campaign. In the light of your earlier statement, I am sure that you, too, are concerned that that message is not diluted by the antics of a few and I am sure that members will welcome—as you will—the opportunity that still exists for the vast majority of parliamentarians here to pledge that support through a photo call with the make poverty history campaign in the garden lobby immediately after proceedings.

**The Presiding Officer:** I call the Parliamentary Bureau to meet me in committee room 3 at 1.45.

14:15

*On resuming—*

## Question Time

### SCOTTISH EXECUTIVE

#### Health and Community Care

**The Deputy Presiding Officer (Murray Tosh):** Question 1 has been withdrawn.

#### Dental Services (East Lothian and Midlothian)

**2. Mr John Home Robertson (East Lothian) (Lab):** To ask the Scottish Executive how many people in East Lothian and Midlothian live in areas where dentists are not providing treatment under the national health service and what action can be taken to make NHS dental services available to these patients. (S2O-7353)

**The Deputy Minister for Health and Community Care (Lewis Macdonald):** The most recent available figures show that, at 31 March last year, just over 50 per cent of adults and 70 per cent of children were registered with an NHS dentist in Lothian. NHS Lothian is currently considering the appointment of salaried dentists to improve access to NHS services across its area.

**Mr Home Robertson:** Good. Does the minister agree that it is deplorable that some dentists are kicking NHS patients in the teeth by demanding that they pay at least £10 a month to reregister as private patients, despite the substantial package for NHS dentistry that was announced on 17 March? Since tens of thousands of people in large areas of the Lothians have now been locked out by privatised dentists, will he now take a tough line—he should not offer any anaesthetic—with the British Dental Association? Will the Executive help NHS Lothian to restore NHS dental services by deploying salaried dentists in areas such as the east of East Lothian?

**Lewis Macdonald:** Mr Home Robertson is, of course, right to say that what matters for patients is access to services. That is why I am delighted that we have been able to put in place such a substantial additional funding package. My predecessor Rhona Brankin opened the Chalmers dental centre recently to provide access to emergency dental treatment for patients in East Lothian, Midlothian and Edinburgh. The deployment of salaried dentists, to which I referred, is part of the answer. We also need to work with existing dental practices in order to sustain access to those services, both in Mr Home Robertson's constituency and throughout Scotland.

**The Deputy Presiding Officer:** Supplementaries must be specific to the Lothians.

**Phil Gallie (South of Scotland) (Con):** How can the minister bring comfort to my constituents in East Lothian, Midlothian and across the South of Scotland, who, as John Home Robertson outlined, cannot access dentists? This afternoon, the Executive intends to introduce free oral health assessments and dental examinations, but how will the individuals whom I have mentioned benefit from the provisions in the Smoking, Health and Social Care (Scotland) Bill?

**Lewis Macdonald:** As I said, the comfort that I wish to bring to Mr Home Robertson's constituents in East Lothian and to other people across the South of Scotland is through encouraging greater access to dental services. Measures are being put in place to secure emergency treatment, but Mr Gallie is right to say that we want people to have access to a range of other NHS dental services. That is why we will work hard with the dental profession and its representative organisations to secure support for the measures that we have put in place. The action plan brings forward the biggest increase in support for dental services since 1948.

**Richard Lochhead (North East Scotland) (SNP):** Does the minister agree that one way in which to bring dentists to the Lothians and to other areas of Scotland—such as Grampian—where there is a specific problem with a shortage of NHS dental services is to attract dentists from overseas to come to work in Scotland? Is he aware that, according to health officials, there is currently an oversupply of dentists in Sweden and 700 unemployed dentists in Germany? What steps is he taking to attract those dentists to come to work in Scotland to help to plug the gap in NHS dental services?

**Lewis Macdonald:** Individual NHS boards around Scotland are taking a number of initiatives to recruit dentists from elsewhere. That is part of the wider package, along with the work that we are doing to train, recruit and retain dentists here in Scotland in the NHS. We will continue to attend to that on-going project.

**The Deputy Presiding Officer:** For the benefit of members, I advise that question 3 has been withdrawn because the member who lodged it is now a minister and has had no option but to withdraw it. The same holds with a later question. There is no discourtesy to members or to the Parliament as a whole.

#### NHS Greater Glasgow (Meetings)

**4. Ms Sandra White (Glasgow) (SNP):** To ask the Scottish Executive whether it has any plans to meet Greater Glasgow NHS Board. (S2O-7335)

**The Minister for Health and Community Care (Mr Andy Kerr):** I meet NHS board chairs and members regularly. I have just commenced the

round of annual reviews of NHS boards, which this year will be held in public for the first time. I will undertake the Greater Glasgow NHS Board review on 31 August.

**Ms White:** The minister is aware of concerns about the siting of the proposed new children's hospital in Glasgow. His predecessor as Minister for Health and Community Care said:

"the Queen Mother's hospital and Yorkhill provide an important national service for the whole of Scotland and I am determined that such a service should and will continue."—[*Official Report*, 30 September 2004; c 10753.]

Does the minister agree with that statement? Does he also agree that the two sites that Greater Glasgow NHS Board has identified could not provide such a service? Will he ensure that Professor Calder's advisory group is given access to all professionals in relation to integrated maternity and children's services in Glasgow?

**Mr Kerr:** I assure the member that neither the Executive nor the health board will tell Professor Calder and his group how to go about their work. The group is completely independent and was brought in to help to deliver a new, world-class children's hospital for Glasgow. It has a hugely important job and should be left to get on with it.

#### National Health Service (Savings)

**5. Margaret Mitchell (Central Scotland) (Con):** To ask the Scottish Executive what aspects of health service delivery should not be covered by any future NHS board savings review. (S2O-7292)

**The Minister for Health and Community Care (Mr Andy Kerr):** It is the Scottish Executive's aim to ensure that health services are delivered in the most efficient and effective way possible. Therefore, it is the Scottish Executive's view that all aspects of health service delivery should be considered for review so as to provide the most efficient service to patients.

**Margaret Mitchell:** Does the minister agree that a cottage hospital that works well and provides an important local service, such as the Victoria memorial cottage hospital in Kilsyth, should not be included in a health board savings review? Does he agree that in such circumstances the necessary savings should be sought elsewhere, in particular from administrative posts?

**Mr Kerr:** The term "administrative posts" means different things to different people. For example, the term includes reception staff, who provide access to hospital, and medical records staff, who provide medical information—those staff are vital to health care, as are the doctors and nurses who work in the health service. Every board is receiving substantial additional funding this year—7.6 per cent on average, which is well in excess of inflation—and it would be a bit odd if a minister in

Edinburgh were to tell a health board how to run local services, because that is a matter for boards. Of course, I assure the member that boards must listen to, engage with and respond to communities. Patients' needs and perspectives must be at the heart of any review of services.

#### National Health Service (Centralisation of Stores)

**6. Mrs Nanette Milne (North East Scotland) (Con):** To ask the Scottish Executive what its policy is on centralisation of the NHS stores operation. (S2O-7293)

**The Deputy Minister for Health and Community Care (Lewis Macdonald):** Our policy on the NHS Scotland stores operation is to simplify the current arrangements by moving to a national logistics infrastructure, in order to improve all aspects of the physical supply chain at local and national level, in line with the efficient government initiative.

**Mrs Milne:** I have been contacted by a member of the public who is concerned about proposals to centralise the operation—to Livingston, I understand. Can the minister confirm whether that is the case? If so, what is the justification for that move?

**Lewis Macdonald:** I understand that the new, centralised operation is likely to be located in Lanarkshire rather than in West Lothian. The purpose of the measure is to ensure that we secure the best possible value for money for the taxpayer. The move will not involve redundancies and will happen with a minimum of relocation and with full redeployment of the staff involved. The additional resources that will be freed up as a result of the new approach to operating the system will be put to good use, to increase the efficiency and effectiveness of our logistics operation. The new approach will not take away the opportunity for local suppliers to continue to enter into contractual arrangements with their local health boards.

#### NHS Borders (Community Hospitals)

**7. Christine Grahame (South of Scotland) (SNP):** To ask the Scottish Executive whether it will offer financial assistance to Borders NHS Board to ensure that the cottage hospitals in Coldstream and Jedburgh remain open, in light of local and professional opposition to the closure of the hospitals and following the publication of the Kerr report and its support for community hospitals. (S2O-7321)

**The Deputy Minister for Health and Community Care (Lewis Macdonald):** Borders NHS Board is reviewing health services in those areas and is actively seeking the views of local people and NHS staff.

**Christine Grahame:** That was not my question. I asked whether there would be any financial assistance. I remind the minister that the first of the Kerr report's top 10 proposals was for boards

"to put in place a systematic approach to caring for the most vulnerable (especially older people) with long term conditions with a view to managing their conditions at home or in the community and reducing the chance of hospitalisation."

That is exactly what Jedburgh and Coldstream hospitals do.

**The Deputy Presiding Officer:** Come to a question, please.

**Christine Grahame:** In the light of Margaret Mitchell's question, will the minister address the issue of funding? The proposal is a cost-saving exercise that has nothing to do with service delivery—

**The Deputy Presiding Officer:** No, the member is making a speech.

**Lewis Macdonald:** It is entirely to do with service delivery. I am interested that Mrs Grahame is ahead of the local NHS board in having reached a view on what is required in this case and I would be interested to know what additional resources she thinks are needed. I am certainly not in a position to judge whether additional resources might be required. That is a matter for Borders NHS Board, which is why it is consulting local people and NHS staff to determine how best to deliver services. The idea that, before that process has been undertaken, a member can stand up in the chamber and tell the Parliament that a certain amount of additional resources ought to be provided, regardless of whether they are required, seems to me to be bizarre.

**Euan Robson (Roxburgh and Berwickshire) (LD):** Does the minister agree that what is at issue is the regeneration of health facilities in both towns in my constituency? We should not just seek to keep open buildings that might be past their sell-by date. Will he join me in congratulating local action groups on their constructive engagement in the consultation process?

**Lewis Macdonald:** Yes, I will. I also commend Mr Robson for his constructive engagement with Borders NHS Board. I wish that others in the chamber would take the same approach.

**The Deputy Presiding Officer:** Question 8 has also been withdrawn by a member who is now a minister.

### **Public Health (Untreated Sewage Sludge)**

**9. Chris Ballance (South of Scotland) (Green):** To ask the Scottish Executive whether national health service boards have made an assessment of the risk to public health from the

spreading of raw untreated sewage sludge on land. (S2O-7379)

**The Deputy Minister for Health and Community Care (Lewis Macdonald):** The responsibility for dealing with an application to spread sludge on land and ensuring that it would pose no risk to public health lies with the Scottish Environment Protection Agency. Several NHS boards have sought and received generic advice from Health Protection Scotland on the health issues associated with that practice.

**Chris Ballance:** I have constituents who believe that their families are being affected by asthma and by skin and chest infections caused by the spreading of such material. Has the minister read the American National Academy of Sciences July 2002 report on public health and soil science? If he has, does he have conclusions and will he say why raw sewage sludge cake is still going on to the land? Will he undertake to read that scientific report and make such recommendations as he feels necessary to his colleague the Minister for Environment and Rural Development?

**Lewis Macdonald:** I am pleased to say that the responsibility for reading and coming to conclusions on such reports lies with SEPA rather than with ministers and I have every faith that SEPA will carry out its responsibility in the usual way.

### **National Health Service (Independent Sector Facilities)**

**10. Janis Hughes (Glasgow Rutherglen) (Lab):** To ask the Scottish Executive whether withdrawing the use of independent sector facilities from the NHS would impact on the amount of time people wait for treatment. (S2O-7354)

**The Minister for Health and Community Care (Mr Andy Kerr):** Yes. The number of patients with a guarantee who are waiting more than six months for in-patient and day-case treatment is now at the lowest level ever recorded. Partnerships with the independent health care sector have played a key role in that achievement. The Executive has allocated £10 million to NHS boards for 2005-06 to purchase private sector capacity to assist them to meet their waiting times targets. Almost 3,000 NHS patients will benefit from shorter waits as a result. NHS boards may purchase further independent health care sector capacity in addition to that.

**Janis Hughes:** I welcome the improvements to waiting times that have been delivered through use of the independent sector. However, the minister will be aware that one of the concerns about the continuing use of the independent sector is the potential impact on staff recruitment and



retention in the NHS. Will he assure me that measures are in place to ensure that that potential impact is minimised?

**Mr Kerr:** Absolutely. As I announced to the Parliament, we are clear that we have to avoid such a situation and we are determined to do so. The background is one of massive growth in the NHS. There are now 1,150 more hospital doctors, 2,700 more nurses and 1,250 more allied health professionals than there were in 1999. We insist on contract terms with the independent health care sector that will penalise contractors that poach staff from the NHS. We expect at least some of the staff in the independent health care sector to come from other parts of the United Kingdom or from overseas.

## Environment and Rural Development

**The Deputy Presiding Officer:** Question 1 has been withdrawn.

### Ragwort Poisoning (Protection of Grazing Animals)

**2. Dr Elaine Murray (Dumfries) (Lab):** To ask the Scottish Executive whether the provisions in section 20 of the draft Animal Health and Welfare (Scotland) Bill will improve the protection afforded to horses and other grazing animals vulnerable to ragwort poisoning. (S2O-7372)

**The Minister for Environment and Rural Development (Ross Finnie):** Section 20 of the draft Animal Health and Welfare (Scotland) Bill will replace section 1(1)(d) of the Protection of Animals (Scotland) Act 1912 and will not make a substantial change to the provision. However, I direct Elaine Murray's attention to section 22 of the draft bill, which imposes a duty on people to ensure that an animal's needs are met. That includes the animal's need to be protected from injury, pain and suffering. Therefore, allowing a horse or other grazing animal that is vulnerable to ragwort poisoning to graze on ragwort would be an offence.

**Dr Murray:** I thank the minister for directing me to the provisions in section 22 of the draft bill. Am I right in assuming that those provisions would impact on the person who owns the horse rather than on, for example, people in neighbouring lands who might allow ragwort seeds to fall on the land and be grazed by the horse?

**Ross Finnie:** Yes, indeed. Those are two separate issues. The draft Animal Health and Welfare (Scotland) Bill will place a burden on the animal keeper; the Weeds Act 1959—which is always popular in the Parliament—is the only legislation of which I am aware that would allow the action that Elaine Murray suggests to be taken, but the primary responsibility for the control

of weeds lies with the occupier of the land. There is a provision on the situation that she describes, but the two issues are dealt with separately.

**Alex Johnstone (North East Scotland) (Con):** Does the aforementioned 1959 act give the minister any powers to act against local authorities that fail to control ragwort and other weeds on grass verges?

**Ross Finnie:** It does not give me such powers, although local authorities have powers not only under the Weeds Act 1959 but under the Town and Country Planning (Scotland) Act 1997 to serve notice requiring occupiers to control injurious weeds that are adversely affecting other land. Local authorities have a panoply of powers that they could deploy if they so wished.

### Recycling (Targets)

**3. Patrick Harvie (Glasgow) (Green):** To ask the Scottish Executive what progress is being made towards its national target for local authorities to recycle 25 per cent of waste by 2006. (S2O-7380)

**The Minister for Environment and Rural Development (Ross Finnie):** We are making good progress towards our 25 per cent target. The latest quarterly returns published by the Scottish Environment Protection Agency for October to December 2004 show a recycling and composting rate of just below 16 per cent.

**Patrick Harvie:** I congratulate the Executive on what progress is being made. It is possible that the minister failed to notice this month's edition of "Glasgow" magazine, which I am sure is a favourite read of his. Those of us who are unfortunate enough to have it put through our doors every month saw that Glasgow City Council is trumpeting itself as the recycling champion and claiming to have devoted the past 16 years to becoming Scotland's first recycling city. Will the minister confirm that the figures that Audit Scotland has published for Glasgow's true recycling record show that those claims are spurious and that Glasgow has the worst domestic recycling level of any city in Scotland? If the figures from Audit Scotland are correct, does he agree that the magazine is shameless propaganda and well deserving of its local name—"Glasgow Pravda"?

**Ross Finnie:** That question has strayed into a number of political areas that are not necessarily relevant to recycling targets. Patrick Harvie is perfectly capable of writing to Glasgow City Council if he believes that he has received a magazine that has erred from the truth. My proper concern is to ensure that every local authority avails itself of the opportunity to take up the £230 million that the Executive has made available

through the strategic waste fund. I readily admit that, although we are making progress with an average of 16 per cent, the performance of a number of local authorities remains to pick up the pace. However, there are some outstanding examples throughout Scotland, and I am grateful for the co-operation that we have from local authorities on trying to hit the 25 per cent target.

**Mrs Mary Mulligan (Linlithgow) (Lab):** While we are on the subject of outstanding local authorities, I thank the minister for visiting Linlithgow constituency on Monday and launching West Lothian Council's most recent recycling site. West Lothian Council is well on target to reach its 25 per cent target by next year. Will the minister encourage other local authorities to follow the example of West Lothian Council and others in sponsoring furniture recycling programmes such as Home Aid in Bathgate, which benefit both the environment and local people?

**Ross Finnie:** I certainly would encourage that. I was delighted to be at the recycling plant in West Lothian, although the member and I shared the only minor moment of anxiety. As the member arrived, she drove a little too far into the site and we thought that she was about to be recycled. That caused a little nervousness among local officials.

The member asks about furniture recycling. Local authorities, in the main, are embracing recycling with some energy, and that is highlighting the fact that we must expand the range of facilities. We must do that within each local authority area, because there is a danger of displacement towards the areas that are providing the sort of excellent facilities that can be found in West Lothian.

#### **Wind Generation Sites (Impact)**

**4. Phil Gallie (South of Scotland) (Con):** To ask the Scottish Executive what the impact on the environment and on rural development will be of planning consent being given for additional wind generation sites and what information its Environment and Rural Affairs Department has on the amount of acreage which has been, or will be, given planning consent. (S2O-7296)

**The Minister for Environment and Rural Development (Ross Finnie):** Renewable energy can play a vital part in our climate change programme and contribute substantially to addressing the environmental impacts of global warming. Developments are assessed against a clear set of guidelines that ensure that they will proceed only if it has been demonstrated that they will not have a significant adverse environmental impact. Figures on total and likely land areas are not available.

**Phil Gallie:** I am extremely disappointed in the minister's response. He does not have the figures.

I understand that consent was given yesterday for a Lewis wind farm with a maximum output of some 702MW. That wind farm will cover something like 80 or 100 square miles. I ask the minister to compare those figures with figures for the sites at Hunterston and Torness, where only 1 square mile is taken up and the effective output is six times the expected output of the Lewis wind farm.

**The Deputy Presiding Officer:** Come to a question, Mr Gallie.

**Phil Gallie:** Does the minister feel that the Lewis wind farm represents good use of land when compared with Hunterston? Hunterston or Torness's output is six times greater than Lewis's will be.

**The Deputy Presiding Officer:** Do not qualify it any further, Mr Gallie. You got the question out.

**Ross Finnie:** I respect Phil Gallie's continuing and persistent advocacy of nuclear generation.

**Mr John Home Robertson (East Lothian) (Lab):** And that of the rest of us.

**Ross Finnie:** And that of John Home Robertson. Like any Liberal Democrat, I am always prepared to listen to any minority group that might be in our presence.

Mr Gallie makes the mistake of confusing his perfectly legitimate advocacy of nuclear power with his views on wind farms. There are environmental benefits from renewable sources. Comparing land use is not useful.

I do not see John Swinney in the chamber, but he is one of the members who have expressed particular concerns on this issue. We are reviewing national planning policy guideline 6 to take account of the volume of planning applications. However, Scotland has enormous opportunities in wind power, wave power and tidal power as well as in biomass and photovoltaics. We can be a leader in renewable energy. I hope that our present policies will continue for a very long time.

**Alasdair Morgan (South of Scotland) (SNP):** Does the minister agree that wind farms have a useful contribution to make to rural development? They create a small number of local jobs and developers contribute to local communities. Factories such as one in Campbeltown make some of the machinery that goes on the top of wind turbines and I presume that, in future, other areas will benefit in a similar way. What steps is he taking to encourage communities to embrace wind farms, in the face of all the black propaganda that is put about by those who are against them in any circumstances?

**Ross Finnie:** I agree with the member on both points. There is potential in rural and remote rural areas for us to take economic advantage of the development of renewables. In Scotland, which has 60 per cent of the United Kingdom's forestry, not only wind but biomass could make a considerable contribution in rural and remote rural areas to both renewable energy and employment prospects.

The member asked what encouragement we are giving to communities to embrace wind farms. As my colleague the Minister for Communities announced, the Executive has embarked on a review of the relevant national planning policy guideline, because it appears that certain local authorities are being very hesitant about implementing policy in the area. We are keen to give them greater reassurance and a better way of dealing with proposals, so that local communities can feel more comfortable with them and therefore give support to them.

#### **NFU Scotland (Meetings)**

**5. Alex Fergusson (Galloway and Upper Nithsdale) (Con):** To ask the Scottish Executive when the Minister for Environment and Rural Development last met NFU Scotland and what issues were discussed. (S2O-7297)

**The Minister for Environment and Rural Development (Ross Finnie):** I meet NFU Scotland regularly. The most recent occasion was at the royal highland show last week, at which it appeared that not only the National Farmers Union but most of its members were present.

**Alex Fergusson:** I am sorry that I was unable to bump into the minister on that occasion, due to a particularly unpleasant throat. In his discussions with the NFU, was the issue raised of the growing anger and frustration among producers of previously unsupported products, in particular, at the fact that retired farmers who have sold their farms since 2002 can tick the necessary boxes allowing them to continue to claim the single farm payment by renting an area of rough grazing fairly cheaply? Given that some claimants no longer live in the United Kingdom, never mind Scotland, does the minister think that that is right? If he agrees with me that it is not, what does he propose to do about it?

**Ross Finnie:** We must keep the issue under control. We must be careful not to suggest that that is a widespread practice, which Alex Fergusson did not do.

**The Deputy Presiding Officer:** Minister, please address your microphone. Some members are struggling to hear you.

**Ross Finnie:** That would be unusual, but I take the point.

The matter must be kept under review. It is not just a question of renting or taking up a piece of rough grazing. If a farmer is to tick the box, he must do so for the land in question, which will have to meet the minimum environmental standards. I suggest to the member that at the moment land is being rented and leased more frequently, which ensures that people engage in agricultural activity and that at the same time the land is maintained to the standard that is required for farmers to qualify for payments. However, I take the member's point that we must monitor what happens in the area.

**The Deputy Presiding Officer:** Question 6 was not lodged.

#### **Contaminated Land (Royal Ordnance Factory)**

**7. Mr Bruce McFee (West of Scotland) (SNP):** To ask the Scottish Executive what role the Scottish Environment Protection Agency has in dealing with contamination at the site of the former Royal Ordnance factory in Bishopton, Renfrewshire. (S2O-7326)

**The Deputy Minister for Environment and Rural Development (Rhona Brankin):** SEPA has both an advisory and a regulatory role in dealing with contaminated land. SEPA has met both the developers and the planning authority to discuss potential contamination and remediation issues at the Bishopton site.

**Mr McFee:** The minister will know that to date Renfrewshire Council has not registered the ROF site as contaminated, preferring to deal with it through the planning process. As a former munitions plant, the site meets the criteria of a special site, as defined by part IIA of the Environmental Protection Act 1990, under which SEPA would have been designated as the enforcing authority because of the specific problems associated with such sites and so that the necessary expertise could be deployed. Does the minister believe that it is fair that the people of Bishopton should be denied that additional protection by the actions or inaction of Renfrewshire Council, which is an interested party in the proposed development of the site? Will the minister undertake to investigate the matter further?

**Rhona Brankin:** I understand that, as recently as 21 June, SEPA attended a meeting of the Bishopton community council, at which representatives of both SEPA and Renfrewshire Council gave presentations on their involvement and respective roles and responsibilities in relation to the site and answered questions from the floor. This is clearly an issue of concern to the local community. Discussions have already started and I expect them to continue.

**Miss Annabel Goldie (West of Scotland)**

**(Con):** I declare an interest in that I live in the village of Bishopton. The minister will be aware that for over 60 years the site was a production site involving noxious substances and that, by its very nature, much of the activity was covert. Therefore, there is a widespread lack of knowledge as to the contaminate situation of the site. Does the minister think that leaving the situation to informal dialogue and discussion between SEPA and local community representatives is sufficient? Would it not be more sensible for there to be some ministerial guidance or directive to require SEPA to take a more formal locus in the matter?

**Rhona Brankin:** SEPA has a regulatory role to license certain activities that are associated with the remediation of contaminated land. It also provides advice to local authorities on any potential pollution of controlled waters arising from land that is affected by contamination. SEPA has provided advice to BAE Systems on likely timescales for the assessment of any licensing applications and commented on preliminary proposals for site investigation work to assess the risk of pollution of controlled waters.

**Coastal and Marine National Park**

**8. Eleanor Scott (Highlands and Islands)**

**(Green):** To ask the Scottish Executive how it intends to take forward plans for Scotland's first coastal and marine national park. (S2O-7382)

**The Minister for Environment and Rural Development (Ross Finnie):** As I have announced, I have asked Scottish Natural Heritage to consider options for Scotland's first coastal and marine national park and to make a preliminary assessment of potential candidate areas. SNH will work closely with stakeholders and I have asked it to complete its report to ministers by early 2006. As part of the process of developing our marine strategy, I will chair a group of key stakeholders and I expect that the group will make some input into the work that SNH will undertake.

**Eleanor Scott:** I welcome the minister's announcement on the matter, because coastal and marine national parks have been dear to the hearts of many of us for some time. He will be aware that several local groups are looking at coastal and marine national parks in their area. Will he therefore outline what criteria will be used to select Scotland's first coastal and marine national park? Who are the likely stakeholders to be involved both at the early stage and at the stage of developing a local project?

**Ross Finnie:** I have asked SNH to consider first of all what the criteria should be and to engage with local groups and stakeholders—such as the

member and the many groups with which she is engaged—to try to elicit those. My postbag is now full with an ample number of candidates, but they have not yet been assessed by SNH.

The proper process is for us to allow Scottish Natural Heritage to consider the options that I set out in my letter of instruction commissioning it to do that work. I will report to Parliament as soon as it becomes clear what the next stage will be.

**Private Water Supplies (Scotland) Regulations 2005 (Draft)**

**9. Murdo Fraser (Mid Scotland and Fife)**

**(Con):** To ask the Scottish Executive what impact the draft Private Water Supplies (Scotland) Regulations 2005 will have on the environment. (S2O-7386)

**The Deputy Minister for Environment and Rural Development (Rhona Brankin):** The draft Private Water Supplies (Scotland) Regulations 2005 are concerned with the quality of water that is intended for human consumption and will have minimal impact on the environment.

**Murdo Fraser:** Many small businesses, such as hotels, bed and breakfasts, and caravan and camping sites, rely on private water supplies and now face bills of up to £435 from local authorities for analysing their drinking water to see whether it is fit for use. Will the Executive confirm that when it looks to implement the regulations, it will take on board representations from the business community about the burden of regulation and the impact that such charges will have on the viability of small businesses?

**Rhona Brankin:** I am sensitive to the impact that the regulations will have in rural areas and on the tourism sector. That is why we are committed to providing a grant scheme to assist all individuals or businesses that need to make improvements to their private water supply. The consultation on the draft regulations has just closed and the Executive is considering all the responses that it has received. I look forward to responding to those after the summer.

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

Is the minister concerned about the lack of knowledge on how many businesses the regulations could affect? Will she undertake a survey to establish the number of bed and breakfasts and other such businesses that have private water supplies?

**Rhona Brankin:** As I said, the consultation on the regulations has just closed. We will consider the responses that we have received, which should give us an indication of the scope and scale of the issues.

### Land Management Contracts

**10. Mr Andrew Arbuckle (Mid Scotland and Fife) (LD):** To ask the Scottish Executive how many farmers have signed land management contracts and under which categories. (S2O-7301)

**The Minister for Environment and Rural Development (Ross Finnie):** The number of farmers who are participating in the land management contract menu scheme is around 10,200. The measures that farmers are undertaking will not be known until the end of July, when we will have completed the data capture of all the applications.

**Mr Arbuckle:** Now that the minister is on his specialised subject, I will pursue the matter. In the run-up to the deadline for land management contract applications, farmers and NFU Scotland expressed concerns about the complexity of the paperwork and argued that it was unduly difficult to apply for some of the categories. When the figures are produced, will the minister consider revising the criteria?

**Ross Finnie:** Andrew Arbuckle is right that we received comments about the complexity of completing the forms, although we probably had as many complaints in the early days about the early date for completion of applications for entry to the scheme. The fact that we extended that date greatly assisted farmers and their advisers in deciding how to proceed. As further applications will be made in future years, we will consider the matter carefully. I assure the member that we will take into account the comments that we received from applicants.

**The Deputy Presiding Officer:** Mr Gallie has hit the jackpot today.

**Phil Gallie (South of Scotland) (Con):** I noticed the time, Presiding Officer.

What contact has the minister had with his Westminster colleagues about the Prime Minister's intention to reform the common agricultural policy? What effect will that have in the longer term on farmers who have signed up to land management contracts?

**Ross Finnie:** The Prime Minister made a political comment about how he sees the future of the CAP. In relation to that issue, we are concentrating exclusively on implementing the rural development regulation that has just been agreed. We will respond to any positive proposal from the European Commission on reform of the CAP but, at present, there are no formal proposals of that nature. We will engage with Westminster when a more formal proposal emerges.

**The Deputy Presiding Officer:** As Mr Gallie has not had the presence of mind to press his request-to-speak button again, there are no further

supplementaries, so that concludes question time. The member who has just requested to speak is too late. We will now have a brief suspension, after which we will resume with Parliamentary Bureau motions.

14:53

*Meeting suspended.*

14:55

*On resuming—*

## Motions without Notice

*Motions moved,*

That the Parliament agrees that Rule 12.3.3A of Standing Orders be suspended for the purpose of allowing the Standards and Public Appointments Committee to meet in the afternoon of Thursday 30 June 2005.

That, under Rule 7.3.3(b), the Parliament agrees that Carolyn Leckie, Colin Fox, Rosie Kane and Frances Curran be excluded from the Chamber for the month of September 2005 and from any meeting of the Parliament in the Chamber during the intervening period.—[*Ms Margaret Curran.*]

*Motions agreed to.*

**The Presiding Officer (Mr George Reid):** There will be another short suspension.

14:56

*Meeting suspended.*

14:57

*On resuming—*

## Smoking, Health and Social Care (Scotland) Bill: Stage 3

*Resumed debate.*

**The Deputy Presiding Officer (Trish Godman):** We resume consideration of stage 3 amendments to the Smoking, Health and Social Care (Scotland) Bill. I will allow an extended voting period of two minutes for the first division this afternoon. Thereafter, I will allow a voting period of one minute for the first division after the debate on the group. All other divisions will last for 30 seconds.

Group 5 is on the definition of wholly or substantially enclosed. Amendment 57, in the name of Brian Monteith, is grouped with amendment 58. [*Interruption.*] It would be helpful if we could hear Mr Monteith. Members who are carrying on conversations should do so outside the chamber. I say that to Mr Smith in particular.

**Mr Monteith:** It may seem strange to lodge a probing amendment at stage 3, but such will be the nature of the regulations that will accompany the bill when it becomes an act that it is worth exploring a number of points at this stage to find out what the Executive's views are and to allow it to consider whether it should make any further changes. Amendment 57 seeks to change the bill, but I will not put it to a vote because I am more interested in hearing the Executive's views on the matter.

There is still confusion about the phrase "wholly or substantially enclosed" in relation to premises. For that reason, amendment 57 seeks to point out that the approach in England under the Department of Health's white paper, which is out for consultation, includes a clear definition that seems to be different from the definition that has been used in Scotland. That may be wholly intentional on the part of the Department of Health in London and the Health Department in Edinburgh, but I would like to hear from the minister why the definitions of "enclosed" might be different, because that could bring about unintentionally different results in different parts of the United Kingdom. It is important at this stage—before we deal with the regulations—to ascertain what the Executive's aims are.

I move amendment 57.

15:00

**Mr Kerr:** As I have said, our approach to the smoking provisions in the bill is relatively simple. The intent and scope of the provisions must be clear; the provisions should be readily enforceable; and there should be as few loopholes for evasion as possible. Brian Monteith's amendment 57 would provide an additional opportunity for loopholes to be found.

One of the key concepts in the bill is the kind of premises that may be prescribed as no-smoking premises under the regulations. At stage 2, in response to comments that were made in our consultation on the draft smoking regulations, we amended the bill to make it more specific and flexible on the definition of wholly enclosed spaces to allow opportunities to create non-wholly enclosed spaces in line with established practices under the Irish smoking ban. We have learned from that process rather than from anything that is happening south of the border, because we view the Irish model as very successful in its implementation and enforcement. No-smoking premises will now be defined as premises that are "wholly or substantially enclosed" and which also fall within one of four specified categories. The phrase "wholly or substantially enclosed" is of paramount importance in the designation of no-smoking premises.

We have further defined the phrase "wholly or substantially" in the revised draft regulations, as the member said. We have not yet finalised the regulations, but the drafting clearly sets out our direction of travel, which is consistent with the Irish approach and which may be broadly stated as follows. When a premises either has no roof or has a roof but no walls on 50 per cent of its perimeter, it cannot be considered enclosed. Our view is that such a definition makes our policy intention clear, reduces the possibilities for evasion and is readily enforceable by environmental health officers on the ground. Our proposed changes will add clarity and allow us to be specific but flexible, which is what was asked of us by respondees to the consultation.

Brian Monteith seeks to restrict the type of premises that will be caught by the legislation by narrowing the definition of those premises in the bill. However, we believe that a more flexible approach is needed to ensure that the bill can deliver this important and far-reaching health measure. I hope, therefore, that Brian Monteith will seek to withdraw amendment 57.

**Mr Monteith:** I know that my reputation for intrigue and trying to make things happen goes before me, but I assure the minister that, in lodging amendment 57, I did not seek to reduce the scope of the bill. I do not have a scooby what difference the amendment would make to the bill. I

have no idea what the difference would be between 70 per cent of the total notional roof and wall area and 50 per cent, which is what the bill currently specifies; I am simply trying to ascertain why the Executive arrived at that different figure.

The minister explained that the Executive has learned from the Irish model. When a bill is finally introduced in England, Westminster, too, may well choose to learn from the Irish model as well as from what is happening in Scotland. I make no judgment on that, but I will take further advice on the minister's remarks. I seek leave to withdraw amendment 57.

*Amendment 57, by agreement, withdrawn.*

*Amendments 58 and 59 not moved.*

**The Deputy Presiding Officer:** Group 6 is on part 1 regulation making powers. Amendment 7, in the name of the minister, is grouped with amendment 29.

**Mr Kerr:** Amendment 7 is a technical amendment to section 4(8). Following the Subordinate Legislation Committee's observation on the lack of clarity, the Executive believes that section 4(8) should be amended to make it clear that any failure to comply with any additional signage requirements that are specified in regulations that are made under that section will constitute an offence under section 3(1) in the same way that failure to comply with the signage requirements under section 3(1) will be an offence. Section 4(8) would then mirror section 3(3), which was amended at stage 2 to make a similar point about additional signage requirements for buildings.

Amendment 29 will remove redundant section 34(4), following stage 2 amendments to require ministers to consult on any future regulations that are made under either section 4(2) or section 4(7).

I move amendment 7.

**Mr Maxwell:** As a member of the Subordinate Legislation Committee, I welcome the proposed changes. There was some debate in the committee about the possible problem with the two sections and whether a loophole would inadvertently be created so that it would be difficult to prosecute the offence in certain circumstances. I welcome amendment 7. Amendment 29 is merely a technical amendment that is consequential to amendment 7. We welcome both amendments and will support them.

**Dr Sylvia Jackson (Stirling) (Lab):** As the convener of the Subordinate Legislation Committee, I reiterate what Stewart Maxwell said. I have no reservation about his saying it, because he has taken great interest in the bill.

*Amendment 7 agreed to.*

#### After section 4

*Amendment 60 moved—[Mr Brian Monteith].*

**The Deputy Presiding Officer:** The question is, that amendment 60 be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Aitken, Bill (Glasgow) (Con)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brownlee, Derek (South of Scotland) (Con)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Johnstone, Alex (North East Scotland) (Con)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)

#### AGAINST

Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballard, Mark (Lothians) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lochhead, Richard (North East Scotland) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)

Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Wilson, Allan (Cunninghame North) (Lab)

#### ABSTENTIONS

Tosh, Murray (West of Scotland) (Con)

**The Deputy Presiding Officer:** The result of the division is: For 16, Against 82, Abstentions 1.

*Amendment 60 disagreed to.*

#### Section 7A—Sale of tobacco to under-age persons: variation of limit

**The Deputy Presiding Officer:** Group 7 is on the sale of tobacco to underage persons. Amendment 1, in the name of Stewart Maxwell, is grouped with amendments 28 and 32.

**Mr Maxwell:** Amendment 1 is intended to help clarify the policy intention behind the amendment at stage 2 that inserted section 7A. I am sure that Duncan McNeil's intention was not that ministers could take the power to lower the age for buying cigarettes to below 16. Section 7A(1) states that ministers may substitute for the age specified in the Children and Young Persons (Scotland) Act 1937 such other age or ages as they consider



appropriate. I am sure that the current Executive would not do this, but the danger is that it cannot tie the hands of any future Executive, which could, using that power, reduce the legal age for buying cigarettes or other tobacco products to below 16. I am sure that that was not the policy intention behind Duncan McNeil's amendment at stage 2.

By inserting the word "higher" between the words "other" and "age", we would keep the power but ensure that the age could be raised or left at 16, but not lowered. The amendment is merely a technical one that attempts to clarify the original intention behind Mr McNeil's amendment, which was supported by the Health Committee at stage 2. Amendments 28 and 32 are consequential on the insertion of section 7A and we support them as well.

I move amendment 1.

**The Deputy Minister for Health and Community Care (Lewis Macdonald):** This is my first contribution to this debate, so it is appropriate for me to acknowledge Stewart Maxwell's support for the bill throughout its parliamentary stages and the contribution that his member's bill made in terms of flushing out a number of the key issues and concerns surrounding the introduction of legislation on smoking. His bill allowed evidence to be taken that established beyond doubt the harmful effects of environmental tobacco smoke and helped to move on the argument to where we are today.

The amendments in group 7, including Mr Maxwell's amendment, recognise that a key objective of the bill is to discourage young people from starting to smoke in the first place. Duncan McNeil and his colleagues on the Health Committee deserve a good deal of credit for the progress of the bill and Mr McNeil's stage 2 amendment gave Scottish ministers powers to vary the legal age for buying tobacco. Duncan McNeil made a powerful case that that could be an important contribution to the process of reducing the numbers of young smokers.

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** Does the Scottish Executive have any intention of using that power?

**Lewis Macdonald:** From the beginning, we have made it clear that we first want to be sure that there is strong evidence that varying the legal age of tobacco purchase will be effective in its stated aims. We have also been clear that any order to give effect to such a change will be subject to the affirmative resolution procedure in the Parliament. That is the effect of amendment 28, which meets our commitment at stage 2 to take this course.

Building on Duncan McNeil's stage 2 amendment, Stewart Maxwell's amendment 1 will

allow ministers, responding to further research on the issue, to send a strong message by raising and maintaining the legal age of tobacco purchase if—but only if—such a measure is shown to offer an effective way of discouraging young people from taking up smoking.

Depending on the further research that we have commissioned in this area, the provision is an important and valuable tool that might help to reduce the high level of young people who take up smoking. I am therefore happy to commend Mr Maxwell's amendment 1, as well as amendments 28 and 30.

**Nora Radcliffe (Gordon) (LD):** The Liberal Democrats are quite happy to support Stewart Maxwell's amendment. I have certain reservations relating to the question whether the fact that we view people as being adult enough to marry at 16 might make it difficult to raise the age of consent for other things. However, I welcome the fact that further research will be commissioned into why young people take up smoking or why they do not. That research will be valuable and if the evidence suggests that we should raise the age at which people can buy tobacco, that will be all fair and good. The research is the bonus that comes out of this process and it is fair enough to include in the bill the ability to act on that research.

**Mr Duncan McNeil (Greenock and Inverclyde) (Lab):** I welcome the amendments that have been lodged by the Executive and Stewart Maxwell, because they give us an opportunity to review the age restriction on the sale of tobacco that dates back to the previous century, when smoking was viewed as harmless and glamorous. That was before the availability of scientific evidence that demonstrated the health impact of smoking. Knowing what we know now about the dangers of smoking, it is our duty to protect young people from them.

In 2005, is it correct to leave to 16-year-olds the decision about whether to buy cigarettes? According to a BBC healthy Britain survey, the majority of the public—particularly those between the ages of 18 and 34—supports the raising of the age limit. Furthermore, I am pleased to be able to announce that the British Medical Association conference decided today that the Government should be more effective in denying the supply of alcohol and tobacco to minors and that the minimum legal age for the sale of cigarettes should be raised to 18—that is now BMA policy.

Several European countries, including Sweden, Ireland, Finland, Iceland, Malta, Norway and Poland have set the minimum age for tobacco sales at 18. As we know, the age restrictions in North America are even stricter; some American states have set the age limit at 21. Recently, Nova Scotia and Ontario increased the age limit to 19.

Of course, there is no need to look across the world for good examples when there is a good example under our noses. Guernsey, with its devolved Government, has introduced a package of measures to reduce smoking. It has increased to 18 the age at which people may buy tobacco and the island is now credited as a world leader in reducing smoking among young people. The number of young people who report that they smoke has reduced by half and only 3 per cent of 11-year-olds think that they will smoke when they are older. Nearly twice as many young people smoke in the UK as in Guernsey.

If amendment 1 leads to an increase in the legal age for tobacco sales from 16 to 18, we will not be a world leader. We will not even be the first part of the British isles to introduce such legislation. We will simply be modernising our laws to give children the protection that is the norm throughout the modern world.

15:15

**Mr Monteith:** I was interested to hear the minister say that research had already been commissioned. Will he confirm whether the Executive has commissioned research on this issue that could lead to affirmative action, which he mentioned in response to Mike Rumbles's question, being taken through the Parliament?

Stewart Maxwell's amendment 1 will mean that the Parliament will still have the opportunity to have a full debate about the issue, based on evidence, before it makes a decision. That is a proper approach, with which we have no difficulty, although it is interesting that the amendment prejudices the evidence by suggesting that the age would be increased. That raises the question what we would do if the evidence showed that the age should be left alone or reduced. However, my main concern is to hear from the minister what action has already been taken that will help us to reach a view on the amendment.

**Mike Rumbles:** On many issues, the Liberal Democrats place the age of responsibility at 16, so I find it rather strange that we are asked to support an amendment that seeks to increase the age to 18. I would like to hear from the minister how the measure, if it was implemented, would be effective. In my view, the most important thing is to prevent our 12 to 14-year-olds from smoking—that is the key, surely, and not the 16 to 18-year-olds. As I understand it, there have only ever been two prosecutions in relation to under-16s, so is the proposal not just a fig leaf?

**Mr John Home Robertson (East Lothian) (Lab):** I am keen to support the proposed change, but I emphasise the need to enforce the legislation. The Protection of Children (Tobacco)

Act 1986 was a private member's bill that I put through the House of Commons to deal with a tobacco product called Skoal Bandits, which was a threat at that time—it was a sucking tobacco. The 1986 act was intended, by shifting the onus of proof, to make it easier to get prosecutions against shopkeepers and retailers who sell tobacco products to children. The Government of the United Kingdom at that time, to its eternal shame, failed to do anything proactive to enforce that legislation. I want the legal age to be increased; above all, I want the legislation to be enforced. That is essential for the safety of children and young people in Scotland.

**Irene Oldfather:** It is striking to note the extent to which smoking is rooted in youth. Some 90 per cent of smokers start smoking before they reach the age of 18. If someone has not started smoking by the time they reach the age of majority, it is unlikely that they will start thereafter. Increasing the age to 18 will therefore make a substantial difference. Some 30 per cent of our 15-year-olds smoke. Those figures are approximate, but they suggest that a large majority of smokers start before the age of 15, which is one year short of the present legal age.

I identify with John Home Robertson's comments on enforcement and prosecution. Problems with prosecution have occurred in the past. In fact, no prosecutions, convictions or fines were recorded for underage tobacco sales from 1996 to 1997. I know that the Lord Advocate is considering how to advance the position, but children's charities have been unfavourable towards the idea of using children to gather evidence. Increasing the age to 18 might allow charities to come on board with us on enforcing the law and prosecuting those who sell tobacco to young people.

**Lewis Macdonald:** As announced at stage 2, we have asked a group under Laurence Gruer to examine such matters and we have commissioned research to start in September. Unfortunately, I cannot provide Mr Monteith with the results of that. If we were in such a position, we would take a slightly different view today. We have made it clear that the intention is to undertake that research.

Mr Rumbles suggested that amendment 1 would increase the minimum age to 18. It would not. The amendment would give ministers the power to raise the age if the research showed that doing so would be effective. Effectiveness, which is critical, was at the heart of the speeches by John Home Robertson and Irene Oldfather.

Provision has been made for action when shopkeepers or others sell tobacco or tobacco products to underage people. Fines of up to £2,500—level 4 on the standard scale—are

possible; the same applies to those who permit smoking in no-smoking premises.

Mike Rumbles asked how we could make a change in the age limit effective. Duncan McNeil's comments on the effectiveness of age limitations elsewhere were telling.

Before we take any measures that use the proposed powers, we will return to the Parliament under the affirmative resolution procedure.

**Mr Maxwell:** I welcome the support for my amendment 1 from various sections of the Parliament. I was going to say that it is obvious that nobody supports lowering the minimum age below 16, but after Brian Monteith spoke, I was not absolutely sure whether we all agreed on that.

John Home Robertson was right about enforcement. Enforcing the legislation is critical. There would be no point in making the changes if we did not enforce them. We should enforce the current laws and if we decide to change the law to raise the age, we should enforce that.

I agree absolutely with what the minister said about the group of amendments. All that I add is that when the order is made under the affirmative resolution, we will need not only the consultation. The Parliament will have to abide by and agree with what we want to do, because the Parliament will have the power to vote down the order, if it so wishes.

Many of the comments about whether we should raise the age are for debate at another time, because that is not the issue. The point is to ensure that the power is correct. My amendment would restrict the Executive's power so that it could not lower the age below 16. That is perfectly sensible. The evidence from Guernsey and elsewhere that Duncan McNeil cited made the point well. I hope that the Parliament will support my amendment.

**The Deputy Presiding Officer:** The question is, that amendment 1 be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

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)  
Boyack, Sarah (Edinburgh Central) (Lab)  
Brown, Robert (Glasgow) (LD)  
Canavan, Dennis (Falkirk West) (Ind)  
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
Crawford, Bruce (Mid Scotland and Fife) (SNP)  
Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)

Ewing, Mrs Margaret (Moray) (SNP)  
Ferguson, Patricia (Glasgow Maryhill) (Lab)  
Finnie, Ross (West of Scotland) (LD)  
Gibson, Rob (Highlands and Islands) (SNP)  
Gillon, Karen (Clydesdale) (Lab)  
Grahame, Christine (South of Scotland) (SNP)  
Harvie, Patrick (Glasgow) (Green)  
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)  
Matheson, Michael (Central Scotland) (SNP)  
Maxwell, Mr Stewart (West of Scotland) (SNP)  
May, Christine (Central Fife) (Lab)  
McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
McCabe, Mr Tom (Hamilton South) (Lab)  
McFee, Mr Bruce (West of Scotland) (SNP)  
McMahon, Michael (Hamilton North and Bellshill) (Lab)  
McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
Morgan, Alasdair (South of Scotland) (SNP)  
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)  
Peattie, Cathy (Falkirk East) (Lab)  
Pringle, Mike (Edinburgh South) (LD)  
Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
Radcliffe, Nora (Gordon) (LD)  
Robison, Shona (Dundee East) (SNP)  
Scott, Eleanor (Highlands and Islands) (Green)  
Scott, Tavish (Shetland) (LD)  
Smith, Iain (North East Fife) (LD)  
Smith, Margaret (Edinburgh West) (LD)  
Stevenson, Stewart (Banff and Buchan) (SNP)  
Swinburne, John (Central Scotland) (SSCUP)  
Swinney, Mr John (North Tayside) (SNP)  
Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
Watson, Mike (Glasgow Cathcart) (Lab)  
Welsh, Mr Andrew (Angus) (SNP)  
White, Ms Sandra (Glasgow) (SNP)  
Wilson, Allan (Cunninghame North) (Lab)

#### AGAINST

McNulty, Des (Clydebank and Milngavie) (Lab)

#### ABSTENTIONS

Aitken, Bill (Glasgow) (Con)  
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
Brownlee, Derek (South of Scotland) (Con)  
Davidson, Mr David (North East Scotland) (Con)

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

**The Presiding Officer:** The result of the division is: For 75, Against 1, Abstentions 17.

*Amendment 1 agreed to.*

### Before section 9

**The Deputy Presiding Officer:** Group 8 is on eye examinations, sight tests and oral health assessments. Amendment 63, in the name of Kate Maclean, is grouped with amendments 64, 17, 67 and 68.

**Kate Maclean (Dundee West) (Lab):** I can deal quickly with Duncan McNeil's amendments 64, 67 and 68. I cannot disagree with them, because they essentially replicate the first part of my amendment 63. However, as I continue, it will become obvious that I think that amendments 64, 67 and 68 do not go far enough.

There is evidence of—and a consensus on—the fact that perhaps as many as one in five young people in our schools have undetected sight problems. Such problems can lead to poor academic and sporting achievement and behavioural difficulties. For example, I heard about a girl in a Glasgow school who was in a special unit for children with learning disabilities and behavioural problems until a simple eye test showed that she could barely see beyond the end of her arm. After she got the spectacles that she required, she was able to return to mainstream education.

Although it would not be ethical to conduct scientific research into the link between poor vision and poor academic performance and behaviour, common sense seems to dictate that there is a link between being unable to see properly and being unable to learn to one's full potential.

The Executive will argue that there is insufficient evidence to support amendment 63. However, I dispute that. I feel that I have presented to the Executive and all MSPs evidence both of the existence of significant undetected sight loss among school pupils and of the efficacy of sight screening. In particular, I e-mailed to everyone a peer-reviewed, published article entitled "School vision screening, ages 5 to 16 years: the

evidence-base for content, provision and efficacy", which I think contains all the proof that is needed.

As for the Executive's criticism that amendment 63 is inflexible, I would argue that it is very flexible. I am asking for the very minimum: an eye examination on entry into primary school and a sight test on entry into secondary school. A body of opinion holds that further screenings in between those two examinations would be useful but, as I have said, I am asking only for the minimum. If further research proved that further screenings would be beneficial, they could obviously be introduced.

I realise that the Executive and the majority of the ophthalmology lobby support the recommendation in the Royal College of Paediatrics and Child Health's fourth edition of "Health for all children"—or Hall 4—that there should be an eye examination at the age of four or five. I agree absolutely with that, because there is no doubt that such a provision would allow problems that are mainly or solely treatable before the age of five or six to be identified and treated. Indeed, I think that the recommendation has universal support. With amendment 63, I seek to enshrine that provision in legislation.

The disagreement comes with the provision that children should have a sight test on entry into secondary school. I agree that, on a purely medical screening model, such a provision would be unnecessary. However, the sight test would show not only disease and pathologies but visual disorders, particularly myopic conditions, many of which develop between the ages of eight and 12.

Although the Executive does not support my amendment, it is supported by a large number of organisations, whose statements of support have been forwarded to all members. I hope that members have had a chance to look at those and at the copy of the article that I mentioned earlier.

Members might also be interested to know that the World Health Organisation's VISION 2020: The Right to Sight initiative has identified as one of its major priorities uncorrected refractive disorders. I understand that the Scottish Executive might now offer to commission research into the need for and the efficacy of the type of sight screening that is set out in amendment 63. I am concerned that, if that research is once again informed largely by one area of medical opinion, it will reach the same conclusion that Hall 4 reached and children will continue to suffer because of undetected and untreated sight loss. Indeed, one of the people who contacted me about amendment 63 and who could feed into the process said in an e-mail that it did not matter if children got spectacles later than they need them. Well, it matters to me, which is why I will press the amendment and why I urge every MSP to support it.

I move amendment 63.

15:30

**Mr McNeil:** It is difficult to disagree that health problems, including sight problems, have to be identified. However, it is also important to point out, as Kate Maclean said, that children already receive free sight tests, although we might have to address certain issues with regard to take-up.

As Kate Maclean pointed out, the current policy is that all children aged four to five will receive a sight test as part of comprehensive vision screening in their pre-school year. No one is complacent, of course. Built into the current policy is the recognition that there must be on-going review, and that is necessary. It is important to point out that the current childhood vision screening policy is supported by a large body of professional consensus and scientific research from the United Kingdom and North America. I suggest that further advances on, or a review of, current policy will be successful only if we proceed by consensus. Continued consensus must be based on robust evidence, and the professional consensus for routine sight testing as outlined in Kate Maclean's amendment is simply not there. There is a debate about that, as we have seen in the e-mails from people who have contacted us, and I believe that my amendment 64 can resolve some of the issues that arise from that debate.

Amendment 64 would place a duty on Scottish ministers

"to meet all reasonable requirements, to provide for the detection of vision problems in children."

It would allow for a flexible approach, so that experts could assess the optimal age for screening, the most appropriate screening technique and the most suitable personnel to undertake and supervise the screening. Most important, it would allow the assessment and clear definition of the health impact of that intervention.

I hope that there will be as inclusive and broad a consultation as possible and that RNIB Scotland will be involved in that. I hope that there will be a timeframe to push on that consultation study and that some of that work will include pilot schemes in certain areas to address that unmet need in our most vulnerable groups across Scotland.

**Mrs Nanette Milne (North East Scotland) (Con):** Amendment 17 is straightforward. It would provide for the Executive to place a duty on health boards to ensure that people who are currently eligible for free eye and dental checks are targeted more effectively. The people to whom I refer are the most vulnerable in society, yet their health is most at risk because they escape the net and therefore fail to have the checks carried out. Even if free checks become available to everyone, those

people will still need to be targeted. It is well known that the Conservative group considered that to provide free eye and dental checks for everyone by 2007 would not be the best use of public resources. Free checks are already available for people who need them and the difficulty lies in persuading those who are eligible to come forward and, in the case of dentistry, in finding sufficient national health service dentists to carry out checks.

With regard to amendments 63 and 64, no one could deny that it is important to pick up eye problems in children as early as possible. That is why I previously indicated my support for the screening of schoolchildren at primary and secondary levels. Since then, however, I have looked at the matter in some detail and have found that the situation is more complex than I had thought. There is little doubt that screening at age four to five is desirable, and I am glad that that will be carried out, but more research is probably needed before sensible recommendations can be made about screening for impaired visual acuity at secondary school level. As Duncan McNeil said, according to professional advice, the optimal age for screening, the most appropriate technique and the most suitable personnel to undertake it, as well as other factors, must all be investigated before a screening programme can be recommended by the national screening committee. However, I have a great deal of sympathy with Kate Maclean's amendment 63, and I share her concern that sight testing is apparently not currently taken into consideration in the medical model that influences the national screening committee. Duncan McNeil's amendment 64 to place a duty on ministers

"to provide for the detection of vision problems in children"

should ensure that future recommendations made as a result of research will be carried out. I understand that the Executive plans to instigate more research. If I receive an assurance from the minister that the need for sight testing for children before they enter secondary school will be assessed as part of that research, that would help me to decide which amendment to support.

**Eleanor Scott (Highlands and Islands) (Green):** I have much sympathy with Kate Maclean's amendment 63. I will support it, on balance, although that was not an automatic decision. I speak as a former school doctor who was brought up not only with Hall 4, but with Hall 1, 2 and 3 beforehand and very much in the medical model.

I am reassured that the amendment does not in any way take away from the pre-school vision screening, which I believe is the crucial one for picking up any eye conditions that could, if undetected, lead to permanent poor sight in later

life. However, I take the point that children may fail educationally not because of an eye pathology of that nature, but because of a refractive error that is not corrected by glasses.

When I first started as a school doctor we tested vision at regular intervals. That was gradually whittled down in response, I believe, to evidence that was examined in the compilation of the Hall reports.

There is an argument for testing vision on school entry, but there is an issue about who does it. The letter that Kate Maclean circulated said quite a lot about optometrists doing it, but I think that school nurses are in a very good position to do it because they can capture all children. There are unresolved issues but, on balance, I will support amendment 63 because this is a very important issue.

**Dr Jean Turner (Strathkelvin and Bearsden)**

**(Ind):** I passionately believe that children should have eye tests before they go to primary school, during primary school and before they go to secondary school. I come into the category of people who want the extra test. The test in the middle would be done to pick up all the things that were missed by the first test. People often go through the medical sieve—they do not get picked up—and it is very important for children's education that eye problems are picked up. Kate Maclean and Eleanor Scott have said it all. I am definitely in favour of amendment 63.

We must bear it in mind that another group of people are often forgotten about. If a child has poor eyesight and is deaf—I do not mean stone deaf—they cannot even see what people are saying. We realise what a different world people who are exceptionally short-sighted live in when we listen to their descriptions of what they see. I have had friends—including a relative—who have been extremely short-sighted. It is terrible to isolate those people and it is wrong to prevent them from making the best of their schooling.

I will vote for Kate Maclean's amendment 63. I would like the provision to be coupled with regular hearing tests.

**Shona Robison:** I will make a short speech in support of amendment 63. It is totally unacceptable—I was not previously aware of the fact—that 20 per cent of primary and secondary school pupils have an undiagnosed sight problem. Of course, the problem is that that can severely impact on their education. The system fails to screen children consistently after age four and five. There are very patchy sight-screening programmes in some schools. That is not good enough. We need a comprehensive school-age screening programme. I believe that Kate Maclean's amendment 63 will ensure that.

Duncan McNeil's amendment 64 is much weaker and non-specific. For that reason, we hope that members will support Kate Maclean's amendment 63.

**Nora Radcliffe:** I agree with Kate Maclean about the importance of picking up poor eyesight. She is right that there are horror stories. Jean Turner also emphasised that point.

My difficulty with Kate Maclean's amendment 63 is that it is too prescriptive—it confines people to those two eye examinations when the evidence may show that that is not enough or that it is too much. There is general agreement that there should be pre-school screening. That is fine and that will happen. We should not confine people to two eye checks if more than that turns out to be the better option. I favour amendment 64, because it does not restrict us to two eye examinations: it opens up the possibility of more.

I will briefly comment on Nanette Milne's amendment 17. People who are eligible for free eye and dental checks do not come forward for their checks because they do not know that they are eligible. When free eye and dental checks are universal, there will be no confusion about who is eligible. That will go a long way towards ending people's reluctance to come forward for checks.

**Roseanna Cunningham (Perth) (SNP):** I register a personal interest in the matter. I was one of the children whose eyesight problems were picked up in the standard school test that used to be carried out. My eyesight problems were the reason why my work was falling behind at the time—I suffer from quite severe short-sightedness.

Amendment 63 reflects the unanimous view of the Health Committee, which is stated in paragraphs 90 and 91 of the committee's stage 1 report. The Health Committee strongly recommended that the Executive lodge suitable amendments at stage 2 to address the issue. I acknowledge that amendment 64, which Duncan McNeil lodged, represents an attempt to find a compromise position, but it is no more than a compromise and does not reflect what I thought was the unanimous view of the committee. I hope that Kate Maclean will press amendment 63 and I invite members to support it. Amendment 63 is clear and unambiguous and wholly superior to amendment 64. We ought to support clarity rather than vagueness.

**Mr Kerr:** I acknowledge Kate Maclean's commitment to sight screening, her work with the Scottish Parliament cross-party group on visual impairment and her connections with the RNIB and other such organisations, and I commend her passion and commitment.

The Executive endorses measures to ensure the early identification and treatment of health

problems in children, but amendment 63 would create an inflexible framework for childhood vision screening policy, which would be inappropriate. As we have said throughout the passage of the bill, we want to ensure that legislation is evidence based. During the debate on amendment 55, I said to Irene Oldfather that there is no evidence to support the view that smoke has an effect on people's health outdoors, and I say to Kate Maclean that there is no substantial, peer-reviewed evidence on the matter that she raises. According to the RNIB:

"The role of vision screening after school entry remains controversial, as there is a paucity of evidence to support the benefits of screening in this age group. The degree of disability caused, at this age, by uncorrected refractive errors is unknown."

Kate Maclean has pushed the Executive extremely hard on the matter, but policy needs a rational evidence base.

It has been suggested that the United Kingdom national screening committee is focused only on medical matters, but that is not the case. The committee informs its proposals by drawing on the latest research evidence and the skills of specifically convened multidisciplinary expert groups, which always include patients and service users. The committee's expert group on childhood vision screening involved all three eye care professional groups: optometrists; orthoptists; and ophthalmologists. Of course, the Hall 4 recommendations on vision screening reflect the recommendations of the national screening committee. Accusations that the committee's approach does not address vision screening are therefore unfounded.

Amendment 64 helps us out in relation to research. There is an evidence base for the orthoptist-led vision screening programme for children in their pre-school year, when they are between four and five years old. As a result of the programme sight problems will be detected, as will medical conditions such as amblyopia, when sufferers are at an age at which there is evidence that their problems are most amenable to treatment. I share members' concerns that we must identify sight problems early, to ensure that they do not impact on children's learning. For that reason we published guidance that recommends a sight test for any child who appears to be struggling at school. The approach is linked to the measures that are being implemented as a result of the Education (Additional Support for Learning) (Scotland) Act 2004, to support children and enable them to learn effectively.

The Executive's approach to vision screening is based on the recommendations of the Royal College of Paediatrics and Child Health, which emerged after an extensive review of available

evidence on vision screening practice, which members mentioned and is commonly known as Hall 4. The review involved all three eye care professions and its recommendations have the backing of the respective professional bodies. The chair of the Scottish branch of the British and Irish Orthoptic Society wrote to ministers to highlight the fact that efforts should focus on the implementation of the Hall 4 pre-school programme, for which there is a strong evidence base. In particular it was highlighted that she was unable to endorse proposals for additional tests which were rejected by the national screening group and ophthalmic professional bodies on the ground of lack of robust evidence.

15:45

Decisions about our children's health and health care are not to be taken lightly and must be based on sound evidence. We seek to do research that will determine whether the routine sight testing of schoolchildren identifies previously undetected significant sight problems. I reassure all members that the Executive is committed to doing that research, which will also investigate the optimal intervals for testing, who should undertake the tests and which tests should be used.

An eye care review, led by an expert group, is currently under way. Optometrists, orthoptists and ophthalmologists are all involved in the review and they can progress the vision screening of schoolchildren. They will determine how best to undertake the research and I will certainly ask the review group for further information on timescales and publication of the report. I hope that members will understand that the Executive is serious; if we find evidence that we should do this, we will do it.

That is the point of Duncan McNeil's amendment 64 and I hope that members will consider supporting it, because it is about what we have tried to achieve through the bill and it is about providing that evidence base. Members can rest assured that the Executive is committed to doing that. I would be happy to hear from members about the content of the review and the research. Amendment 64 will create a specific duty on Scottish ministers in respect of vision screening for children while providing flexibility to adapt the approach as new evidence appears. That is why the Executive supports the amendment.

As was explained at stage 2, the prescriptive nature of Mrs Milne's amendment 17 would place an unreasonable duty on health boards. In particular, health boards would in future always be required to refer to categories of people who were entitled to receive free eye tests and dental examinations before 1 April 2006. That would become extremely burdensome to our health boards. We take very seriously the responsibility

of ensuring that vulnerable groups can access the health services to which they are entitled. The Executive is currently undertaking a number of initiatives such as the well man initiative and the unmet needs pilots, to consider how to improve access to health services among vulnerable groups across Scotland.

Our health improvement policy has an overarching aim of reducing health inequalities and it is good practice for health boards to focus on tackling health inequalities and adapting local services in order to engage with vulnerable people and those in more deprived communities. We have made it clear that we support measures to increase the uptake of free checks and have made a commitment to work with health boards to target those vulnerable groups who are already eligible. So, while I support the principle of encouraging the uptake of free eye and dental checks, I believe that amendment 17 is unduly restrictive. I therefore invite Mrs Milne not to move it.

I reassure members—particularly in relation to Duncan McNeil's amendment 64—that we are committed to carrying out the research. If it shows us the way forward for screening tests, the Executive will deliver on that commitment.

**Kate Maclean:** I want to address a couple of points that members made. Nora Radcliffe said that the consequences of my amendment 63 would be too restrictive if more sight tests were required in the future. However, the amendment calls for

"a minimum of an eye examination for all pupils on entry to the first year of primary education and a sight test for all pupils on entry to the first year of secondary education."

That does not in any way exclude the possibility of another sight test being given at age seven or eight when young people become literate and it is easier to test their visual acuity than it is when they are four or five.

The Minister for Health and Community Care and I will just have to agree to differ about the evidence. I feel that I have presented evidence in support of the fact that there are significant but undetected sight problems in school pupils and problems with the efficacy of screening. If we move away from screening more regularly than just the once at age four or five, we will be going against what is happening in other countries.

On Duncan McNeil's point about the fact that there are free eye tests, the provision is being brought in by the bill and while we might all think that it is a very good idea, there is no scientific research base to show that there is any public health benefit in giving people access to free eye tests. If we look at the statistics for areas where all children are entitled to free eye tests and free dental checks and where there is easy access to

those—Dundee, for example—we find a higher incidence of sight loss and dental disease. That shows that, if free access is not organised into a screening programme, its existence will not necessarily mean its uptake.

I have presented enough evidence for the Parliament to support amendment 63 and I will press it.

**The Deputy Presiding Officer:** The question is, that amendment 63 be agreed to. Are we agreed?

**Members:** No.

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

**Ms Wendy Alexander (Paisley North) (Lab):** On a point of order, Presiding Officer.

**The Deputy Presiding Officer:** I am sorry, but we are in the middle of a vote.

**Ms Alexander:** It is to do with the vote.

**The Deputy Presiding Officer:** We are in the middle of a vote.

**Ms Alexander:** I tried three times to insert my card.

**The Deputy Presiding Officer:** I cannot take a point of order during a vote.

#### FOR

Baird, Shiona (North East Scotland) (Green)  
 Ballance, Chris (South of Scotland) (Green)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hyslop, Fiona (Lothians) (SNP)  
 Lochhead, Richard (North East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Maclean, Kate (Dundee West) (Lab)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Robison, Shona (Dundee East) (SNP)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)

#### AGAINST

Aitken, Bill (Glasgow) (Con)  
 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)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brown, Robert (Glasgow) (LD)  
 Brownlee, Derek (South of Scotland) (Con)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North East Scotland) (Con)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gillon, Karen (Clydesdale) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 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)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 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)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Tosh, Murray (West of Scotland) (Con)  
 Wallace, Mr Jim (Orkney) (LD)

Watson, Mike (Glasgow Cathcart) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 30, Against 75, Abstentions 0.

*Amendment 63 disagreed to.*

*Amendment 64 moved—[Mr Duncan McNeil]—and agreed to.*

#### After section 10

*Amendment 17 not moved.*

#### Section 14—Provision of certain services under NHS contracts

**The Deputy Presiding Officer:** Group 9 is minor and technical amendments. Amendment 18, in the name of the minister, is grouped with amendments 27, 30 and 31.

**Lewis Macdonald:** Amendment 18 is merely technical and moves section 14 of the bill to after section 21 to reflect its widened scope.

Amendment 27 concerns the right of appeal under section 50(3) of the Adults with Incapacity (Scotland) Act 2000, which provides a right of appeal for

“any person having an interest in the personal welfare of the adult”

with incapacity in relation to any treatment that has been decided on between a medical practitioner and the adult's proxy decision maker. That gives extra protection to the adult on decisions that are made about his or her medical treatment.

Section 30 of the bill introduces into the Adults with Incapacity (Scotland) Act 2000 a new, additional right of appeal for the medical professional who has primary responsibility for the medical treatment of the adult. That recognises that a person's general practitioner may have cause to question a decision that is made by another relevant professional person, such as a dentist. Amendment 27 makes it clear that the new right of appeal for the GP applies in cases in which discussions about treatment take place between one of the other new categories of people who can issue a certificate and the proxy decision maker. In such cases, the medical practitioner will be able to intercede on behalf of the adult if one of those other professionals and the adult's proxy decision maker have made a decision on treatment with which the GP does not agree.

Amendment 30 is a technical amendment that tidies up an inaccurate reference elsewhere to the Public Health (Scotland) Act 1897 as a consequence of amendment at stage 2, and amendment 31 is a minor formatting amendment.

I move amendment 18.

*Amendment 18 agreed to.*

**Section 15—Lists of persons undertaking to provide or approved to assist in the provision of general dental services**

**The Deputy Presiding Officer:** Group 10 concerns the disclosure of information by those already on NHS lists. Amendment 19, in the name of Nanette Milne, is grouped with amendments 20 to 22.

**Mrs Milne:** I can be brief on this group. The amendments are intended to ensure that those who already provide dental or ophthalmic services are subject to the same disclosure checks in the same timeframe as those who are being added to the registered list.

If disclosure checks are necessary for new practitioners before they can be listed, they are necessary for all registered practitioners. That is only fair and it should be made clear on the face of the bill.

I move amendment 19.

**Lewis Macdonald:** The amendments in this group are similar to amendments that Nanette Milne lodged at stage 2, when they were debated in committee. For the avoidance of doubt, I make it clear, as ministers did then, that it is our policy intention that a requirement for disclosure of information will apply equally to relevant professionals who are applying to join a list and practising professionals who are already on such a list. The provisions of the bill are drafted in such a way as to lead to that outcome.

Professionals who are applying to join a list will be required to disclose the necessary information before their application for inclusion on a list by an NHS board is considered. It will be up to the individual concerned to obtain and provide that information, and there is no prescribed timescale as such.

For those professionals already on an NHS board list, arrangements will be put in place to define a reasonable period within which they should submit relevant information when required to do so by the NHS board. However, it is simply not appropriate to define such a period in the bill. The issue must be discussed with the relevant professional bodies.

Nanette Milne does not advocate putting such a precise timescale on the face of the bill, but she does seek to require the same timescale to apply to existing and new practitioners. Since there is no timescale as such for new applicants in the bill, there cannot be one for existing practitioners. Therefore, her amendments could not achieve the result that she intends.

We want to ensure continuity of patient services and to make certain that practitioners and their patients are not disadvantaged by the requirements. I cannot be precise on the timescale for implementing the requirement for persons who are already listed. Those details have still to be discussed—and are best discussed—with the relevant professional bodies. However, I can assure Nanette Milne and other members that that will be completed as quickly as possible, without creating unnecessary additional burdens on any of those involved.

Nanette Milne's purpose can be achieved without amendments 19 to 22. Therefore, the amendments are not necessary and I hope that, in light of my assurances, she will withdraw amendment 19 and not move the other amendments. We will move the matter forward as quickly as we can.

**The Deputy Presiding Officer:** I invite Nanette Milne to wind up and to press or withdraw amendment 19.

**Mrs Milne:** I felt it important to flag up the issue. Disclosure checks should be carried out as quickly as possible both on existing and on new practitioners. However, after listening to the minister's assurance, I seek leave to withdraw amendment 19.

*Amendment 19, by agreement, withdrawn.*

*Amendment 20 not moved.*

**Section 17—Lists of persons undertaking to provide or approved to assist in the provision of general ophthalmic services**

*Amendments 21 and 22 not moved.*

**Section 24—Payments to certain persons infected with hepatitis C as a result of NHS treatment etc**

**The Deputy Presiding Officer:** Group 11 is on the Skipton Fund eligibility date. Amendment 24, in the name of the minister, is grouped with amendment 65.

Before calling the minister, I draw members' attention to a small correction to amendment 24 as it appears in the marshalled list. The text to be inserted by the amendment is set out as if it is a paragraph. It should be a sub-paragraph.

**Mr Kerr:** The basis of making ex gratia payments to those who have been infected with hepatitis C following NHS treatment is to help to alleviate the suffering and the life changes that people experience as a result of living with the infection. Our hearts go out to the individuals, and their families, who have had to undergo such a change in their lifestyles.

This is an issue on which Scotland has led the way in the United Kingdom, leading to the establishment of the UK-wide Skipton Fund scheme. However, I emphasise that the payments are not compensation; they are ex gratia payments that reflect the Executive's recognition that, although it has no legal liability, there is a genuine need to provide help to people who are facing hardship and distress as a result of contracting the disease.

What we seek to do is to provide help with the extra costs that can arise over a period of years from living with hepatitis C. However, there is a need to strike a balance between funding ex gratia payments to those affected and funding other demands on the health budget. On that basis, payments under the Skipton Fund will be made only to those who were alive on 29 August 2003, when the scheme was announced. Extending payments to people who died before that date would take us away from the key principle of this being an ex gratia payment scheme that ministers have offered and implemented. For those reasons, I do not believe that there is a strong enough case for extending payments to dependants of those who died before the announcement of the payment scheme.

16:00

The Executive accepts that payments could be made to dependants of eligible persons, where the persons died after the scheme was announced and before a claim was made. In those circumstances, an expectation may have been created that a payment would consequently be made. Therefore, I do not intend to seek to undo the stage 2 amendment that gave effect to that provision.

I would like to explain some of the factors that are built into the existing ex gratia payment Skipton Fund scheme. Under the current scheme, derogation has been granted by the UK Government specifically in relation to Skipton Fund payments in respect of the assessment of assets for social security benefits, which is a reserved issue. That means that payments made to a person from the Skipton Fund are disregarded when the person's capital in relation to social security benefits such as housing benefit, income support, jobseekers allowance and state pension credits is calculated. The arrangements would not apply in the case of any extension of payments beyond the Skipton Fund criteria, which could significantly disadvantage those who receive payments, depending on individual circumstances.

At stage 2, the Health Committee agreed an amendment, lodged by Shona Robison, that removed from section 24 the eligibility date of 29 August 2003. As I have said, the purpose of the ex

gratia payments under the Skipton Fund scheme—which were intended for those who were alive when the scheme was announced on 29 August 2003—was always to alleviate the suffering and life changes that people experience as a result of living with the infection. I believe that the scheme as established is based on a set of fair principles and priorities and balances the interests of those who have a real need for assistance against the wider interests of patients and the delivery of health services. That is why I have had to lodge amendment 24, which would restore to the bill the commencement date of the scheme in relation to primary infectees.

Amendment 65, in the name of Shona Robison, would remove the cut-off date of 29 August 2003 for secondary infectees. In effect, it would permit claims to be made on behalf of secondary infectees who died before the scheme was introduced on 29 August 2003. For the reasons that I have explained, I cannot support an amendment of that nature, as it is not commensurate with an ex gratia payment scheme to help support the living.

I urge members to support the Executive's amendment and invite Shona Robison not to move hers.

I move amendment 24.

**Shona Robison:** I rise to speak in favour of amendment 65 and against amendment 24.

Amendment 65 would remove the arbitrary date of 29 August 2003 in relation to those infected through secondary transmission and would provide consistency with the rest of the bill, as amended at stage 2. Frankly, the issue comes down to justice, fairness and consistency. If the minister gets his way with amendment 24 and the date of 29 August 2003 is reinstated in the bill, the family of someone who died on 29 August 2003 will be entitled to receive financial assistance from the Skipton Fund, whereas the family of someone who died on 28 August 2003 will not. There is no consistency, fairness or justice in that.

Let us consider the significance of the date of 29 August 2003. It is the date on which the previous Minister for Health and Community Care, Malcolm Chisholm, happened to announce officially the establishment of the Skipton Fund by issuing a press release. It is an arbitrary date that is not meaningful in any way to the families of those who have died as a result of contracting hepatitis C through NHS treatment.

As Mike Rumbles said at the Health Committee's meeting of 31 May 2005:

"As it stands, the bill is neither just nor fair."—[*Official Report, Health Committee*, 31 May 2005; c 2001.]

The bill was not just or fair on 31 May, when the committee agreed with me and voted by five votes

to two to remove the date of 29 August 2003 from the bill. If that date was not just or fair on 31 May, it is not just or fair today. I urge those members—particularly the Liberal Democrats—who supported me on that day to remain consistent to fairness and justice and to ensure that that date does not return to the bill.

I touch on two of the minister's arguments for proposing the date of 29 August 2003 that I notice he did not focus on today particularly, although he has done so in the press and in the letter to the Health Committee.

The first concerns the numbers. The minister has stated that 4,000 people in Scotland could have been infected with hepatitis C, that there would be hundreds of claims and that the cost could be £20 million. Those figures are totally inaccurate. I refer the minister to a 2002 minute from the expert group that emphasised the fact that the 4,000 figure that generated the estimates of the cost of the scheme in the preliminary report was a projection of the number of people who were likely to have been infected. The minute said that the actual number of people who had been identified was 568. That is a seventh of the number to which the minister referred, so the cost would be significantly lower than the minister has led people to believe.

The minister could look to other sources of information for the figures. The Skipton Fund has received only six applications from the families of those who died prior to 29 August 2003. He could look at the number of deaths reported to the procurator fiscal—the minister should have those figures since, from 1998, hospitals have been supposed to report every case of someone dying of hepatitis C. One can get an accurate idea of the levels from those figures, so perhaps the minister can tell us how many such deaths have been reported to the procurator fiscal in that period.

The second reason that the minister has given for why we cannot have such a change in Scotland is that it would undermine consistency with the UK scheme and that that would almost pap Scotland out of the scheme. However, his argument is undermined by the fact that he does not intend to put back into the bill the second date of 5 July 2004. Therefore, we will still have a different set of arrangements in Scotland from those down south.

However, all those arguments together are nothing compared with the issue of justice for the families who have had no public inquiry. I say to the minister that I know that compensation is not the issue, but financial assistance is so important because it would acknowledge the families' loss as a result of their loved one contracting hepatitis C through NHS treatment.

On this last day of Parliament before recess, I urge members throughout the chamber please to do the right thing by the families of hep C sufferers and not to put the date of 29 August 2003 back into the bill. Members should support the Health Committee's position by rejecting amendment 24 and supporting amendment 65.

**Nora Radcliffe:** I give credit to the previous Health Committee that fought so hard to get agreement on the principle that there should be ex gratia payments to people who contracted hepatitis C. That was tremendously good work. I also pay tribute to the current Health Committee for fighting to get the proposed improvements made to the scheme.

It is perfectly fair that 29 August 2003 should be the date from which people should expect to get ex gratia payments, not 5 July 2004, which is when the scheme was up and running. People should not be disadvantaged by administration in that way. I commend the Executive for coming back to the date of 29 August 2003.

**Mrs Milne:** I abstained on the issue at the Health Committee because I wanted to find out more about it. However, I now agree that the definition of eligibility for ex gratia payments from the Skipton Fund is unfair, because, as Shona Robison said, the cut-off date is arbitrary. The number of people who are involved is finite and not high. I have now made up my mind that I agree with the Health Committee's decision to remove that arbitrary date from the bill.

**Mr Maxwell:** Will the member ask the Liberal Democrats to explain why the later date, which has been removed, is administrative, but the earlier date is not administrative or arbitrary? Will she ask them to explain why it is fair for the family of somebody who died at one minute past midnight on the appropriate date to receive an ex gratia payment, while the family of somebody who died at one minute to midnight will not get a payment? Frankly, I do not understand that.

**Mrs Milne:** If the Liberal Democrats do not already see that that is unfair, I might have the same difficulty as other members have had in persuading them that it is.

I will vote against the minister's amendment 24 and for Shona Robison's amendment 65.

**Dr Turner:** As members might expect given my background, I cannot accept the dates at all—people were either infected in Scotland by an NHS hospital or they were not; that is all that needs to be proved. I fully appreciate that the payments are ex gratia. It is generous that money will not be deducted in accounting for other benefits. The payment is just for the suffering and life changes of people who contracted hepatitis C, but the condition sometimes takes a long time to be

diagnosed—sometimes it is not even clear on the death certificate. Therefore, it might take a while for families to realise what was going on. I know from experience that patients' families spend a great deal of money and lose wages to look after them. For example, I have known people to spend a great deal of money on trying to persuade a patient to eat tasty meals. I cannot justify the inclusion of dates, so I will vote for Shona Robison's amendment 65.

I would love to think that, before the cost of the ex gratia payment was worked out, the worst scenario was considered. The figures that we have been given do not stack up. Even the Haemophilia Society believes that only a small number of people are involved. I hope that we can finish this term by agreeing to pay them and to scrub the dates.

**Mr John Swinney (North Tayside) (SNP):** As always, I came to Parliament this morning proud of the fact that I am a member. Today, I came with an extra special enthusiasm, because I was coming to vote for an excellent bill that will make an enormous difference to the lives of people in Scotland. I look forward to supporting it at 6 o'clock tonight. My views are somewhat tempered by the antics at lunch time, but that is enough said about that.

Parliament will excel itself today if it supports Shona Robison's amendment 65 and votes against the minister's amendment 24. Within days of my election to the House of Commons eight years ago I was asked to see a couple called John and Pat McAughey, from the village of Stanley in Perthshire. John McAughey was a haemophiliac who, along with many other people in our country, was infected with hepatitis C through contaminated blood products. For years, I saw John and Pat McAughey and other constituents and listened carefully to their concerns. I have found support and encouragement for them from members of the Parliament's Health Committee and from ministers, who have engaged on the issue and addressed some of its serious consequences.

16:15

Without going into too many details about the family's circumstances, it would be fair to say that John and Pat expected that John would die before Pat, but things did not work out like that. Pat died suddenly before John, who died around three weeks ago. For the eight years that I knew them as constituents, they were completely consumed by the issue. They and their families could think of almost nothing else.

Just before the debate, I received a letter from their son—John McAughey—that asked me to go

to the Parliament today to make the case on behalf of his two deceased parents, one of whom had, as I said, contracted hepatitis C through contaminated blood products. The issue is not about administrative dates, but about the point that Jean Turner has just made. The problem begins to apply at the moment when the infection is contracted, which is an identifiable point, as health records will substantiate the position. Once evidence becomes clear, it is up to the Skipton Fund to make a judgment that is based on the totality of the issues and cases with which it will deal. Therefore, I cannot understand why the minister is bringing before us an issue that could result in his taking the gloss off what would be a super bill for the Parliament to pass. One chink of injustice will be left in it.

Some of the lines of defence that the minister has used are quite astonishing. He tried to suggest that there would be a massive increase in costs for the Skipton Fund. However, I understand that the Skipton Fund has an underspend in the order of £7 million. If the minister's proposition is valid, evidence must exist to demonstrate where all the cases that will suddenly cause financial strain on the Skipton Fund will come from. We are not waiting for evidence to emerge. That evidence must exist, as all cases should have been reported to procurators fiscal throughout the country—I think that Shona Robison made that point.

The minister's second line of defence has been that all the United Kingdom Administrations have agreed on the approach that will be taken. That the approach has been agreed is undeniable, but is not devolution about doing things differently in Scotland? Is it not about finding Scottish solutions to Scottish problems? If we are not convinced by the arguments that are put forward in other parts of the United Kingdom, we will do things differently. Indeed, surely we are doing things differently with the Smoking, Health and Social Care (Scotland) Bill.

At 6 o'clock, I will vote enthusiastically for the remainder of the bill, which is superior to legislation in the rest of the United Kingdom. I am immensely proud of that. I loved hearing the Secretary of State for Health say on the radio the other day that she expected that the rest of the United Kingdom would catch up with Ireland's and Scotland's smoking legislation in the years to come—that made me feel proud of our Parliament and of the leadership that the minister and the First Minister have given on the issue. If we can do such things with respect to smoking, why cannot we legislate for the Skipton Fund to help individuals with hepatitis C contamination?

The issue is simple. We are sent here to do the right thing. There are four words on the mace that sits in front of us: "Wisdom. Justice. Compassion.

Integrity.” I cannot think of four more relevant words that should determine how we should vote on the group of amendments that we are discussing. Those people need wisdom, justice, compassion and integrity to be used. We are talking about individuals such as John and John and Pat McAughey, whose lives have been completely consumed by a tragedy that befell them. We have not been able to deliver a public inquiry or compensation for such people. The Government has come up with the pragmatic solution of ex gratia payments. In fairness, we should ensure that that solution applies to everyone.

**Mr Kerr:** Scotland led the way on this scheme. Scotland drove it forward and it was adopted by the rest of the UK. With due respect to the members who have made passionate speeches, including John Swinney, the issue at stake is one of principle. We are not changing our principles. We have repeatedly emphasised that the scheme is about giving help to those who are living with hepatitis C and suffering hardship and about helping them to meet the extra costs that result from their condition; it is not about compensation. In general, the NHS does not pay compensation to patients for harm and injury in cases such as this, in which there is no legal liability.

We have to make tough decisions in these matters, and many folk have talked about the cut-off date. Are members saying that any piece of legislation and any announcement that a minister makes—irrespective of its subject—immediately becomes retrospective? Does the Parliament immediately become liable for any retrospective aspects of whatever the legislation that we pass is about? That is what is being said. We set out a principle that was agreed by the Parliament. That principle was the provision of ex gratia payments to support survivors who had been infected with hepatitis C, and that is the principle on which we rest. We have acknowledged the work that the Health Committee has done on the cut-off date one year on from the August 2003 date. We have taken cognisance of that in the support that we are giving, and we are leaving that amendment in place. Nonetheless, we founded the Skipton Fund on the basis of ex gratia payments, not on the principle of compensation.

I ask members to reflect on one further point. If we start to play around with the Skipton Fund, those who have received payments and will receive payments in the future will not get the derogation from the UK-wide agreement that the Skipton Fund scheme represents. That is the fact of the matter. I know that this is an extremely difficult matter and I understand the concern that is being expressed by members. Nevertheless, we must stick to the principle of the Skipton Fund scheme, which the Parliament agreed and on

which the Parliament led the way in the UK. That principle is ex gratia payments, not compensation.

**The Deputy Presiding Officer (Murray Tosh):** The question is, that amendment 24 be agreed to. Are we agreed?

**Members:** No.

**The Deputy 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)  
 Baker, Richard (North East Scotland) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Gillon, Karen (Clydesdale) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 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)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Wallace, Mr Jim (Orkney) (LD)  
 Wilson, Allan (Cunninghame North) (Lab)

**AGAINST**

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)  
 Brownlee, Derek (South of Scotland) (Con)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Lochhead, Richard (North East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 MacDonald, Margo (Lothians) (Ind)  
 Maclean, Kate (Dundee West) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Neil, Alex (Central Scotland) (SNP)  
 Robison, Shona (Dundee East) (SNP)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, John (Ayr) (Con)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 56, Against 52, Abstentions 0.

**Members:** The SSP members are not here.

**The Deputy Presiding Officer:** Order.

*Amendment 24 agreed to.*

*Amendment 65 moved—[Shona Robison].*

**The Deputy Presiding Officer:** The question is, that amendment 65 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)  
 Brownlee, Derek (South of Scotland) (Con)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Lochhead, Richard (North East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 MacDonald, Margo (Lothians) (Ind)  
 Maclean, Kate (Dundee West) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Robison, Shona (Dundee East) (SNP)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, John (Ayr) (Con)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)

**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)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Gillon, Karen (Clydesdale) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 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)  
 McNulty, Des (Clydebank and Milngavie) (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, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Wallace, Mr Jim (Orkney) (LD)  
 Wilson, Allan (Cunninghame North) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 51, Against 57, Abstentions 0.

*Amendment 65 disagreed to.*

**The Deputy Presiding Officer:** Group 12 is on the Skipton Fund—appeals and eligibility. Amendment 25, in the name of the minister, is grouped with amendment 26.

**Mr Kerr:** Amendment 25 introduces to section 24 a right of appeal for applicants whose claim under the Skipton Fund scheme is refused. The Executive undertook at stage 2 to lodge such an amendment. It has always been the intention of Scottish ministers for there to be a right of appeal against decisions taken about the acceptance of claims made under the Skipton Fund scheme and the amendment consolidates that intention.

Amendment 26 addresses an inconsistency in the provisions of section 24. At stage 2, the bill was amended to allow for claims to be made by certain persons who had been infected with hepatitis C through contact with persons who had previously been infected by NHS treatment. That was required so that the scheme meets the policy

requirement of ensuring that ex gratia payments can be made to all eligible people—both primary and secondary infectees—in order to help to alleviate their suffering. One of those stage 2 amendments modified the provisions to enable the scheme to specify conditions of eligibility in respect of claims on behalf of potentially eligible secondary infectees who died before making a claim. Amendment 26 will secure that, in the interests of fairness and equity, there is consistency with the different types of infectees who are eligible under the scheme by ensuring that the scheme can similarly specify conditions of eligibility in respect of claims on behalf of potentially eligible primary infectees who died before making a claim.

I move amendment 25.

*Amendment 25 agreed to.*

*Amendment 26 moved—[Mr Andy Kerr]—and agreed to.*

### **Section 30—Amendment of Adults with Incapacity (Scotland) Act 2000: authorisation of medical treatment**

*Amendment 27 moved—[Mr Andy Kerr]—and agreed to.*

### **Section 31—Joint ventures**

**The Deputy Presiding Officer:** Group 13 is on joint ventures. Amendment 2, in the name of Carolyn Leckie, is grouped with amendment 69, also in the name of Carolyn Leckie. Given that Ms Leckie is not present to move her amendments, the debate on them cannot take place unless another member wishes to move amendment 2. Does anyone wish to do so?

**Members:** No.

*Amendment 2 not moved.*

### **Section 34—Regulations or orders**

*Amendment 66 not moved.*

*Amendments 28 and 29 moved—[Mr Andy Kerr]—and agreed to.*

### **Before schedule 1**

*Amendment 62 moved—[Mr Brian Monteith].*

**The Deputy Presiding Officer:** The question is, that amendment 62 be agreed to. Are we agreed?

**Members:** No.

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

**For**

Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brownlee, Derek (South of Scotland) (Con)



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

#### AGAINST

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)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 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)  
 MacDonald, Margo (Lothians) (Ind)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)

McFee, Mr Bruce (West of Scotland) (SNP)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Wilson, Allan (Cunninghame North) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 16, Against 87, Abstentions 0.

*Amendment 62 disagreed to.*

#### Schedule 2

##### MINOR AND CONSEQUENTIAL AMENDMENTS

*Amendments 30 and 31 moved—[Mr Andy Kerr]—and agreed to.*

#### Long title

*Amendment 32 moved—[Mr Andy Kerr]—and agreed to.*

*Amendments 67 and 68 moved—[Mr Duncan McNeil]—and agreed to.*

*Amendment 69 not moved.*

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

## Smoking, Health and Social Care (Scotland) Bill

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

The next item of business is a debate on motion S2M-2985, in the name of Andy Kerr, that the Smoking, Health and Social Care (Scotland) Bill be passed. Minister, you have seven minutes, but I think that you have a degree of latitude if you wish to take longer than that.

16:31

**The Minister for Health and Community Care (Mr Andy Kerr):** I am not sure whether the rest of the members would encourage me to do that.

The Smoking, Health and Social Care (Scotland) Bill will transform Scotland. It will help to save lives and spare families heartache. The measures proposed will improve our productivity, increase our confidence and send a signal across the country and the world that Scotland has changed.

Since devolution, this Government and Parliament have improved Scotland. Police numbers are higher than ever before, crime clear-up rates are better than they have been for generations, waits for hospital treatment—and now by out-patients as well—are reducing dramatically, children are being lifted from poverty at a faster rate than ever before, our pensioners have been provided with safety, security and dignity in their old age, the number of deaths from cancer, heart disease and strokes is falling and pupils, parents and teachers are benefiting from some of the best schools, colleges and universities in the world. Devolution has delivered for Scotland in many ways. However, we are still one of the most unhealthy countries in Europe according to far too many of the basic health indicators.

Today, however, we have both the means and the opportunity to change that. Within our grasp is the power to enable us to make the most dramatic improvement to public health in Scotland for generations and generations to come will applaud us for seizing it.

The bill's parliamentary passage has been assisted by a great many people and, before I proceed to comment briefly on the key provisions, I want to thank a number of them. I thank those many organisations and individuals who took time to respond to the various consultations, those who gave evidence to the committees, the members of the Finance Committee, the Subordinate Legislation Committee and, in particular, the Health Committee, which considered the bill diligently, and the clerking teams of those committees, which ensured that events have

progressed smoothly. I especially want to thank the pupils of Firhill High School, who eloquently expressed their views on smoking on behalf of the younger generation in Scotland. I also want to record in the *Official Report* my appreciation of the Scottish Executive bill team, which has worked hard to support ministers and to prepare detailed and timely briefings for MSPs. The team has done a fantastic job.

I advise the Parliament that Her Majesty, having been informed of the purport of the Smoking, Health and Social Care (Scotland) Bill, has consented to place her prerogative and interests, so far as they are affected by the bill, at the disposal of the Parliament for the purposes of the bill.

The bill comprises a wide range of health provisions. Each of those is an important measure in its own right, but there is also a high level of interaction among them. The provisions for general dental services and pharmaceutical care services will allow health boards to provide assistance towards the provision of premises, among other things. The powers under the joint ventures provisions will provide a valuable new tool to help to deliver those services. The new pharmaceutical care services contract will allow pharmacists to take a greater role in the monitoring of patients on long-term medication. The pharmaceutical care services contract will enable community pharmacists to play a key role in the provision of smoking cessation services to support people who wish to give up smoking.

It is important that the public should have confidence in the health care professionals who deliver their care. The provisions on listing and discipline will strengthen and safeguard patient welfare. Securing the charitable status of the Scottish Hospital Endowments Research Trust will allow the trust to continue to support basic medical research. Where that research produces innovations that can be commercialised, there will now be a route to attract capital and commercial expertise through the formation of joint venture companies.

However, the keynote provisions in the bill are the provisions that will deliver a smoke-free Scotland. They will protect the people of Scotland from second-hand smoke, improve public health and denormalise smoking in our society. As I have said many times, the bill is the most important piece of public health legislation in a generation. As many members reflected today, it shows how Scotland can lead the way in the United Kingdom and is a tribute to the success of devolution. We have been congratulated on the fact that our proposals go further than the measures that have been proposed in England so that we can address

the problem of Scotland's higher incidence of smoking-related disease.

The bill will have an immediate impact by protecting people from second-hand smoke, but that will be far outweighed by the benefit that future generations will enjoy as they turn away from smoking as a socially acceptable activity. The decision to legislate was not easy and hard choices had to be made, but the greatest rewards for our country come from our taking the toughest decisions. We must ensure that our children and their children will be able to live longer, healthier lives free from the scourge of smoking.

Today is a proud day for a great many people in Scotland. I am proud to be a part of this great effort on this historic day in the Scottish Parliament. The bill is the gateway to a better, healthier way of life in Scotland. Today, we lead the way.

I move,

That the Parliament agrees that the Smoking, Health and Social Care (Scotland) Bill be passed.

16:37

**Shona Robison (Dundee East) (SNP):** It is difficult to address every aspect of the Smoking, Health and Social Care (Scotland) Bill, because the bill is so wide ranging. As I have said before, the Executive should reflect on that, because the wide-ranging and complicated nature of the bill has at times given rise to difficulties.

I certainly agree with the minister that the Smoking, Health and Social Care (Scotland) Bill is probably the most important piece of public health legislation that could be passed in Scotland to address the health concerns that plague our nation. The ban on smoking in enclosed public places will have an immediate health benefit for people who work in pubs, restaurants and other enclosed public places and for people who visit those establishments. Just as important, it will also have long-term benefits, because it will denormalise cigarette smoking. I have said all along that, for me, that is probably the most important element of the bill.

The ban will have a huge impact on future generations. We know that far too many children perceive smoking as a normal activity because everyone around them smokes. It is important for society to put across a different message and tell those children that smoking is not a normal activity and that they should not take it up. The bill provides that important counterbalance in those children's lives.

The bill also creates an environment that will encourage many people to give up smoking. We know that a huge percentage of smokers want to

give up smoking. The evidence from New York shows that, after the smoking ban was introduced in that city, there was an 11 per cent increase in the number of people who gave up smoking; there has been a similar success in Ireland. The ban will give people who want to give up the impetus to do so. It will also make it much easier for them, because when they are out socialising they will not be sitting in an environment in which everybody around them is smoking. The ban will have that benefit for a great number of people.

There has been much discussion about the economic impact of the bill and evidence has been put forward by those on both sides of the debate. What is true is that the bill provides the opportunity for Scotland to promote itself as a smoke-free destination for many who wish to come here. We must harness that to promote Scotland abroad. For example, my local hotel introduced a smoking ban in advance of the bill being implemented and its takings have increased, so there is evidence that, when people are ahead of the game and promote their establishment, particularly to families and so on, that can have an economic benefit. That is not to say that some will not have difficulties—we must be honest about that. However, opportunities are available for those who are able and willing to take them.

Addressing Scotland's poor health record must be the Parliament's overriding priority and concern. It is telling that the vast majority of members agree with that. I am afraid that only the Tories are left as an isolated rump on the issue, although, even among them, some are not entirely comfortable with their party's position. The Tories should reflect on their position.

**Mr Brian Monteith (Mid Scotland and Fife) (Con):** The member tries to portray the Conservatives as a rump and an isolated minority. Does she accept that, in her party group, in the Labour group and even among ministers, some people have doubts about a total ban? The argument that we articulate represents the majority view of Scottish people, which is that, although a ban should be introduced, it should not be a total ban.

**Shona Robison:** Frankly, the Tories do not represent a majority view on anything.

I will deal with other important issues in the bill. We have long supported the introduction of free eye and dental checks but, if the checks are to be effective, services must be provided for people to take them up and for follow-up work to be undertaken. We are not convinced that that will be the case, particularly in dentistry, because people in many parts of Scotland do not have access to a dentist. More work has to be done. People will in principle have free oral health examinations, but we will need people on the ground to deliver that

policy and to undertake follow-up work that an examination may identify.

We have just debated a hepatitis C issue and a vote has been taken, so I will not reopen the argument. However, the fact that we have not delivered justice as we should have for families of those who have died from hepatitis C has taken a bit of the gloss off the bill for me and some of my colleagues, as John Swinney said. That would have been the icing on the cake of what is otherwise a good bill. I will say no more about that.

On behalf of my party, I have great pleasure in supporting the bill, but it is work in progress. We will pass the bill today and it will come into force next year, but we must do far more to address Scotland's chronic health problems. We can do more on smoking. We must ensure that smoking cessation opportunities are available to far more people. When people want to give up smoking, the services must be available to help them. We require to take many other public health measures to ensure that Scotland no longer has the tag of the sick man of Europe. However, the Parliament can be assured of our support for this important bill.

16:44

**Mrs Nanette Milne (North East Scotland) (Con):** The Smoking, Health and Social Care (Scotland) Bill is a fairly simple-sounding title for a complex and diverse bill that will affect many people's lives. We are generally content with parts 3 to 5, which deal with pharmaceutical care services, discipline and miscellaneous provisions, such as those on joint ventures and amendments to the Regulation of Care (Scotland) Act 2001.

However, we share the concerns that have been expressed about future service provision under the new pharmacy contract for patients who require stoma appliances. We hope that the Executive's reassurance that the new services will be at least as good as, if not better than, the present service will be justified in practice. Patients and stoma nurses are certainly not convinced that that will be the case.

We are very disappointed that the bill has not been amended to extend eligibility for ex gratia payments from the Skipton Fund to families of the victims of blood-product induced hepatitis C who died before 29 August 2003. That measure would have removed an obvious inequity, and the lack of any such amendment is a slap in the faces of the many people who have campaigned so tirelessly on the issue.

We cannot support the part 2 provisions on free dental checks and eye examinations. The most vulnerable people are already eligible for free checks; the problem is that many of them are the

very people who are not having them carried out. Instead of wasting valuable and scarce resources on people who are perfectly capable of taking personal responsibility for their own dental and eye health, we need to ensure that vulnerable people access the services that they need. Eyesight problems in children must be diagnosed and dealt with early. In accepting Duncan McNeil's amendment 64, which places a duty on ministers to provide for such diagnosis and treatment, and given the minister's reassurances, we are satisfied that the national screening committee's present and future recommendations will be implemented.

As for free dental checks, there seems to be little point in passing such legislation at a time when the NHS does not have enough dentists to carry out the checks or to provide the necessary treatment thereafter. Given dentists' lukewarm response to the Executive's recently proposed changes to the dental service in Scotland, it does not seem that the problem is any closer to being resolved.

On part 1, we are disappointed that the Executive has not taken a more reasoned approach to smoking in enclosed public places. In recent years, there have been great strides towards smoke-free provision. For example, buses, trains, airlines, many public buildings, workplaces and restaurants are now smoke free and pubs are beginning to follow suit. I have no doubt that that trend would, without legislation, have increased anyway in response to public demand.

During the bill's passage, there has been much discussion about the inability of ventilation systems to remove carcinogens from the air in establishments that allow smoking. However, ventilation can in many workplaces that have such substances in the atmosphere bring carcinogens down to a level that is acceptable. Surely if air quality can be shown to be acceptable, there is no reason why there should not be more exemptions from the smoking ban.

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** Is the member unaware of the evidence that was given to the Health Committee that shows that what she has just said is patently untrue? Does she accept that ventilation only exacerbates the problem because people assume that the carcinogens have been removed?

**Mrs Milne:** There is conflicting evidence on the efficacy of ventilation. Only this week, I read that ventilation can reduce the amount of carcinogens not necessarily to zero, but to a level that would be acceptable in a workplace that has carcinogenic materials in its atmosphere. We breathe in carcinogens when we sit in our cars on congested roads or walk along Princes Street. What I am saying is that we could bring such carcinogens

down to an acceptable level. I see no reason why there should not be more exemptions based on air quality, such as those that Brian Monteith proposed in his amendments today.

We are seriously concerned that, as a result of the legislation, smoking will be displaced to the home. That would increase children's exposure to smoke-filled atmospheres and might lead to an increase in home consumption of alcohol, which is a growing public health problem.

In much of the debate on the bill, the rhetoric has pointed logically to a total prohibition of tobacco. However, such a step is not practicable, which leaves us with a situation in which smoking is, although harmful to health and undesirable, nonetheless a legitimate pastime. As a result, we feel that there must be some choice for smokers as well as for non-smokers. We do not disagree that smoking is a bad thing; indeed, I and my colleagues without exception want less of it. We would certainly support a sustained and vigorous campaign against taking up smoking and we would support measures to provide practical help, support and encouragement to people who wish to kick the habit, with the ultimate goal of achieving a smoke-free environment for everyone.

However, for the reasons that I have stated, we cannot give our full support to parts 1 and 2 of the bill, and we must therefore oppose it in its entirety.

16:50

**Nora Radcliffe (Gordon) (LD):** By contrast, I rise to support the bill with enthusiasm and to acknowledge it as a major achievement for the Scottish Parliament. I commend the committee, the Executive, members of staff and all the people outwith Parliament who contributed during the consultation process and who gave evidence to the committee. I am also pleased to welcome the bill as a major delivery of Scottish Liberal Democrat policies.

**Members:** Ah!

**Nora Radcliffe:** I said that I was enthusiastic.

Attention has inevitably and quite rightly focused on the smoking aspects of the bill. The banning of smoking in enclosed public places is a crucial step in helping to shed Scotland's image as the sick man of Europe. The Scottish Liberal Democrats were the first party in Scotland to support a comprehensive ban on smoking in enclosed public places, and we are supporting the ban not because it is popular but because we believe that it is the right thing to do. I note that, at Westminster, the United Kingdom Government now accepts that it will eventually have to go for a comprehensive ban, rather than the messy compromise with which it is currently wrestling and

which depends on the type of food that a pub serves. If and when that happens, England will be following the trailblazing work of this Parliament.

I would like to talk about another key Liberal Democrat policy that the bill will deliver: free eye and dental checks. From 1 April 2006, oral health assessments and dental examinations are to be available free of charge. The abolition of those charges clearly underpins our commitment to health promotion and early intervention. We acknowledge the difficulties that are currently being experienced in providing national health service dental services, but those difficulties will be resolved. There exists the commitment and political will to do whatever is necessary to get that sorted.

I would like to mention three pieces of survey evidence from the RNIB that demonstrate the importance of regular eye checks and why the legislation is important. First, a 2001 survey showed that more than 40 per cent of people who are exempt from paying for check-ups are unaware that they are exempt. Secondly, since 1989, when the Tories introduced charges, there has been a progressive increase in the proportion of people who leave up to five years between sight tests. Finally, a survey that was published earlier this month in Wales showed that one person in five has never heard of glaucoma and that just 3 per cent know that a person could suffer from glaucoma without necessarily displaying any symptoms. Up to 40 per cent of useful sight can be lost before a person realises that anything is wrong, but if it is caught early enough glaucoma can, in nearly all cases, be successfully treated and no sight need be lost.

There is proof that charges deter people from having regular check-ups, even when they may be eligible for free tests. Regular check-ups can catch dental problems and eye problems such as glaucoma before they become more serious. When the Health Committee took evidence on the bill, the proposal to provide free eye and dental checks received near universal support. Their provision represents an excellent progressive step for Scotland. The recent Kerr review stated:

"the most appropriate place for the Health Service to begin to narrow the gap between rich and poor is through the systematic adoption of the principles of anticipatory care and preventive medicine."

I see free eye and dental checks as the embodiment of anticipatory care and preventive medicine.

The banning of smoking in enclosed public places will be the most important piece of public health legislation since devolution. The bill represents a good day for Parliament and for the Liberal Democrats.

16:54

**Janis Hughes (Glasgow Rutherglen) (Lab):** I join other colleagues in thanking the clerks to the committee, other staff who are associated with the committee and the many witnesses who gave evidence for the huge efforts that they put into helping the bill's passage through Parliament. The clerks to the committee are becoming old hands at dealing with legislation, so I place on record my gratitude to them.

It is a great honour to stand here today as a member of the Labour party, which has been at the forefront of striving to address health inequalities, and to speak in support of a bill that I consider to be one of the most significant pieces of public health legislation in Scottish history. That point was also made by Nora Radcliffe. One of my constituents recently told me that he believed that the bill is the most important piece of legislation in his lifetime. We should all be proud that the Scottish Parliament is taking such a decisive lead.

In considering legislation such as this, it is always good to examine the experiences of other countries, so the Health Committee did just that during its deliberations. We took video evidence from New York and we visited southern Ireland. We learned a great deal from their practical experience of passing and enforcing legislation such as that which we are about to vote on today. The legislation gives us an opportunity to address our poor health record here in Scotland.

I represent a constituency that has very high incidences of death from strokes, cancer and heart disease. I am sure that no one—not even in the Conservative party—would doubt that a hugely significant number of deaths from those diseases throughout Scotland are caused by smoking. For too long we have done little to address that, but now we are getting serious. I am pleased that the bill has, by and large, attracted cross-party support, but I am disappointed—although not particularly surprised—that we have heard during the passage of the bill that the Conservatives are still campaigning against the ban on smoking. They ignore medical evidence and continue to argue that they know best and that passive smoking does not exist. The wrecking amendments—

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

**Janis Hughes:** I am sorry, but we heard Brian Monteith's arguments in the committee and we have heard exactly the same arguments today. They have been voted down on both occasions. The wrecking amendments that were rejected by Parliament today and, as I said, the similar amendments that were previously rejected by the committee, expose the Tories' real agenda of

putting profit before people. We should not allow people to forget that.

To argue—as the Tories have done—that a ban on smoking in public places is an attack on civil liberties is simply wrong. The ban is clearly an attack on one of the major causes of ill health, but I argue that it will defend the civil liberties of the 70 per cent of Scots who do not smoke. An outright ban on smoking may well be attacked as being an attack on civil liberties, but a ban on smoking in public places, which will benefit the health of smokers and non-smokers, including staff who work in smoky environments, does not constitute anything other than common sense. It is a prime example of what we as policy makers should be doing to promote Scotland's public health.

I hope that today we will pass the bill, which deals not only with a ban on smoking in enclosed public places. It is unfortunate that some of the other very important measures in the bill have not enjoyed the same profile as the smoking ban. Nonetheless, we have heard about a number of them today, including during the minister's opening speech.

The bill will not in itself cure Scotland of its appalling health record. However, it represents a hugely significant first step; a first leap towards a better and brighter country. We should all embrace that. Like the minister, I am proud to be part of this historic occasion in Parliament today. I am delighted to support the bill and I hope that Parliament will follow suit.

16:58

**Stewart Stevenson (Banff and Buchan) (SNP):** This is not the end and it is not the beginning of the end, but it might just be the end of the beginning in eliminating the evil trade of the tobacco barons.

People who are called Stewart obviously have a particular view on the subject of tobacco. My colleague Stewart Maxwell is, in comparison with me, a moderate on the issue. I commend him for bringing the issue into play through his previous member's bill and I congratulate the Executive on responding to it and bringing forward wider measures. All are to be praised to the skies for that.

As an extremist on the subject, I have of course studied it in some detail. The cigarette came to these islands during the Crimean war, when our soldiers saw the French and the Turks smoking this new device. War has proved to be a remarkably effective platform for the evil people in the tobacco companies to broaden the franchise for this pernicious addiction. During the second world war, the proud boast of the tobacco companies was that they provided two packs of

cigarettes for every soldier, as a treat for our brave fighting men. That laid the foundations of the addiction that afflicts our society.

A wide range of health conditions are derived from the use of tobacco in a variety of delivery mechanisms and many famous people have died as a result of their addiction. Jackie Kennedy lost a child two days after that child was born, entirely because she had smoked during her pregnancy. She died of lung cancer, but she is far from alone. I have with me 13 pages of names of well-known people: Gracie Allen, Louis Armstrong, Desi Arnaz, Lucille Ball, Tallulah Bankhead, Leonard Bernstein, Neville Brand, Humphrey Bogart, Paul Brinegar, Yul Brynner, Rory Calhoun, John Candy, Jack Cassidy, Rosemary Clooney, Nat King Cole—have members noticed that many of those people might have been smoking in public for entertainment purposes? I have a dozen more pages of names.

Of course, we are not here to protect the great and the good; we are here to protect the ordinary people of Scotland. By passing the bill we will take a great step forward and we will set an example for others, as our friends across the Irish sea did. Yesterday, Shaun Woodward, the Parliamentary Under-Secretary of State in the Northern Ireland Office with responsibility for health, made an announcement that relates to our debate. People in Northern Ireland have responded in huge numbers—some 70,000—to a consultation on smoking. Of that huge number of respondents, 91 per cent said that Northern Ireland should follow the example that Ireland has set and which Scotland is following. They have said that because they could see what was happening across the border.

I will paraphrase Tom Nairn. Scotland's people will not be free of the health scourge that we have been debating until the last tobacco share certificate has been wrapped around the last ounce of tobacco and smoked by the last tobacco addict—given his current form, perhaps that will be Brian Monteith.

17:02

**Eleanor Scott (Highlands and Islands) (Green):** How can I follow Stewart Stevenson?

I warmly welcome the bill on behalf of the Scottish Green Party. I will mention my reservations about the bill first and get them out of the way so that I can finish on an optimistic note. I am concerned about the fact that the bill has been described as “the smoking bill” or “the bill about smoking and other stuff”. The bill deals with a wide range of issues, many of which do not sit well together. I am happy with most of the bill's content and I will support it, but its provisions are ill sorted.

The range of issues with which the bill deals was reflected in the lobbying that all members received about the bill. Various organisations sent us briefing notes and letters. For example, the RNIB Scotland commented on eye checks for children. Although Kate Maclean's amendment 63 was not agreed to, I am happy with the Executive's reaffirmation that eyesight tests for pre-school children—a measure that is dear to my heart—are secure, and with its commitment to consider evidence on eyesight programmes that emerges in the future. Stoma users expressed concern about potential changes to their services. I hope that those concerns will prove to be unfounded and that the minister's reassurances on the matter will be honoured. I am sure that stoma patients will get in touch with us—and that we will get in touch with the minister—if there are problems.

We heard from publicans and representatives of the licensed trade. I am happy to say that, from my experience in Ireland, I think that their fears are unfounded and that they will not suffer the loss of trade that they expect. Their businesses will do well and will attract people who currently do not often go to pubs. About 70 per cent of people do not smoke; many of them find smoky pubs unpleasant and object to being smelly when they come out of such pubs.

We were lobbied by sufferers of hepatitis C. I will say more about the matter, but I think that we let that group down today.

We were lobbied by Unison, which is concerned about joint ventures. I am concerned about the level of public sector involvement that that might entail. It would have been good to debate those points, so it is a pity that the member who lodged the relevant amendment was not here to speak to it.

I warmly support the provisions on eye and dental checks, but reiterate what other members have said: checks are fine, but we must also be able to offer treatment. As has been said before in the chamber—it will be said again, particularly by members from the Highlands and Islands—we need more dentists. That will not happen overnight and I do not expect the Executive to wave a magic wand, but we must start growing more of our own dentists.

The hepatitis C issue somewhat tarnishes the shining face of the bill, which is really unfortunate; we could have done better today. I am however, warmly supportive of the smoking provisions. The bill will make great legislation. It is innovative and courageous and I hope that it will have a tremendous effect on our public health, particularly the health of young women. Rates of smoking among young women are worryingly high and have not been going down. There is a large social element to that. I am sure that many young

women who start smoking do so in social situations, or carry on smoking because of social situations in which smoking is the norm. If smoking ceases to be the norm in such situations, young women will find it much easier to stop and others in the future will find it easier not to start. That is crucial for young women who are, after all, the future mothers of the next generation. Rates of smoking in that group must be brought down. I agree with what has been said about the need for back-up smoking cessation services, but the bill is a welcome and courageous first step.

Although I have reservations about parts of the bill—I think that they would have been better in separate legislation—there is so much in the bill that I must support. We will give it our warm-hearted support at 6 o'clock, or whenever we actually vote on it.

17:07

**Irene Oldfather (Cunninghame South) (Lab):** Today in the Scottish Parliament I believe that we are witnessing a moment in history. Those who vote for the bill today vote to improve the health and lives of future generations.

Sometimes, we in the Parliament are accused of irrelevance or political expediency. From time to time, we are justly criticised. Today, we do the right thing as legislators. Our primary motivations are to increase life expectancy, to reduce ill health and to address health inequalities. In doing so, and in tackling preventable illness and early death, we also increase resources in the health service for research into new drugs and the development of new technology to assist us to treat illnesses that some would say have been underresourced—Huntington's chorea, multiple sclerosis, motor neurone disease, Parkinson's disease, and Alzheimer's disease. Today, therefore, we are in a win-win situation.

There has been a sea change in attitudes towards the banning of smoking in public places. This piece of legislation would not have been possible six years ago. For those of us who have campaigned on the matter over the years, the legislation represents the widest possible ban that could have been obtained at this point in time. Since the stage 1 debate, we have travelled a considerable distance and made great progress. I am especially pleased that the Executive has held its ground on day centres. In the face of arguments from both sides, the Executive has strictly limited exemptions in adult care homes and psychiatric units to designated smoking rooms and extended the definition of enclosed areas to include partly enclosed areas.

I am delighted at the minister's commitment to work in the future with the cross-party group on

tobacco control and to closely monitor issues such as smoke drift and cessation. The policy intention of my amendments seeking to extend the scope of the bill to cover outside areas did not attract as much support today as I would have liked. Members and the minister felt that the evidence was not robust enough. I accept that viewpoint, but I also believe that, just as our opinions have changed in the past six years, it is only a matter of time before we move in that direction, although it was not the Parliament's will to do so today.

Members might be interested to know that Queensland is considering extending its ban to outside areas. Also, visitors from California who have been staying with me over the past week tell me that California intends to extend its ban to public parks, not because of evidence of ill health, but simply because smoking has become socially unacceptable, especially for young people. It is my hope that the bill, which is comprehensive, will start the ball rolling in Scotland and ensure that it is only a matter of time before smoking is the exception, not the norm, particularly among our young people. Helping people to kick the habit must be an integral part of the policy development.

I said during the stage 1 debate that there was a moral imperative to act because smoking kills 19,000 Scots every year. One death in five in Scotland is smoking related. We know that smoking is responsible for 33,500 hospital admissions every year and that second-hand smoke is a class A carcinogen. That costs the NHS in Scotland an estimated £200 million every year. That is the financial cost, but every member can give an example of the human cost. Today, we take concrete measures to address that problem in Scotland.

It would be remiss of me to conclude without thanking members of the cross-party group on tobacco control, members of the Health Committee clerking team, who assisted me with the drafting of amendments, Action on Smoking and Health, the British Medical Association, the Royal College of Nursing and many others who have worked together to make today possible. However, without the commitment of the Scottish Executive, the health ministers and the First Minister, who took the lead on the matter, we would not have such a comprehensive bill. The Scottish Parliament can stand tall. We can be proud of the legacy that we put in place today for our children and our children's children.

I support the motion to pass the bill.

17:12

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** To begin with, I will focus on part 2 of the bill, which contains enabling



legislation that is designed to ensure that the Executive's commitment to radically improve the state of the nation's dental service is achieved. That is particularly important to my constituents, who have the lowest number of NHS dentists in the country. Earlier this year, the Executive announced its action plan for improving oral health and modernising NHS dental services in Scotland. The measures in the bill reinforce the Executive's dental action plan by allowing health boards to provide direct assistance and support

"to any person providing, or proposing to provide, general dental services."

For the public to benefit fully from the free dental checks that the bill makes available, everyone needs to have access to good NHS dental services. The proof of the pudding is always in the eating and Lewis Macdonald—the new Deputy Minister for Health and Community Care—who has responsibility for NHS dental services, has a huge task to ensure that, when the bill's provisions come into operation next year, everyone who needs it has access to an NHS dentist. If access to NHS dental services for all is not forthcoming, the Executive will have failed in its objective. I do not expect Executive ministers to fail in that task.

It is fortunate that the problems of accessing NHS dental services are not replicated in optometry. Public access to free eye checks should not pose the same problems, but I urge the Executive to ensure that, now that plans for the reform of the dental and ophthalmic services are in place, we put those plans into action as soon as possible. Agreement with both professions on the implementation of the provisions on ophthalmic and dental services must be reached soon. We need to up the pace on those issues.

Part 1 of the bill contains provisions to prohibit smoking in enclosed public places. For far too long, the rights of individuals to enjoy clean air and be free of cancer-causing pollutants have been ignored. Smoking kills, as does so-called second-hand smoke. As recently as last year, Professor David Hole's research concluded that second-hand smoke was associated with up to 2,000 deaths a year in Scotland. I have no truck with those such as the Conservatives who refuse to recognise the medical evidence. They are the same people who for years refused to accept that tobacco kills people.

Even now, the tobacco lobby is active in trying to deny the effects of environmental tobacco smoke. Its latest wheeze—may I call it a wheeze?—is to claim that if only bars and restaurants could install super-duper ventilation systems, all would be well. Unfortunately for the tobacco industry, the evidence that was presented to the Health Committee completely debunks the myth that ventilation systems can remove the harmful effects

of tobacco smoke. They cannot and they do not. In fact, ventilation systems make matters worse, as I said to Nanette Milne in an intervention. They remove the smoke and make the air more comfortable for the individual, but they do not remove the 50 or so carcinogens from the atmosphere; the individual feels better and perhaps stays longer, to receive an even larger dose of the pollutant.

There is no doubt in my mind that the bill will make a huge contribution to making Scotland a healthier place to live. The members of the Health Committee made a very useful visit to see for themselves the effects that legislation on smoking have had on Irish communities and people. The Irish ban, which was introduced on 29 March last year, has been a huge success. We were told that the compliance rate with the legislation is a very high 94 per cent. Cigarette sales fell by 10 per cent in 2003 and by a further 17 per cent in 2004. No wonder the death merchants of the tobacco trade are worried.

I have no doubt at all that there may indeed be some fall in trade, as the Scottish Licensed Trade Association has highlighted. However, I cannot for one moment accept that that argument carries any weight at all when put alongside the public health benefits that the measures in the bill will produce. One cannot argue for profit before lives.

This is a landmark bill. It includes major policies such as free eye and dental checks for all and it endorses the right of people to enjoy clean air in enclosed public places. Parliament should support the bill with enthusiasm; it is the right thing to do.

17:17

**Dr Jean Turner (Strathkelvin and Bearsden)**  
(Ind): I never thought that I would see this day and I never expected that I would be a politician and in Parliament on such a day. Honestly and truly, I thought that it would never happen.

When I qualified in 1965, one of my first jobs was in a thoracic unit. If I was ever in any doubt about what cigarette smoking could do to a person, I learned then. Later, I worked as an anaesthetist for eight years. Let me assure members that somebody who has been a smoker can have difficulties and can make it hard for the anaesthetist. We always dreaded having to put to sleep somebody who said that they smoked 20 cigarettes a day but probably really smoked 40 or 80 a day.

I thank Stewart Maxwell for starting the ball rolling. It was a wonderful start and the Executive has to be congratulated on taking it up. This has been a wonderful attempt to look for the first time at long-term benefits. Governments do not usually do that sort of thing; I would never have thought

that the Government would get involved. However, I am proud to be part of the Parliament that has brought in this bill.

Members will have guessed that I am in favour of the bill. There have been a few glitches along the way and I am a little bit sad about the dates for the Skipton Fund. However, we must think about the reductions in heart and lung disease, strokes, diabetes and kidney disease that will follow from the bill. Kidney disease is on the rise. Much of that is to do with vascular problems and many vascular problems come from cigarette smoking.

We all know that a person who goes back to smoking after a bypass operation is more likely to have to have the operation redone. Of the people I know or have worked with who smoke, most would love to stop. The bill is one way of encouraging them, but we will have to do a lot to help people to stop smoking, which is a serious addiction. Trying to stop smoking is as bad as trying to stop taking heroin. I know that, because my parents were heavy smokers. I have known many other people who would be addicted again tomorrow if they had one cigarette. Addiction to tobacco is serious and people need a great deal of help when trying to stop smoking.

We were worried about what would happen in homes as a result of the bill. I was encouraged by the evidence from Australia that I read, which did not find any resulting increase in the incidence of smoking in homes or of childhood illnesses.

Like all other members, I worry about the workforce for the dental side of things, but I appreciate what the Executive is trying to do. I remind members that doctors examine patients' digestive tracts. The digestive tract starts in the mouth, so oral examinations can be done by general practitioners. When examining people, GPs may also notice that there are a few things to fix in people's teeth, which they cannot do—for that, people will have to go to their dentist, if they have one. However, oral checks are part of a medical examination. General practitioners can look in people's mouths to see whether any cancer is lurking there.

I will limit my comments to a few issues that worry me. Pharmaceutical services are changing greatly. We have been lobbied a great deal by people who enjoy stoma services from companies that supply the appliances. Many years ago, those companies started supplying nurses and contributing to the cost of their services. I have never known a nurse push a particular product. As I said at the Health Committee, stomas are as individual as the people who have them, so they need special attention. I appreciate the fact that the Minister for Health and Community Care and his deputy have tried to allay fears on the issue. I would like to ensure that they make clear, as they

have, that no one will have any problems because of the change. Every time that there is a change to a service, someone is liable to fall through the net. Many of the people to whom I refer have enjoyed stoma services for many years. They are terrified that they will become housebound because there will be a glitch in the service and they will not be able to get what used to be delivered to their house. I hope that I will hear at the end of the debate that that issue will be addressed.

Another important provision that I have read in regulations concerns the indemnity for all practitioners other than doctors, nurses and dentists, which is important for patients, in particular. In Scotland and England, indemnity is usually provided by the Medical Defence Union. Usually, insurance policies start on the date on which the policy was issued and end on the stated date. If practitioners fail in any way to keep up the policy and do patients harm, patients may suffer.

This is a huge bill, any part of which could have been a bill in itself. If we had not already worked on the Prohibition of Smoking in Regulated Areas (Scotland) Bill, which was introduced by Stewart Maxwell, we would have had difficulty dealing with it. As all members know, I have great doubts about the provisions relating to joint ventures. I have found that private companies limited by guarantee that are not wholly made up of public bodies do not seem to be subject to the Freedom of Information (Scotland) Act 2002. I am not against private companies being involved, but I would not like them to take over the NHS or the medical needs of people working in the NHS and, subsequently, patients. I would like to be reassured on that issue.

I am delighted with most of the bill. I am ecstatic about the provisions that relate to smoking. It is wonderful for me to be here today to see history created. I appreciate all the work that was put in by the clerks and others, who are great when members try to lodge amendments but do not know what they are doing. I congratulate all those, from top to bottom, who have been involved with the bill, as they have been very hard-working. I wish the bill well and am sure that the health of our nation will improve as a result. In 15 to 20 years, we will be very pleased that we passed it.

17:25

**Mr Kenneth Macintosh (Eastwood) (Lab):** It is rare for people to admit that they are wrong; it is rarer still for politicians to do so. Given that this is the last day before the recess and judging colleagues to be in forgiving mood, I open my remarks with a confession—maybe it is even an apology. I was wrong about smoking.

I am pleased to make my contribution to today's proceedings as joint convener of the cross-party group on cancer and as a member of the cross-party group on asthma. I speak also as a former smoker. Twenty years ago—indeed, probably a lot more recently—I would have called the bill a step too far. In the 1980s, I distinctly remember watching television programmes and reports from America on the first bans on smoking in public places, including in restaurants—I think the Californians went first. I remember seeing smokers and anti-smokers—I call them that because they were not just non-smokers—having heated altercations, one of which resulted in an interviewee throwing a glass of water over another interviewee. I felt at the time that I was watching one set of extremists imposing their view on another—indeed, I remember describing it as health fascism. I also remember decrying any link between health and passive smoking, a position that I held mostly through ignorance.

I have travelled a long way in 20 years. At that time, someone could smoke in their workplace. It was a rare desk at the BBC, where I worked in those days, that did not have an ashtray piled high with cigarette ends. Even I did not mind the removal of that supposed right. All of us at the BBC immediately noticed the improvement in the environment in which we worked.

It took a few years and a few attempts before I managed to stop smoking. Looking back on it now, I can see that I managed to stop because I did not go to the pub as often as I had done previously. I am not saying that everyone should stop going to the pub in order to stop smoking. However, if pubs had been non-smoking when I was trying to give up smoking, I would have found it easier to quit.

I am also no libertarian: I believe that Governments can make a difference by doing good and helping to improve people's lives. I am supporting the bill not because I want to impose my own preferences or tastes on others or because of my own personal journey but because public attitudes, too, have changed dramatically over the past 20 years. Just as it is no longer acceptable to drive drunk or to tell racist jokes, I believe that Scotland is ready to accept a ban on smoking in public places.

I agree that individual rights have to be balanced with the public good. I also agree that we are redrawing the line on what is acceptable. However, it is precisely because of that public good that the arguments for the bill are overwhelming. How many members have used their position in the Scottish Parliament to argue for a new positron emission tomography scanner for cancer patients, for example? How many of us have argued for extra ring-fenced resources for the Beatson oncology centre or other cancer

services? How many of us have pushed and supported the Government to reduce waiting times for cancer patients?

All those measures will make a big difference to patients but none is even remotely on the scale of what we will achieve if we can reduce the number of Scots who smoke. Millions of people worldwide and more than 13,000 people a year in Scotland die prematurely because of smoking. The scale of the problem is immense and so is the importance of supporting the bill that is before us today.

The Scottish Parliament was established not just to manage the government of Scotland better but to build a better future. Although we are all proud to be Scottish, I for one am not proud that Scotland has the worst cancer record, worst heart disease record and worst dental health record of any modern European country. I did not come into the Scottish Parliament to defend the right of young Scots to have a cigarette but to see all our children grow up healthy—taller, fitter, more self-confident and enjoying life.

Although I started off with an apology, I make no apology for the bill. Quite simply, the bill is one of the most important measures that we will take in a generation. Today of all days I am very proud to serve in the Scottish Parliament.

17:29

**Mr John Swinney (North Tayside) (SNP):** I start by making a couple of remarks about the provisions in the bill—other than the central purpose of addressing smoking—that are worthy of comment. Free dental checks are universally welcomed, notwithstanding the plans that have been announced, but MSPs who represent rural Scotland have placed an enormous question mark over the capacity of the dental service to deliver free checks and free dental care. The most intense monitoring will be required to guarantee that that legislative commitment, for which I will vote enthusiastically at 6 o'clock, is delivered in all our communities. I do not underestimate the scale of the challenge that ministers face.

My second point relates to the issue of stoma appliances, on which I have received several letters from constituents. I accept that ministers have engaged constructively in trying to find a solution to address such concerns and that the recent answer from Rhona Brankin to a parliamentary question helps in that respect. I hope that it will address the public's concerns.

My one regret about the bill relates to the issue that I spoke about earlier in relation to the Skipton Fund. I will not say much more about that, other than that rejecting amendment 24 would have made a very good bill an excellent one. I have only one comment about the antics that we had earlier.

The result of the vote on amendment 24 was 56 to 52 and I was on the losing side. I have been lectured to by the Scottish Socialist Party more times than I care to remember about the Skipton Fund and hepatitis C, but if five members from the SSP had been here, I would not have been on the losing side this afternoon. Our distinguished Presiding Officer said some fine words to us about the importance of democracy and speaking one's mind, but democracy also means being in the right place at the right time to vote for what one believes in, rather than manning the barricades. The less I say about the matter, the less trouble I will get into, but I repeat that, if those five members had been here, that would have tipped the vote over the edge and we would have had a truly excellent bill. I hope that members learn a lesson from that stupidity.

On the smoking provisions, I support the amendment that surfaced from Duncan McNeil that will allow the age limit for the purchase of cigarettes to be raised. I agree with Stewart Maxwell that we must encourage ministers to do that, because the more disincentives to smoking that we put in place, the better. I hope that the Government looks seriously at that point and formulates further regulations on the matter.

The bill's provisions on smoking have not come about by accident; several people over several years have contributed to them. My colleague Kenny Gibson, who was a member in the first session of Parliament, raised the issue to much derision and mirth, but that started the debate. Stewart Maxwell has taken up the cudgels effectively. *[Interruption.]*

**The Deputy Presiding Officer (Trish Godman):** Mr Swinney, I remind you that mobile phones must be switched off, not just left on silent.

**Mr Swinney:** I commend the Executive for taking the issue further and creating a bill with which to address the problem. I am not yet familiar with the mechanics of Government—I stress the word “yet”—but, while I commend the First Minister and the Minister for Health and Community Care for bringing the bill to the Parliament, I am pretty certain that it is here because of the stance that Mr McCabe took when he was Deputy Minister for Health and Community Care. It is worth putting that on record.

The bill says to the people of Scotland that we, as a democratic Parliament, are looking at Scotland as we find it today and seeing the depth and seriousness of the problems and challenges that our society faces. It is therefore essential that we respond with well-crafted and bold legislation that has a big effect and that can lead to a culture change in our society. The bill will become the type of legislation that can change a culture in our society and make our country healthier and fitter

and a place where people look after their health in the way that people in other countries do. As a consequence, people will find that their self-esteem and self-confidence grow magically. Of course, if there is growth in self-esteem and self-confidence, my politics may prosper even further in the years to come. I leave the issue on that party-political note. The bill is good at addressing a deep problem with our country's health and I look forward to seeing the fruits of that in the years to come.

Much has been said about the commercial implications of the ban on smoking in public places. I suspect that the proof of the pudding will be in the eating, but I take a lot of comfort from examples around the country of businesses that have taken a lead and have simply got on with things. Such businesses have seen the mood of the nation and the direction of legislation and have decided what they are going to do.

As we embark on the summer recess, I say to the Minister for Health and Community Care that if he has time to spare, perhaps on the day when he visits the excellent Whitehills community hospital in Forfar, he could travel to a fantastic ice cream parlour called Visocchi's in the town of Kirriemuir, which is perhaps five miles north of Forfar. I have just thought of that. Weeks ago, Michael and Elena Visocchi took the courageous decision to ban smoking in their cafe. They took that decision with some trepidation, but business has been fine and people who would never have gone into the cafe because it was smoky now go into it with their children. If the minister is looking for a good place for an ice cream when he comes to Forfar on 13 August, I shall give him directions to the cafe. I might even pay for him.

17:36

**Mr Brian Monteith (Mid Scotland and Fife) (Con):** To draw on the earlier reference to the Crimea, I rather sense that I am leading the light cavalry into the Russian guns at Balaclava.

Before I proceed, I thank the Health Committee's clerks, who have been particularly helpful to me and my colleagues in drafting amendments and giving us timely advice. Not all of them are here, but I pay tribute to their work in particular, which has helped the political process.

It is unfortunate that the Conservatives cannot support the bill. We would have liked to support it, but we believe that the sections on free eye tests and dental checks and the total ban on smoking go further than is necessary. We would support more screening for tests with schoolchildren and more targeting of dental checks, but I remain unconvinced that it is necessary to extend the current free provision to everyone who can afford

to pay. Why people like me who are prepared to pay for designer frames should be given a free eye test by the taxpayer when some opticians already offer free tests has not been convincingly explained. Indeed, Dolland and Aitchison launched its free tests on the day that the bill was debated at stage 1.

The Conservatives do not support the status quo on smoking restrictions. We would support the extension of restrictions and we could have supported more being done, but a total ban goes too far. From April fools' day next year, there will be no smoking in pubs, restaurants, cafes, bingo halls, airport departure lounges or even in specialist tobacconists. Private members' clubs—which can hardly be called public places—will also be covered by the ban. In an example of cultural censorship that would have embarrassed the ancient Philistines, even the portrayal of smoking on stage or in a television studio in which "River City", for example, might be being filmed will be banned.

On the evidence, no one has yet been able to explain how a Labour Minister for Health and Community Care in Edinburgh and a Labour Secretary of State for Health in London can reach entirely opposite views on the threat that is posed by inhaling other people's tobacco smoke. In Edinburgh, the evidence that tobacco smoke kills people is considered to be conclusive, but in London, it is not. The result is that the smoking ban in England will not be total, but partial, which is a proportionate response that respects the rights of minorities. No such tolerance is to be allowed in Scotland. There is no medical evidence that shows that passive smoking kills. Indeed, as we found last month, in a landmark ruling by the Scottish judge Lord Nimmo Smith, even the medical evidence to show that direct smoking kills is not considered conclusive. That is the crux of the matter. All that we have is statistical evidence about the dangers of smoking, although that evidence is generally accepted, even by me.

Janis Hughes suggested that Conservative members are putting profit before the concerns of people. As someone who lost his father—who was a smoker—to lung cancer, I do not dispute the health concerns, but I will not be lectured to on the basis that I am making a judgment that is somehow influenced by the profit that is made by tobacconists. The statistical evidence is quite different from the medical evidence. We already know that the medical evidence is disputed and that the statistical evidence, although we accept it, is hotly disputed by learned scientists who do not smoke, who detest smoking and who are not necessarily, and not often, in the pay of tobacco barons.

The dispute on the evidence is being ignored because the ministers wish to introduce a total ban. The evidence is being accepted in England because Westminster plans to introduce a partial ban. The real aim of ministers in Scotland—I pay tribute to Andy Kerr for being honest about it—is to denormalise smoking. They want to stigmatise smokers, so that people will give up smoking. So much for the inclusive society that so many MSPs constantly talk about. Someone can be Catholic, Muslim, Protestant, atheist or heathen; they can be straight, lesbian, gay, bisexual or transgender; and they can be of any colour, and there shall be no bigotry, discrimination or exclusion. That is how it should be, and I support that view. I sign up to it. Each to their own within the law, I say. However, if someone is a smoker, they are excluded—the bill will exclude them. They will not be considered normal. Their smoking will not be considered normal and it will not be allowed to be portrayed as normal. That is what denormalisation means.

**John Swinburne (Central Scotland) (SSCUP):** Will the member give way?

**Mr Monteith:** No. I must carry on.

The logical extension of that is to ban smoking altogether. I know that one or two members would like to do that, but the Parliament will not do that because it knows that that would not carry the support of the public.

The smoking issue divides our nation, which is why an accommodation—a compromise—should have been found. I believe that ventilation offered that compromise, but it was not considered seriously. Indeed, the Health Committee suspended the laws of physics and would not accept the fact that gases mix. Gas laws tell us that when ventilation extracts particles and gases, it extracts them at the same ratio because they mix. Ventilation fans do not work out first whether the gases are carcinogenic; they extract them at the same ratio.

**Stewart Stevenson:** Will Brian Monteith take an intervention? He is wrong.

**Mr Monteith:** No. I will not take an intervention from somebody as rude as Stewart Stevenson.

If we suspend the laws of physics and do not accept the advice of learned scientists who tell us that the evidence is not conclusive, we cannot say that we have considered the issue seriously. If we had reached a compromise and found some places where people could smoke, it would have been possible for the Conservatives to support the bill. People could have chosen to go to bars and restaurants where there was no smoke or they could have chosen to go to places where people could smoke and mixed freely. Sadly, that will not happen. Smoking will be denormalised in this country, along with tolerance. Tolerance is being

denormalised, and that is one reason why I cannot support the bill.

17:44

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

I start on a rather disappointing note in relation to the reinsertion of the cut-off date for claims to the Skipton Fund. It is rather unfortunate that that happened. I, for one, was delighted to be here today and to be moving to a conclusion on the bill so that we could have a healthier Scotland in the future through the banning of smoking in public places. I believe that the Executive is simply wrong on the issue, but I lay the blame for allowing the Executive to reinsert the date not on it but squarely at the door of the Scottish Socialist Party members. Their pathetic, childish, amateurish and downright anti-democratic antics at First Minister's questions meant that they could not be here this afternoon when the vote was taken and narrowly lost. In my opinion, that is unforgivable. John Swinney was right on that point.

The minister was right when he said that this was an historic day. I am delighted to have been involved so closely in the campaign to introduce a ban on smoking in enclosed public places. Many people were involved in that campaign. As John Swinney said, Kenny Gibson in the first session, Brian Adam, Tom McCabe and the current Minister for Health and Community Care have been involved and the First Minister threw his weight behind the campaign. Others throughout the chamber, particularly those who are on the cross-party group on tobacco control, have been involved.

It is funny—we often hear it said that a week is a long time in politics, but two years seems a very short period of time in relation to the legislation on smoking. Two years ago, I launched the proposal, which was that we would ban smoking in public places; that was my intention. With a few honourable exceptions throughout the parties, I was almost a lone voice on the subject at that time. Indeed, 18 months ago, the First Minister said that a smoking ban was both unworkable and impractical and the Liberal Democrat Deputy First Minister agreed.

What a tremendous turnaround there has been in the past 18 months. I am delighted that so many members and parties have changed their mind and stance and now support this extremely important and welcome health measure, which is of course SNP policy. The Lib Dems cannot rewrite history, as Nora Radcliffe tried to do and as Mike Rumbles has tried to do before. I have ignored it before, but today I will mention it. The Liberal Democrats were not the first party to support a public smoking ban; that is just not true. They can repeat the claim as often as they like, but it is fundamentally wrong.

**Nora Radcliffe:** Will the member give way?

**Mr Maxwell:** No. The member had her chance. The SNP was the first party to support the ban; that is a matter of fact and it is on the record. Let us get that clear.

One thing that was missing from the minister's opening speech was what will happen in the next 15 months or so. That is important and I hope that the minister, when he sums up, will set out what will happen in the run-up to the ban. It is clear that this is a once-in-a-lifetime opportunity. We have often talked about people taking this opportunity to give up cigarettes in advance of the legislation coming into force. In Norway, there was a 3 per cent drop in smoking rates before the legislation came into force. What education programmes and advertising campaigns will there be? Can the Executive tell us about anything else that will happen in that extremely important period? I said 15 months, but that is incorrect—it is less than a year until the ban comes in. I would like to know exactly what we are going to do in the run-up. Let us ensure that we do not miss the opportunity.

When I was preparing for the debate, I decided to read about the history of smoking—not the current situation in Scotland and the figure of 13,000 deaths a year from smoking-related ill health that we all know about. One of the interesting facts that struck me was that ever since tobacco arrived in Europe, it has generated huge debate and controversy. Stewart Stevenson said that in the Crimean war many of our soldiers were introduced to cigarettes for the first time. Of course, the history of tobacco goes back a lot further than that of cigarettes. It is thought that tobacco plants first began to grow around 6,000 BC in the Americas. By the start of the Christian era, tobacco use was well established all over the Americas, but there is no record of tobacco being grown or used anywhere else in the world. When the American continent was first opened up, tobacco use spread out of it to Europe. However, the far east, for example, did not adopt the habit. China banned the planting and use of tobacco in 1612 and Japan followed suit in 1620—if only they had kept those bans in place.

Things were slightly different in Europe. In 1665, smoking was made compulsory for boys at Eton College—perhaps that explains the Tory view today. Right from its introduction into Europe, there were conflicting theories and views about tobacco. At the end of the 16<sup>th</sup> century, tobacco was attracting interest from many herbalists and was believed to be good for treating many illnesses from toothache to colic. Yet, as early as 1602, a book was published that claimed that illnesses in chimney sweeps were linked to their exposure to smoke and drew a parallel with tobacco smoking. We all know, of course, that

James VI wrote a marvellous treatise, "A Counter-blaste to Tobacco", in 1604. However, all those theories lacked proper scientific research to back them up and proper statistics from which conclusions could be drawn. Now, of course, statistics are carefully recorded and, if we turn to America, where smoking started, we can see what has happened in that continent in the 20<sup>th</sup> century.

In 1914, there were only 371 cases of lung cancer in the whole of the United States of America. In 1919, a young medical student who went on to do important work on the link between smoking and cancer was told to attend an operation on lung cancer because it was so rare that that might be his only chance to see it in his career. However, by 2003, there were 172,000 cases of lung cancer in the USA. The number of cases rose from 371 in 1914, to 2,500 by 1930 and to more than 7,000 by 1940. What had changed? Smoking was being taken up by more and more Americans. Cigarette rations were given to soldiers during the first world war and smoking among men became prevalent. Women did not take up smoking until the end of the second world war and many women are today suffering from the effect of that cultural shift.

The 20<sup>th</sup> century was the century of the cigarette, but I hope that the 21<sup>st</sup> century is a century of no cigarettes and that we move away from tobacco, smoking and the disease and ill health that they bring.

Many people have been involved in the bill. I thank the campaigners outwith the Parliament, the staff of the non-Executive bills unit and the clerks of the Health Committee, the Subordinate Legislation Committee and the Finance Committee, who worked extremely hard on the bill. I also thank the staff in my office, who worked extremely hard in the background to ensure the success of the campaign.

It is not often that one gets a chance to force a subject to the top of the political agenda and see it succeed and I feel extremely privileged to have done so. I have been asked many times why I took up this issue. My motivation is simple. I fought this campaign for the young people of Scotland, for the children who are not yet born and, in particular, for the future of Catherine, my daughter. She will grow up and go out to smoke-free restaurants and pubs and go to work in smoke-free places. For her sake and for the sake of all the children of Scotland, I take the greatest pleasure in supporting the bill this evening.

17:52

**Mr Kerr:** Many emotions are felt on a day such as this. Many members have talked about their feelings of pride, which today are well placed. We

can reflect on what we are about to do through the bill and we should feel proud about doing something so significant.

It was my good fortune that I was able to pick up the legislation as minister at the point that I did, as that gave me the opportunity to see it through its final parliamentary stages. As many members have done, I must mention the First Minister, who has led from the front, Tom McCabe, Malcolm Chisholm, Rhona Brankin, Lewis Macdonald, the cross-party group on tobacco control, Scotland CAN—which stands for clear air now—and other organisations outwith the Parliament, Stewart Maxwell, Kenny Gibson and other members from various parties who have done a lot of work on the subject.

However, although I feel a sense of good fortune and pride, I also feel a little bit of anger that, when people turn on their televisions tonight, they will probably see four juvenile, spoiled little brats from the SNP—[*Laughter.*] Sorry, I should say four juvenile, spoiled little brats from the SSP who put their own narrow political interest before that of the Parliament.

It is about time that the Tories caught up. On the economic arguments, let me quote James McBratney, who owns a bar and a restaurant in New York and was the main campaigner against the smoking ban in the city. However, he has since said:

"I've seen no falloff in business in either establishment".

He went on to describe what he once considered unimaginable—customers seeming to like the ban. He has said that he likes it, too. In Scotland, Stuart Ross, the chief executive of the Belhaven Group, recently said:

"It's not the end of the world. It's just a big situation for people to manage. But the Irish have adapted to it. Why should Scotland be any different?"

On the health evidence, I must say that Mr Monteith is not the leader of a band of hearty soldiers going into battle; he is like King Canute standing before the waves in rejecting all the evidence from the Scientific Committee on Tobacco and Health, the World Health Organisation, all the research done by universities around the world and the evidence from Ireland and New York about the positive effects that such a ban will have.

What can we expect to happen? It might, as some people claim, take 10 to 15 years for our health figures to turn around but, in the first two years of the ban in New York, 188,000 people stopped smoking—a 15 per cent reduction in the number of smokers—and exposure to second-hand smoke dropped by a third. In Ireland, cigarette sales are down by 15 per cent in just one year. That illustrates the positive effects that the

legislation will have and the benefits that it will bring to our communities.

Of course, many others have been involved in the long campaign for a ban. I had the privilege to meet Sir John and Dr Eileen Crofton, who, 50 years ago, were early campaigners on the issue. They campaigned for the first smoke-free taxi in Edinburgh. They stuck with the campaign for all those years and we should recognise their contribution. One night in Edinburgh, I had the honour to meet Barbara Wood from Aberdeenshire. Her husband, who is now sadly dead, was a lifelong non-smoker. He was a head teacher who spent far too much of his life in smoke-filled staffrooms. Those are the real people whom we are fighting for today. We want to ensure that we deliver for them and their families.

Up in the gallery today are representatives from Firrhill High School. If members look up, they might see some familiar faces—the young pupils who brought to the Parliament their campaign to ban smoking in public places. Their maturity, skill and determination have been shown today—we met them at Bute House earlier and, on Sky TV, they said that what is right for young people is right for Scotland and that they support the measures that the Parliament is about to take in relation to a smoke-free Scotland.

People throughout the world fought year after year for democratic Parliaments and we are no different here in Scotland. Scots campaigned for 300 years for the Scottish Parliament. Why did they do that? They did that to see democratically elected representatives debate and decide on the issues that matter to them and their families under laws established by the Parliament. They did not campaign so hard simply to see a handful of self-publicists treat the country's Parliament like a school playground. Today must be remembered not for the antics of the infantile few, but for the momentous decision that we are on the verge of making.

Devolution means that we can no longer blame others for our national ills. We have no excuse for abdicating our responsibility for tackling our poor health. Today, our country will lead the way in the UK and we will be at the forefront of change in Europe. I would have preferred it if our Conservative colleagues had embraced the bill fully and put the national interest before private interests, but I fully expect them to respect the Parliament's decision when it is made. I say to them that the facts are absolutely clear. Smoking is bad for people's health; second-hand smoke is bad for people's health; and smoking is bad for the country's health.

The choice is clear. We can take the responsibility here and now and do something about smoking or we can consign Scotland to

another generation of poor health and disease, with more families being shattered by the premature death, to smoking, of a loved one. We can seize the opportunity to make our enclosed public places cleaner, healthier and more attractive. We can pass legislation to make our pubs, clubs and restaurants more marketable to a population that increasingly avoids smoky venues.

This is another defining moment in the Parliament. This time last year, we passed the Antisocial Behaviour etc (Scotland) Bill, which provided powers to improve the lives of families and communities the length and breadth of Scotland. One year later, I urge members to support the Smoking, Health and Social Care (Scotland) Bill, which will improve Scotland as a whole so that families can stay together for longer, enjoy more choice about where they go and what they do and be part of a more confident, ambitious and healthy Scotland.

As the minister who is responsible at this stage of the bill's progress, I welcome the opportunity to commend the legislation. I thank all those who have played their part over the years—including those who are in the chamber today—and I note their contribution. I was sent many e-mails on the matter and, as I travelled around Scotland, people's warmth towards, and support for, the bill was all too clear. Mr Keith Hughes of Edinburgh sent me a thought whose sentiment is engraved on the pavement outside the Writers Museum at Lady Stair's House. He said that the only way we can repay our debt to the past is by making the future indebted to us. I believe that that is what we are about to do.



## Parliamentary Bureau Motions

17:59

**The Presiding Officer (Mr George Reid):** The next item of business is consideration of 14 Parliamentary Bureau motions. I ask Margaret Curran to move motions S2M-3048 to S2M-3051 and S2M-3064 to S2M-3067, on membership of committees, and motions S2M-3052 to S2M-3057, on substitution on committees.

*Motions moved,*

That the Parliament agrees that Mr Kenneth Macintosh be appointed to replace Christine May on the Subordinate Legislation Committee.

That the Parliament agrees that Christine May be appointed to the Standards and Public Appointments Committee.

That the Parliament agrees that Karen Gillon be appointed to replace Mr Alasdair Morrison on the European and External Relations Committee.

That the Parliament agrees that Elaine Smith be appointed to replace Karen Gillon on the Environment and Rural Development Committee.

That the Parliament agrees that Mr Jim Wallace be appointed to replace Iain Smith on the European and External Relations Committee.

That the Parliament agrees that Euan Robson be appointed to replace Margaret Smith on the Local Government and Transport Committee.

That the Parliament agrees that Margaret Smith be appointed to replace George Lyon on the Audit Committee.

That the Parliament agrees that Iain Smith be appointed to replace Robert Brown on the Education Committee.

That the Parliament agrees that Dr Elaine Murray be appointed to replace Bill Butler as substitute member on the Local Government and Transport Committee.

That the Parliament agrees that Mr Kenneth Macintosh be appointed to replace Paul Martin as substitute member on the Health Committee.

That the Parliament agrees that Trish Godman be appointed to replace Janis Hughes as substitute member on the Environment and Rural Development Committee.

That the Parliament agrees that Karen Gillon be appointed to replace Helen Eadie as substitute member on the Justice 1 Committee.

That the Parliament agrees that Janis Hughes be appointed to replace Gordon Jackson as substitute member on the Finance Committee.

That the Parliament agrees that Paul Martin be appointed to replace Marilyn Livingstone as substitute member on the Standards and Public Appointments Committee.—[*Ms Margaret Curran.*]

## Motion without Notice

18:00

**The Presiding Officer (Mr George Reid):** I am minded to accept a motion without notice to take motion S2M-3078.

*Motion moved,*

That, under Rule 8.2.6, the Parliament agrees to take motion S2M-3078.—[*Brian Adam.*]

*Motion agreed to.*

## Complaint

18:00

**Brian Adam (Aberdeen North) (SNP):** I apologise to the Parliament for my non-appearance this afternoon and for the non-appearance for a substantial part of the afternoon of the other members of the Standards and Public Appointments Committee. That was a particular disappointment to me as a former convener of the cross-party group on tobacco control and the current convener of a working party on hepatitis C.

The committee met today—30 June 2005—to consider a complaint dated today from your good self, Presiding Officer, about the disorderly conduct of Colin Fox MSP, Frances Curran MSP, Rosie Kane MSP and Carolyn Leckie MSP. The complaint was referred to the committee under paragraph 10.2.43 of the “Code of Conduct for Members of the Scottish Parliament”. Under paragraph 10.2.44, we can deal with such a complaint in such manner as we deem appropriate.

After considering the complaint and the Parliament’s wish to treat it as a matter of urgency, the committee unanimously agreed to uphold the complaint and to recommend that the Parliament agrees that Colin Fox MSP, Frances Curran MSP, Rosie Kane MSP and Carolyn Leckie MSP be excluded from all proceedings of the Parliament in September 2005 and that their right of access to the parliamentary complex, facilities and services and their salaries and allowances be withdrawn for that period.

The committee considers that the behaviour that was exhibited by the members who have been named was premeditated and disorderly and brought the Parliament into disrepute. Most important, it denied other members the right to follow democratic processes on behalf of the people whom we represent.

The committee recommends those sanctions as it feels that they reflect the insult to democracy that took place today. The sanctions that we recommend are proportionate.

I move,

That the Parliament agrees that Colin Fox MSP, Frances Curran MSP, Rosie Kane MSP and Carolyn Leckie MSP be excluded from all proceedings of the Parliament for the month of September 2005 and that their right of access to the Parliamentary complex, their right of access to Parliamentary facilities and services and their salaries and allowances be withdrawn for that period.

**Margo MacDonald (Lothians) (Ind):** On a point of order, Presiding Officer. I regret to have to make the point but, given that we are creating a precedent, perhaps we should consider whether

the Standards and Public Appointments Committee had the opportunity to hear from any of the people who were mentioned in the complaint. We should also discover whether the committee considered treating those people as individuals and not as a group, because they behaved differently, as far as I was aware. I would welcome your guidance.

**The Presiding Officer (Mr George Reid):** As the committee’s convener, Mr Adam, made clear, the committee can deal with such matters in such manner as it deems appropriate. I should explain that, under the code of conduct, it is entirely for the committee to deal with such matters by whatever means it deems appropriate.

## Decision Time

18:03

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

There are four questions to be put as a result of today's business. The first question is, that motion S2M-3031, in the name of Des McNulty, on the Finance Committee's second report of 2005, entitled "Cross-cutting Expenditure Review of Economic Development", be agreed to.

#### *Motion agreed to.*

That the Parliament notes the recommendations contained in the Finance Committee's 2nd Report, 2005 (Session 2): *Cross-cutting Expenditure Review of Economic Development* (SP Paper 312).

**The Presiding Officer:** The second question is, that motion S2M-2985, in the name of Andy Kerr, that the Smoking, Health and Social Care (Scotland) Bill be passed, be agreed to. Are we agreed?

**Members:** No.

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

### FOR

Adam, Brian (Aberdeen North) (SNP)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 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)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 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)  
 MacDonald, Margo (Lothians) (Ind)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brownlee, Derek (South of Scotland) (Con)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Johnstone, Alex (North East Scotland) (Con)  
 McGregor, Mr Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)

Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Munro, John Farquhar (Ross, Skye and Inverness West)  
 (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)

#### ABSTENTIONS

Tosh, Murray (West of Scotland) (Con)

**The Presiding Officer:** The result of the division is: For 97, Against 17, Abstentions 1.

*Motion agreed to.*

That the Parliament agrees that the Smoking, Health and Social Care (Scotland) Bill be passed.

**The Presiding Officer:** I propose to put a single question on motions S2M-3048 to S2M-3057 and S2M-3064 to S2M-3067 inclusive. The question is, that motions S2M-3048 to S2M-3057 and S2M-3064 to S2M-3067, in the name of Margaret Curran, on the membership of and substitution on committees, be agreed to.

*Motions agreed to.*

That the Parliament agrees that Mr Kenneth Macintosh be appointed to replace Christine May on the Subordinate Legislation Committee.

That the Parliament agrees that Christine May be appointed to the Standards and Public Appointments Committee.

That the Parliament agrees that Karen Gillon be appointed to replace Mr Alasdair Morrison on the European and External Relations Committee.

That the Parliament agrees that Elaine Smith be appointed to replace Karen Gillon on the Environment and Rural Development Committee.

That the Parliament agrees that Dr Elaine Murray be appointed to replace Bill Butler as substitute member on the Local Government and Transport Committee.

That the Parliament agrees that Mr Kenneth Macintosh be appointed to replace Paul Martin as substitute member on the Health Committee.

That the Parliament agrees that Trish Godman be appointed to replace Janis Hughes as substitute member on the Environment and Rural Development Committee.

That the Parliament agrees that Karen Gillon be appointed to replace Helen Eadie as substitute member on the Justice 1 Committee.

That the Parliament agrees that Janis Hughes be appointed to replace Gordon Jackson as substitute member on the Finance Committee.

That the Parliament agrees that Paul Martin be appointed to replace Marilyn Livingstone as substitute member on the Standards and Public Appointments Committee.

That the Parliament agrees that Mr Jim Wallace be appointed to replace Iain Smith on the European and External Relations Committee.

That the Parliament agrees that Euan Robson be appointed to replace Margaret Smith on the Local Government and Transport Committee.

That the Parliament agrees that Margaret Smith be appointed to replace George Lyon on the Audit Committee.

That the Parliament agrees that Iain Smith be appointed to replace Robert Brown on the Education Committee.

**The Presiding Officer:** The fourth and final question is, that motion S2M-3078, in the name of Brian Adam, on behalf of the Standards and Public Appointments Committee, be agreed to.

*Motion agreed to.*

That the Parliament agrees that Colin Fox MSP, Frances Curran MSP, Rosie Kane MSP and Carolyn Leckie MSP be excluded from all proceedings of the Parliament for the month of September 2005 and that their right of access to the Parliamentary complex, their right of access to Parliamentary facilities and services and their salaries and allowances be withdrawn for that period.

**The Presiding Officer:** That concludes decision time. I wish you all a good break.

**Roseanna Cunningham (Perth) (SNP):** On a point of order, Presiding Officer. Further to today's events in the chamber, I wonder whether it is in order for the chamber to congratulate Perth and Kinross Council and Tayside police, which have, pending ratification, agreed with G8 Alternatives and the Stop the War Coalition a march in Auchterarder that will be as close to Gleneagles Hotel as is reasonably possible. Does that not prove that hard work, talk and compromise are significantly more effective than childish outbursts such as the display that we saw today? *[Applause.]*

## Royal Highland and Agricultural Society of Scotland

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

The next item of business is a members' business debate on motion S2M-2987, in the name of Fiona Hyslop, on the Royal Highland and Agricultural Society of Scotland. The debate will be concluded without any question being put.

#### *Motion debated,*

That the Parliament notes the recent publication of an economic impact assessment of the Royal Highland and Agricultural Society of Scotland at Ingliston which indicates that £250 million is generated for the economy of which £100 million supports the local Lothian economy; notes that 1.2 million visitors pass through the site each year; is concerned that Her Majesty's Government's White Paper, *The Future of Air Transport*, seeks to secure all of the 300-acre site for future development of Edinburgh Airport which threatens the future successful operation of the society and its year-round events; recognises the important role that the showpiece event, the Royal Highland Show, has for the farming sector, and, noting that this is an ideal site and that there will be a considerable expenditure from the public purse on public transport provision in the area, expresses its view that all parties concerned with economic, rural and transport interests should make further and urgent efforts to examine options for future co-existence of the society and Edinburgh Airport at Ingliston and make representations to the Secretary of State for Transport to achieve this.

18:08

**Fiona Hyslop (Lothians) (SNP):** I am very pleased that, at this very last moment before the recess, we still have the chance, rearranged though it is, to debate this motion. I thank the Presiding Officer for ensuring that, following today's incidents, the Parliament's democratic business has continued and we are able to have the debate. I also thank the minister for staying on to respond and members for remaining in the chamber after what has been a very long day.

I thank members from across the political parties for signing the motion, which is the culmination of the efforts of Lothians MSPs to register and raise publicly their concerns about the public interest in the economic, rural, transport and planning aspects of the Westminster Government's aviation white paper and its impacts on the west of Edinburgh and, specifically, on the Royal Highland and Agricultural Society. I will focus on the economic issues, but I trust that other members will address the rural, transport and planning aspects of the matter.

I congratulate the society on last week's very successful royal highland show, which more than 150,000 people attended. However, the show is only one of 150 events that take place at the society's site at Ingliston. With 1.2 million visitors during the year, the society's site competes with

Edinburgh castle as a contributor to visitor numbers and bed nights in Edinburgh hotels. The Scottish motorcycle show, trade shows, large-scale rock concerts and gardening Scotland reflect the range of events that are staged there and all are serviced by excellent public transport to Edinburgh for the provision of hotels. The society also has 33 tenant companies, which add to the site's economic impact.

The debate is about two success stories that are close to each other in the west of Edinburgh and whose influence extends far beyond that limited area into the rest of the country. Their core businesses may differ, but they share the attribute of success and I want both to be successful.

The white paper has been produced, but we are still at a stage prior to legislation. As the draft consultation on the airport master plan was published in May, there is now an opportunity, even if it is at the very last moment, to pause and consider whether there remains any possibility of co-existence at the site. The debate is not about opening up the white paper, but minor alterations can still be made if the parties concerned are agreeable, and the secretary of state could be persuaded by any potential consensus.

As a Lothians MSP, I am absolutely convinced that expanded usage of Edinburgh airport is essential to the successful development of the Edinburgh economy, which in turn is essential to the development of the Scottish economy. I have absolutely no doubts about that—the airport's expansion must not be unnecessarily hampered—but that does not mean that we should ignore the RHASS and the role that it plays. Creative and co-operative thinking from all agencies and parties must be explored to make a final assessment of whether, with the offer of 100 acres to be taken by the airport, which would provide the aircraft apron capacity that the airport needs, there is any last remaining possibility of the society remaining on site.

We currently see the conduct of two, parallel, debates—one, on the Government's decisions on Edinburgh airport, is coming to an end; the other, on what should happen to that wider part of Edinburgh that is undoubtedly prime business development land, is starting. I have visited the new and impressive global headquarters of the Royal Bank of Scotland. I do not know whether the minister has; I urge him to do so if he has not. The potential for further international business park developments in that area is significant.

The RHASS is caught in the middle of those two debates. The Parliament must not become involved in the private transactions, positionings and counter-positionings of the airport and the society as part of any bargaining, pricing or negotiation process, but the issue is not just about

the interests and concerns of two private organisations. The huge public investment in transport in the area that is due in the next few years, with rail, tram and road links, will be enormous. I have already touched on the economic significance of the area, and that is before we come to the importance of the society's site to the economy and rural life of Scotland.

The motion refers to the economic impact assessment report by Roger Tym and Partners that calculates that the society contributes £100 million to the Lothian economy and £250 million nationally. Not all of that would be lost on any relocation, but Ingliston is the ideal site. That fact must not be lost. The society has looked at other sites, but there are real concerns about their suitability and infrastructure requirements. Those concerns must be addressed. That is why, even at this last moment, a reassessment is needed. I understand that the society will submit further proposals over the summer. I hope that they will get a fair hearing and that there will be co-operation in considering those matters.

Today's debate is an opportunity to register the on-going public interest. I hope that the debate will reflect the various perspectives and strands, and that they will not be lost on the Executive as it reflects on its own accountability in the matter and on its need to reflect on issues that are not just about planning but which also touch on rural, environmental, transport and enterprise issues. The debate is not just about the relocation of a one-week-a-year event: it is about a growing and vibrant enterprise.

We need to be up front and ambitious for what we want for that special part of the economic and enterprise geography of Edinburgh and of Scotland. I note Mary Mulligan's proposed amendment to the motion and I know that other members would be keen to attract a relocated showground to their constituencies, but I hope that, for the most part, the debate will reflect on the national significance and future of two of Scotland's success stories.

With the Executive's co-operation, we can seek a window of opportunity to consider the possible continued co-existence of two of Scotland's success stories. I look forward to hearing speeches from members and, in particular, the Executive's response.

18:15

**Margaret Smith (Edinburgh West) (LD):** I thank Fiona Hyslop for securing the debate. In many ways it echoes a previous debate that I secured on the expansion of Edinburgh airport. Many of the issues that are raised in the motion came up at that time. I also thank other Lothian

MSPs, across all parties, who have spent many months trying to raise genuine concerns about what the ramifications would be of the loss of the showground and the expansion of Edinburgh airport in that particular way.

As the constituency member for Edinburgh West, I have to say that I support both bodies and have done for many years. Both are important to Edinburgh and to Lothian. We have heard about the Roger Tym and Partners report, which the Royal Highland and Agricultural Society of Scotland produced recently. It shows that the society generates £250 million for Scotland, that it has 1.2 million visitors every year and that it is the second biggest attraction in Scotland. On the other hand, we know that the airport is probably bigger. It attracts more people, more money and so on. It also creates thousands of jobs, directly and indirectly.

Nobody disputes that both bodies are important to our city and to our region and are economically important to Scotland. We seek to get them round the table for one last discussion, at this late hour, to try to find some way in which both those important Edinburgh bodies can co-exist on the Ingliston site.

MSPs have received an open letter from BAA in the past week or so. BAA says that discussions have already taken place. The letter also states that all the options have been reviewed, at some cost to the public purse, and that the society has been involved at every stage. BAA questions the value of doing the same work again, only 18 months after the Government made a decision when the white paper was published.

So what has changed? Why do we seek to return to discussions that BAA states—rightly, to some extent—took place 18 months ago? There are several reasons. First, as Fiona Hyslop says, although the white paper on air transport has come out, it is not legislation and it is not set in stone. It can be, and I believe that it should be, revisited. Secondly, the society has now said that it is prepared to give up a minimum of 100 acres of its 300-acre site to seek a way forward through co-existence. That is very different from the situation that I was involved with when discussions were going on two to three years ago. Thirdly, alternatives have been sought. They have been sought by the Executive, by the society, by West Lothian Council and by the City of Edinburgh Council. Alternatives have been sought, but they have not been found.

Doubt has been raised in many quarters about the passenger figures on which the need for expansion of the airport in this way are based. The figures show an increase from fewer than 8 million passengers now to 20 million by 2030. That is in the face of concerns about oil prices, the falling

population figures and the role of Glasgow and Prestwick airports.

There are also commitments from the Executive and I hope, in due course, from the Parliament, to the Edinburgh airport rail link project and the tramline 2 project. Hundreds of millions of pounds of public money are to go to what? Should they go to the airport alone? There is an argument that we should broaden out the uses of those public transport initiatives. As I said, MSPs across the board have concerns. Whatever it cost us 18 months ago to look at options is but a drop in the ocean compared with the potential cost of relocating the showground.

BAA will not want 300 acres, so who will pay for the parts of the site that it does not want? While that question mark remains and the possibility remains that the money might come from the public purse, each and every one of us has a duty to raise our concerns and to ask the Executive, the Government, the showground and BAA to get back round the table.

The society must do the work and come forward with hard options; BAA must have an open ear to the society's suggestions; the Executive must get into the middle of the matter and address issues to do with transport, agriculture, culture, tourism and the economy. Those are devolved matters. Let us not leave the matter to a decision that was taken some time ago by the Westminster Government; let us get round the table again and consider the matter—even if it is for the last time.

18:20

**Mark Ballard (Lothians) (Green):** I apologise to members and to the minister, but due to a commitment that I made when I thought that this debate would be held over lunch time, before what Roseanna Cunningham described as the entirely unnecessary disruption to the chamber necessitated the rescheduling of the debate, I will have to leave before the debate concludes.

I thank Fiona Hyslop for securing the debate, Margaret Smith for her speech and all the MSPs who represent the Lothians, who have worked well together to ascertain whether we can enable the airport and the showground to co-exist at Ingliston. There must be recognition of the huge variety of uses of the RHASS centre. Fiona Hyslop highlighted research that has been done on the matter. I did not know that the centre competes with the castle as a visitor attraction in the Lothians. Not just the royal highland show, but all the activities of the centre, bring huge economic benefits to Edinburgh and the Lothians. We should reflect on the benefits of the show.

We should also consider the issues to do with public transport that Margaret Smith set out. I have

taken the bus to the centre and it is a good service, but I am pleased that the proposed route for tramline 2 goes to Ingliston and that an airport rail link might be constructed, although I might quibble about the type of link that is proposed. It is great to have that public transport infrastructure, but any new site for the centre would probably not have the benefit of such public transport infrastructure, which would be a huge disappointment.

It is important that we revisit the white paper, "The Future of Air Transport", because a series of assumptions were made in it. For example, it was assumed that aviation fuel prices would stabilise at \$25 per barrel in real terms in 2000 prices. Given the current level and unpredictability of oil prices, the likelihood that oil depletion will increasingly be a problem and, most important, the impact of climate change—we should bear in mind that air travel does not pay for its full environmental impact and there is no VAT on airline fuel—the assumptions in the white paper and modelling predictions about Edinburgh airport and flying in general are very open to question.

I do not believe that the predicted increase in the use of Edinburgh airport will be realised. The current usage of the airport presents major problems. According to the airport's website:

"London domestic traffic accounts for 60% of Edinburgh's total traffic figures. There are now over 130 daily flights between Edinburgh and the five London Airports. Edinburgh Airport is now the UK's 2nd busiest airport".

We must consider whether domestic flying is a sustainable transport option. We must revisit the white paper and challenge some of the assumptions that were made. I am afraid that we might move the RHASS centre to a much less appropriate site so that we can develop an expanded airport that ultimately would be a white elephant to the west of Edinburgh because it could not meet future transport needs. We might destroy the centre for nothing.

I have used Edinburgh airport. It is a valuable resource and I do not argue that we should not keep it, but we must question whether the expansion that the white paper predicts will come to fruition. The airport and the centre need to co-exist. I commend the efforts of all parties to achieve that aim and I appreciated the chance to speak in the debate.

18:24

**Lord James Douglas-Hamilton (Lothians) (Con):** I warmly congratulate Fiona Hyslop on lodging an important and timely motion.

BAA and Edinburgh Airport Ltd are to be congratulated on presiding over the airport's unprecedented growth in recent years. The airport

has become a successful and vibrant transport hub that brings tremendous benefits to the travelling public throughout Scotland and provides much-needed employment and trade. That is in Scotland's interests, as indeed will be a railway stop at the airport. However, I remain deeply sceptical about the need for a second runway at Edinburgh.

We would have to consider the adverse environmental impact that a second runway could and would have on communities in the Kirkliston area. While I support the continued expansion of the airport, I do not believe that it should be done at the expense of another of Scotland's tremendously important assets, namely the Royal Highland and Agricultural Society of Scotland.

As the motion explains, the society generates many millions of pounds each year for the local and national economies. Perhaps even more important, the royal highland show is the flagship event of the Scottish agricultural year. It plays an invaluable role in promoting farming and agricultural equipment and machinery to countless purchasers and the widest possible audience. The show is a hugely popular event and I view with considerable alarm any insensitive attempts to diminish the national role of the Royal Highland and Agricultural Society of Scotland.

The airport and the royal highland show deserve their place in the sun. Any major expansion of the airport would, in addition, have to be weighed against the undoubted importance of maintaining the green belt, to ensure that any sustainable development decisions that meant encroachment on the green belt would be taken only if there was an overriding public interest in doing so.

My final issue concerns the transport arrangements to and from the Royal Highland and Agricultural Society of Scotland and indeed the airport itself. Members who visited the royal highland show this year will have been reminded of the congested road network that surrounds Ingliston, which causes enormous delays and disruption to visitors and travellers alike. I therefore take this opportunity to press the minister very hard for the long overdue investment that is required to bring infrastructure around Ingliston and the airport up to the highest standards. I hope that he will be able to give a favourable response.

The airport and the Royal Highland and Agricultural Society of Scotland are institutions of which Edinburgh and Scotland can rightly be proud. In considering the future of both bodies, let us ensure that the long-term well-being and sustainability of both institutions is safeguarded and that every effort is made to produce a meeting of minds. I support the motion.

18:27

**Mrs Mary Mulligan (Linlithgow) (Lab):** I congratulate Fiona Hyslop on securing the debate. As she and other members have said, it is an important issue that is deserving of our time. However, given the amendment that I proposed to her motion, she will appreciate that I do not agree totally with her conclusions.

I have not spent the past six years wondering how I could entice the Royal Highland and Agricultural Society of Scotland's headquarters from Ingliston to my constituency. I have discussed the issue on several occasions with Margaret Smith, the local MSP, and I also discussed it recently with representatives of the society, whom I told quite clearly that if the showground is to stay where it is, I will not be unhappy. However, if it is to move, I firmly believe that West Lothian can offer a superb location.

I acknowledge the achievements and benefits of the society over the years, and I acknowledge the wonderful event that is the royal highland show. It would be unfortunate if we were to lose the work on developing that show and the other conferences and exhibitions to which members have referred that take place at Ingliston. I appreciate the boost that they give to Edinburgh's economy, but we should not fool ourselves: Edinburgh's economy will not collapse if the society chooses to move. The white paper says that Edinburgh airport will grow and need land that is presently used by the society, and there still seems to be some debate as to whether BAA and the society could continue to share the site. If it has not already done so, the time for that debate will quickly come to a conclusion.

We seem to be avoiding the discussion that needs to be had, which is about how many of us know that the ideas that are being mooted for the area around the airport are for attracting more international headquarters, such as those of the Royal Bank of Scotland, to which Fiona Hyslop referred. I suggest that such developments would be better placed to sustain the Edinburgh economy and, by extension, the Scottish economy, especially the economies of Fife, West Lothian and other Lothian and Borders areas.

I will briefly mention why there would be advantages to the society's coming to West Lothian. The area has all the attributes that the society needs for its relocation: sufficient land, good transport links and a great position within Scotland from which to attract visitors from throughout the country. There is a site between Whitburn and Armadale that would provide a great location not only for the society's present needs, but for future growth, but there are not many such sites throughout the country. The transport links there are good, too: the M8, the M9 and the new



Airdrie to Bathgate rail link, about which I am sure the minister knows, are nearby.

The final advantage is that the society would remain within the central belt. I appreciate that members from rural areas might think that it should go to such an area, but the society's being in the central belt seems to have its advantages. I acknowledge that upheaval will be caused by any move from Ingliston and I am sure that the people who work there are uncertain about their employment prospects; however, those worries could be somewhat relieved by a short move along the motorway.

Although the society might not want to move, it needs to consider the reality of the situation. Like other sites, the site in West Lothian will not be available for ever. I hope that, if the society moves, it will see all the advantages of coming to West Lothian, which could be a win-win situation. I can assure the society of a warm welcome from my constituents and me.

18:31

**Mr Kenny MacAskill (Lothians) (SNP):** I thank my colleague Fiona Hyslop for initiating the debate and, indeed, the Royal Highland and Agricultural Society of Scotland because, as Fiona Hyslop and others have testified, the royal highland showground and those who work there are part of the landscape and life of the city of Edinburgh. They contribute to the city's economy and its social interaction, and have done so for many years.

That said, there are clearly difficulties. We face a difficulty with Edinburgh airport's expansion and we must bear in mind its importance to our economy. Mark Ballard made points about the likely implications of expansion. Everybody accepts that, in a fossil-fuel using world, limits will be put on the growth of air transport, but it is clear that for the foreseeable future Edinburgh airport will expand. I understand that, only today, it has been announced that a route to Warsaw will commence in October. That should benefit us not only by allowing outbound business, but by bringing inbound fresh talent such as is currently proliferating in Edinburgh. We have to balance conflicting needs and wants.

We must also acknowledge that the west of Edinburgh, where the showground and airport are located, is fundamental not only to the city of Edinburgh but to the whole economy of Scotland. That area is currently the dynamo of the Scottish economy, so if we undermine it, not only will we imperil the advance of Edinburgh's economic interest, we will undermine the interests of the whole of Scotland. I believe that some of the land-bank opportunities that exist there are as

important to Edinburgh and Scotland as the Dublin dockland development was to Dublin and the Republic of Ireland in providing impetus and driving things forward.

Fiona Hyslop mentioned the Royal Bank of Scotland. The debate cannot be thought of as an argument or battle between the RHASS and BAA. It is, in fact, much wider than that because, as the area includes land that has potential for development, we must consider alternative options. It might be that the dispute can be resolved simply by ceding land from the royal highland showground to the airport but, irrespective of that, it is likely that land opposite the Royal Bank of Scotland's current location will be developed, so we must consider the area in its totality. In doing that, we must acknowledge that it is not simply a case of BAA versus the RHASS; we must factor in the RBS and other businesses that we hope to attract to sites in that area, and we must consider how the RHASS operates within that.

There is a variety of permutations. Mary Mulligan mentioned the opportunity for the RHASS to move out to West Lothian, and Margaret Smith and Fiona Hyslop commented that we might be able to reach agreement simply by ceding ground to BAA, although that is currently disputed.

It has been suggested that ground is available on the other side of the A8 from where the RHASS is currently. We have the opportunity of freeing up land for the airport, of maintaining the highland showground in its current vicinity, and perhaps of maintaining some green space. James Douglas-Hamilton rightly said that we want economic development and benefits, but that we also want to retain green space to avoid Edinburgh and Glasgow becoming one continuous conurbation.

We must not view the matter simply as BAA versus RHASS. The Executive has a role not simply in arbitrating in that dispute but in recognising the implications for Scotland's economy and society. The Executive must become involved; it cannot simply leave matters to the current participants or to the City of Edinburgh Council.

18:36

**Mr Jamie McGrigor (Highlands and Islands) (Con):** I must declare an interest: I am still a sheep and cattle farmer and have enjoyed the annual royal highland show for a great many years. I come at this debate from a distinctly rural angle.

The royal highland show is of enormous importance to people in rural Scotland and to the agricultural industry. That is not just because it offers a showcase for Scotland's livestock and

machinery from Gretna to Shetland, but because it is held in Scotland's capital city of Edinburgh. Having the show in Edinburgh stresses the great importance to Scotland as a whole not only of farming but of the rest of the rural economy.

Anyone who has been in the food tents at the royal highland show will have witnessed the huge expansion in local food products; there is the best meat, the best fish and the best shellfish in Europe. Edinburgh can produce the largest attendance figures and the perfect stage. It is therefore immensely important as the venue for what is an exceptional Scottish event.

Many Scots come to their capital only once a year, and that is for the royal highland show. A move to a lesser site would almost certainly lessen the impact of the royal highland show and might do away with an event at which urban Scotland meets and comes to terms with rural Scotland, and vice versa.

I agree with Fiona Hyslop's motion and with the sentiments that were ably expressed by Kenny MacAskill and—even more ably—by my friend James Douglas-Hamilton. James hopes for a meeting of minds to ensure that Ingliston is never lost to the Royal Highland and Agricultural Society of Scotland.

18:37

**Rob Gibson (Highlands and Islands) (SNP):** I thank Fiona Hyslop for securing the debate. I will make some remarks—but with trepidation as I am an out-of-Edinburgh and out-of-Lothians member. The powers of the Scottish Executive to plan the environment are increasing and there is legislation on planning that ought to lead to a rapid updating of local plans.

Environmental and economic issues are raised by the debate. We are just about to reach stage 2 of the Environmental Assessment (Scotland) Bill. A proposal by HM Government in London would not fall within the mischief—as Ross Finnie keeps calling it—of our bill, but would fall within the mischief of the UK regulations. However, a proposal for a major expansion of an airport ought to be subject to strategic environmental assessment. It will be interesting to find out whether the UK Government intends to have such an assessment and what input the Scottish Executive will have. An environmental assessment would open up the debate about the balanced use of a particular area.

On the economic front, the local plan is some years old and it is not especially clear on the implications for land use and transport in the Ingliston area. If we are to get the future right, we will have to have plans that are dynamic enough to deal with proposals such as the expansion of

Edinburgh airport. That expansion has been talked of for a considerable time, but the expansion has to be accommodated within the land concerned.

The Executive therefore has a major role to play. It is necessary to send some signals. First, the showcase for Scottish agriculture and country life cannot be placed in jeopardy. We are reducing our capacity to grow the food that we require, but that capacity will have to be increased, because the number of food miles must be reduced in future. The Royal Highland and Agricultural Society of Scotland's show highlights the potential of our farmers and crofters to achieve that for Scotland and it is important that it is held as near to the capital as possible.

We must ensure that heads are knocked together. Who is going to do that? BAA says that the discussions are finished, but someone has to hold the jackets and get the parties together. The Scottish Executive could play a major role in resolving the impasse. Examining the environmental and economic levers and planning mechanisms would be a good way of trying to bring some sense to the situation.

It is essential that our economy goes forward using the best of everything. High tech is important. The future of our nation centres on the knowledge economy and what can be built round the hub of the west Edinburgh area, but we have to eat, which requires us to commit to the great showcase so that it is not lost. Its site cannot be moved, but it could be altered. That compromise is possible if the Executive takes a hold now.

18:41

**The Minister for Transport and Telecommunications (Tavish Scott):** I begin by indulging myself and thanking all members who have congratulated me on my recent appointment. I had not appreciated how popular the minister for transport would be, at least at the beginning. More seriously, I thank Fiona Hyslop for introducing a genuinely thoughtful debate this evening as we wind up for the school summer break.

I have connections to both institutions that we have discussed at length this evening. For many years I have attended the institution of the royal highland show, although I did not recognise Lord James Douglas-Hamilton's point about a day in the sun—a day in inclement conditions might be a better description. I acknowledge the point that many colleagues made about the importance of the show not just to this part of Scotland but to Scotland as a whole. The other institution is the capital's airport, which is a set of buildings and a runway of which I see rather a lot. Indeed, at times I think that I know nothing else than the security queue at Edinburgh airport.

I acknowledge the speeches that have been made this evening about the continuing discussions on the future of the Royal Highland and Agricultural Society of Scotland's showground. Members recognise the economic contributions that the showground and the airport make to the wider Scottish economy. We wish to preserve and increase the economic benefits of both. I urge all parties to act constructively to ensure that a solution is reached that ensures the showground's long-term future and takes account of the predicted growth of Edinburgh airport.

As others have said, the UK Government's air transport white paper set out a strategic framework for the development of airport capacity in the UK for the next 30 years. It set out the conclusions of the UK Government on the case for the expansion of airports throughout the country. In doing so, it took account of the views that were expressed in an extensive consultation exercise, which in Scotland was conducted jointly by the Department for Transport and the Scottish Executive. It recognised that simply building more and more capacity to meet demand was not a sustainable way forward—a balanced approach is necessary. We need an approach that recognises the importance of air travel to our economic prosperity—not least the point that Kenny MacAskill made about today's news—but which respects the rights and interests of those who, as Lord James rightly said, are affected by airport development.

In the white paper, the UK Government invited airport operators to produce plans for increased airport capacity in the light of the policies and conclusions that were set out therein. BAA Scotland produced its outline master plan for Edinburgh airport in May. It is now out for consultation with a closing date of 31 August 2005. The master plan highlights the need to cater for the predicted growth of the airport. I take the point that Margaret Smith made about the overall scale of the area that we have discussed this evening. The plan sets out that 34 hectares of the land that is occupied by the Royal Highland and Agricultural Society of Scotland would be required by 2020 for additional terminal and airport apron capacity and that another 51 hectares of the land that is occupied by the society will be needed by 2030 for further development of the airport.

**Margaret Smith:** The minister has outlined the extent of the showground area that BAA might need. Will he pick up on my point about the potential for the public purse to pay for the area that is not required by BAA but which is so reduced in size that the viability of the showground is damaged? Someone will have to pay for that.

**Tavish Scott:** The point fits neatly with one that a number of members made in their speeches this

evening—indeed Margaret Smith made it herself. Given the economic potential of the area for corporate headquarters and other developments, it strikes me that land in the area would be at a premium.

I am well aware that the Royal Highland and Agricultural Society believes that it should remain on its present site at Ingliston while still allowing for the expansion of the airport. As part of the preparation for the UK Government's white paper, much work was carried out to assess the future growth and development of Edinburgh airport. The work included a study to assess and attempt to reconcile the likely land needs of BAA Scotland and the Royal Highland and Agricultural Society, both of which were represented on the steering group for the study.

As members have said this evening, many options were considered but no solution has yet been found. Accordingly, the white paper set out the issues and concluded that the UK Government's proposals

"would therefore require the relocation of the RHASS, by around 2013".

Following the publication of the white paper, the Deputy Minister for Communities announced that the west Edinburgh planning framework would be reviewed. I hope that that review addresses some of the wider points that Margaret Smith, Kenny MacAskill and other members made about the area.

I fully recognise the special status of the royal highland centre as a well-located, year-round indoor and outdoor events venue—a point that Fiona Hyslop made extremely well. That is why the Scottish Executive is working with the society and other parties in the review of the west Edinburgh planning framework. The objectives of the review include a reconciliation of the land requirements of the airport with other land uses and consideration of the implications for the royal highland centre in particular.

A study has therefore been undertaken to identify one or more alternative site options west of Edinburgh or elsewhere for potential relocation. The research used criteria that were based on criteria that the Royal Highland and Agricultural Society provided. The research is now concluded and, from a long list of sites, four potential sites have been identified and ranked. It is now for the Royal Highland and Agricultural Society to undertake further investigative work into one or more of those sites and to determine their feasibility.

The society has been fully involved throughout the extensive white paper consultation process and the subsequent review of the west Edinburgh planning framework. It has been given every

opportunity to demonstrate how the showground can co-exist with the airport while providing for the predicted growth of the airport.

*Meeting closed at 18:49.*

However, I also recognise that, before closing off the option of co-existence, the society has sought the opportunity to respond to the BAA master plan consultation. I can only therefore urge the society to continue to engage actively with BAA Scotland and the Scottish Executive to find a solution that satisfies all parties and that ensures that the activities of the society and the airport continue to grow their contribution to the economy of south-east Scotland and Scotland as a whole.

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