

# **MEETING OF THE PARLIAMENT**

Tuesday 6 September 2005

Session 2

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## **SCOTTISH MINISTERS AND DEPUTY MINISTERS**

FIRST MINISTER—Right hon Jack McConnell MSP  
DEPUTY FIRST MINISTER—Nicol Stephen MSP

### **Justice**

MINISTER FOR JUSTICE—Cathy Jamieson MSP  
DEPUTY MINISTER FOR JUSTICE—Hugh Henry MSP

### **Education and Young People**

MINISTER FOR EDUCATION AND YOUNG PEOPLE—Peter Peacock MSP  
DEPUTY MINISTER FOR EDUCATION AND YOUNG PEOPLE—Robert Brown MSP

### **Enterprise and Lifelong Learning**

MINISTER FOR ENTERPRISE AND LIFELONG LEARNING—Nicol Stephen MSP  
DEPUTY MINISTER FOR ENTERPRISE AND LIFELONG LEARNING—Allan Wilson MSP

### **Environment and Rural Development**

MINISTER FOR ENVIRONMENT AND RURAL DEVELOPMENT—Ross Finnie MSP  
DEPUTY MINISTER FOR ENVIRONMENT AND RURAL DEVELOPMENT—Rhona Brankin MSP

### **Finance and Public Service Reform**

MINISTER FOR FINANCE AND PUBLIC SERVICE REFORM—Mr Tom McCabe MSP  
DEPUTY MINISTER FOR FINANCE AND PUBLIC SERVICE REFORM—George Lyon MSP

### **Health and Community Care**

MINISTER FOR HEALTH AND COMMUNITY CARE—Mr Andy Kerr MSP  
DEPUTY MINISTER FOR HEALTH AND COMMUNITY CARE—Lewis Macdonald MSP

### **Parliamentary Business**

MINISTER FOR PARLIAMENTARY BUSINESS—Ms Margaret Curran MSP  
DEPUTY MINISTER FOR PARLIAMENTARY BUSINESS—George Lyon MSP

### **Communities**

MINISTER FOR COMMUNITIES—Malcolm Chisholm MSP  
DEPUTY MINISTER FOR COMMUNITIES—Johann Lamont MSP

### **Tourism, Culture and Sport**

MINISTER FOR TOURISM, CULTURE AND SPORT—Patricia Ferguson MSP

### **Transport and Telecommunications**

MINISTER FOR TRANSPORT AND TELECOMMUNICATIONS—Tavish Scott MSP

### **Law Officers**

LORD ADVOCATE—Colin Boyd QC  
SOLICITOR GENERAL FOR SCOTLAND—Mrs Elish Angiolini QC

## **PRESIDING OFFICERS**

PRESIDING OFFICER—Right hon George Reid MSP  
DEPUTY PRESIDING OFFICERS—Trish Godman MSP, Murray Tosh MSP

## **SCOTTISH PARLIAMENTARY CORPORATE BODY**

PRESIDING OFFICER—Right hon George Reid MSP  
MEMBERS—Mr Duncan McNeil MSP, Nora Radcliffe MSP, John Scott MSP, Mr Andrew Welsh MSP

## **PARLIAMENTARY BUREAU**

PRESIDING OFFICER—Right hon George Reid MSP  
MEMBERS—Bill Aitken MSP, Chris Ballance MSP, Ms Margaret Curran MSP, Carolyn Leckie MSP, Margo MacDonald MSP, Tricia Marwick MSP, George Lyon MSP

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Public Petitions	Michael McMahon	John Scott
Standards and Public Appointments	Brian Adam	
Subordinate Legislation	Dr Sylvia Jackson	Gordon Jackson

6 September 2005

## Scottish Parliament

*Tuesday 6 September 2005*

[THE DEPUTY PRESIDING OFFICER *opened the meeting at 10:30*]

### Time for Reflection

**The Deputy Presiding Officer (Trish Godman):** Good morning and welcome back to Parliament. The first item of business is time for reflection. Our time for reflection leader today is the Rev Lorna Hood, who is minister of Renfrew North Parish Church.

**The Rev Lorna Hood (Renfrew North Parish Church):** My father worked in the local swimming pool in Kilmarnock, so holidays were spent at the baths. Although I learned to swim at a young age, water has always held both a fear and a fascination for me. When the tsunami struck at the close of last year, we had already booked our flights to Phuket for this summer. Would we go or would we make alternative arrangements? In the end, we stuck to our original plan and took heed of the tourist websites that urged travellers to come.

The beach was extremely quiet—it was almost deserted—and the only sound was the regular lapping of the waves on the shore. As I looked out, I was hypnotised by their steady and constant arrival as they broke on the shore. I was struck by both their beauty and their gentleness, only to be reminded so very quickly of each wave's hidden power. We have all witnessed such power in the devastation that it caused and the heartbreak that was evident on the island and—in the past few days—in the southern states of America. That power can be gentle or violent, beautiful or terrifying.

I often begin my prayers by referring to God as all powerful—a God who is omnipotent. When Jesus was threatened by the power of the Roman authority, he said to Pilate:

"You have no power over me if it were not given to you from above."

Pilate's power was to issue a death sentence; the power that Christ exercised was a power of love, care and compassion.

As a nation, we rejoiced in the establishment of our Parliament, which put power in the hands of the people of Scotland. As representatives of the people, it is your duty to exercise that power on our behalf. Disraeli once said that

"all power is a trust; that we are accountable for its exercise; that from the people and for the people all springs, and all must exist."

On this day at the beginning of a new parliamentary year, our prayer is that the power of this Parliament will be used for the good of all Scotland's people and exercised with wisdom, certainty and, above all else, the compassion and care that Jesus demonstrated, especially towards the vulnerable and the weak. May God guide you and direct you so that you may use that power wisely.

God bless you all.

## Scottish Executive's Programme

**The Deputy Presiding Officer (Trish Godman):** The next item of business is a statement by the First Minister on the Scottish Executive's programme. The First Minister will take questions at the end of his statement, so there should be no interventions.

10:34

**The First Minister (Mr Jack McConnell):** Today I want to make a statement outlining the Executive's programme until 2007. It is a programme for justice and respect, a programme that will ensure that no child is left behind or held back and a programme for health improvement and for growing economic prosperity for all Scotland to share. It is a programme that is based on a vision of a strong and ambitious Scotland—a Scotland in which today's opportunities are not just available to some but accessible by all Scots, whatever their background or culture. Our programme is a tough and challenging series of actions for the remaining 19 months of this session of Parliament.

This is the first time that Parliament has met since G8 Scotland. The outcome of that summit surpassed the expectations of many. For Africa, in particular, significant progress was made. I am proud of the way in which Scotland responded to what was an incredibly challenging week. I put on record my thanks to all those people who made it such a success: the police, the organisers of the make poverty history demonstrations and those politicians from all parties who contributed to the welcome that was given to everyone who came. The leaders, their entourages, the media and the peaceful campaigners who came in their thousands saw the best of Scotland. I am sure that all members will join me in thanking everyone who made G8 Scotland such a success for us. *[Applause.]*

I offer my thanks to all those people who have supported our efforts to refresh Scotland's connection with Malawi. By mobilising their enthusiasm and humanity, we will help the people of Malawi to improve their country and their lives.

Although the summer of 2005 will go down in history as a summer of unrivalled profile for our small country, it has also been a summer in which there has been tragedy, in London, in New Orleans and closer to home, too. Yesterday I sent a message of sympathy to the governors of the southern states that were most affected by hurricane Katrina. Families in those states, in London and elsewhere who have been affected by national disasters or terrorism are, of course, in our thoughts.

Scotland can be proud of our police forces and our justice system, but times have changed and crimes have changed. At the heart of this Government's justice policy is a vision to build safer, stronger communities; to convict the guilty and to acquit the innocent; to support the victim and to punish the offender; and, more than ever before, to give the offender the chance to rehabilitate and make good the wrong that they have done. We want to restore respect in the law, in communities and within the individual.

Methodically and systematically, this Government is renewing and modernising the Scottish justice system from top to bottom and from beginning to end. We have already had the Bonomy reforms of the High Court and new laws on antisocial behaviour. The Management of Offenders etc (Scotland) Bill has been introduced, the Nicholson review of licensing laws has taken place and there has been action on environmental crime. The fact that there are more police back on the streets and that they are backed up by community wardens means that we see a better police presence in our communities. That has resulted in the lowest levels of recorded crime for a generation and the highest clear-up rates on record.

Now there is no excuse for non-action against the misery of disorder, vandalism and antisocial behaviour. There are antisocial behaviour orders, parenting orders and new powers for the police to disperse groups of persistently disorderly people, and those measures should be used.

We have acted to protect the public from sex offenders. We will publish the report of Professor Irving's review shortly and will outline the steps that we will take to manage such offenders more effectively in the community. We are tackling serious organised crime. We are capturing record levels of drugs from the dealers and are seizing their assets and emptying their bank accounts. We are working within the United Kingdom and abroad to ensure that Scotland is fully engaged in the war against terror.

That was only the first two years. Today I can announce the next steps in our root-and-branch reform to deliver justice and re-establish respect. This month we will introduce a police, public order and criminal justice bill to improve police effectiveness and further improve community safety. That bill will introduce football banning orders, will establish mandatory drug testing for people who are arrested for drug-related crimes and will double the maximum penalty for carrying a knife. The bill will also prevent the antisocial use of fireworks and enable the more effective identification of suspects of crimes.

The conduct, organisation and professionalism shown by Scotland's police officers during G8



Scotland demonstrated the world-class policing standards that we have in Scotland. Their job is tough and complex—handling disorder and thuggery at one end of the spectrum and sophisticated organised crime at the other—but the bill will help and support them to protect the public.

We will strengthen the work of the highly effective Scottish Drug Enforcement Agency, which will be renamed the Scottish crime and drug enforcement agency to reflect its fight against all forms of international and organised crime.

Today I can announce that the bill will include new ways for local councils to impose conditions on marches and parades. Sectarianism is a stain on Scotland and, for me, taking on, challenging and beating the sectarian bigots is one of the most lasting changes that we can make.

I know the difference between a march or parade that is riddled with prejudice and hate and a march or parade of tolerant, law-abiding people respecting an age-old tradition, and I believe that the vast majority of Scots can see that, too. Enough is enough. We will give more powers to councils to apply conditions to marches and any failure to meet those conditions will jeopardise future applications. Ultimately, if a march has a proven record of disorder, violence and displays of sectarian hatred, councils will be able to—and their communities will expect them to—ban that march in future years.

Early next year we will introduce a bill that will improve our system of summary justice. The first priority in that legislation will be to reform and improve our systems for the bail or remand of individuals accused of crimes. Our objectives are to make the granting of bail more difficult for serious, dangerous and sex offenders and to make the punishment of breaches of bail more severe and consistent, to re-establish respect for and confidence in the law.

We will give courts more ways of imposing conditions on bail. We will put in statute factors that will count against the granting of bail. In light of the new legislation, the Lord Advocate will issue new guidance to procurators fiscal and the police.

Ultimately, the decision to grant bail in this society rests with the judge, but I want to be very clear: public safety is paramount and our package will make it easier for the courts to protect the public from serious and violent criminals.

We will take action to improve the quality of the lay justice system, make fine collection and enforcement simpler and give prosecutors more options in handling cases. The bill will help to reduce re-offending by the speedy and more appropriate handling of offences.

Following further advice from the Sentencing Commission for Scotland, we will introduce a sentencing bill, which will help to ensure that the punishment fits the crime. The Sentencing Commission is dealing with early release as a priority. We expect a report by the end of the year and, building on that work, we will draw up comprehensive proposals and move quickly.

We are working closely with the UK Government to strengthen the law on firearms, particularly air-guns. That approach is without question the right way forward. The benefits of consistency in gun law across borders far outweigh those of any go-it-alone approach. The Home Office is in the final stages of considering the proposals that we put to it and we expect to be able to announce details of new restrictions soon.

We will legislate to create a Scottish human rights commission and we will reform legal aid and the way in which we deal with complaints against lawyers.

We will introduce a bill to place the reformed judicial appointments system on a statutory footing, making appointments more open and independent but also setting out the arrangements for the removal of a judge from office on the grounds of inability, neglect of duty or misbehaviour.

We know that criminal behaviour in adulthood often has its origins in childhood and adolescence. Disrespect for the rules of our society most often starts in youth, unfortunately, so when there are warning signs our public services must be able to act quickly and they must be better at doing so.

Next year we will legislate to modernise and improve our children's hearings system. We will reduce paperwork and streamline activity. We will require that agencies work together and that parents face up to their responsibilities. By challenging offending behaviour and addressing the needs of each young person we will help them to help themselves. For the small core of prolific and persistent youngsters who undermine themselves as well as their communities, we will meet persistence with persistence.

Most young Scots have supportive families. They are motivated and are exploiting the new opportunities now available to them, both in school and out, but there are some children who are vulnerable, perhaps because the adults in their lives have let them down or because their family unit has broken down. We will modernise our adoption law, too. We will listen to the consultation, but the legal framework must be reformed if we are to improve stability and security for children in Scotland.

Our efforts to do even better for our most vulnerable children do not end there. We will push

forward our plans to introduce a tough new inspection system for our child protection services. We will strengthen inspection powers to make sure that inspectorates can work together effectively in the interests of securing improved protection for children. That will be a major step forward in improving our services and making sure that no vulnerable child slips through the net in 21<sup>st</sup> century Scotland.

The best opportunities are, of course, created by ensuring that every child has access to learning and knowledge. We know that Scottish schools are high performing, and recent exam results show steady improvement across all qualifications.

Primary school children are benefiting from the biggest school investment programme for over a century, primary class sizes have been reduced to an all-time low and there are better supports than ever for children with special educational needs and disabilities.

Young people are being nurtured, developed and stretched by increasingly professional teachers, and are enjoying more support than at any other time, with increased attention on the transition into secondary school, but we know that there is more to do.

Last autumn, we unveiled the most comprehensive modernisation programme of our secondary schools for a generation—opening up more choice for our young people and creating Scotland's first 20 schools of ambition. They will transform ambitious schools, creating more confident and ambitious youngsters. Changes to the curriculum, to assessment, to teaching and management and to out-of-school activities will all raise standards and levels of achievement.

When schools and parents work together, children do better, so we need to reform engagement with parents, too. In this parliamentary session we will introduce legislation to provide for a more inclusive and flexible system of parental involvement in schools. The new legislation will build on the experience of school boards and allow parents more choice and freedom to adapt and develop their representation in school. Existing successful boards will have improved powers, and in other schools new arrangements will involve more parents in their children's learning. We want more and more parents across Scotland to be able to shape decisions affecting their local schools and our legislation will put a duty on every head teacher to provide a report at least once a year to the parents in their school that not only reports annually on the school's performance—although that is important—but which sets out each year their ambitions and priorities for the school and how it can and will improve.

The new system will help to give every parent in Scotland a better understanding of their child's education, a greater sense of attachment to their child's school and a clear route through which to voice their opinions and be heard. We believe that every parent should be involved, valued and welcome in the life of their school and that, if they have a complaint, they have a right to get it heard in the most effective way possible.

Our school inspection system is based on a top-down approach where the inspectorate decides which school is to be inspected, but I can announce today that, following our consideration of the bill, we will give the new parent bodies a statutory right to request an inspection from HM Inspectorate of Education when they have outstanding concerns that the school or local authority has not been able to resolve satisfactorily. We will give parents a right that they have long demanded; we will give them a chance to have a greater say in the future of their school.

At any one time, some 35,000 young people in Scotland between 16 and 19 are not in education, employment or training. In a Scotland where growing the economy is our top priority and where we value the contribution that everyone can make towards that aim, we simply cannot afford that waste of potential. We must re-engage those young people and help them to realise their potential by offering them more and better opportunities and choices in the school system and beyond 16, and we must support them in meeting the challenge. We will reach out to our disaffected young people and provide them with exciting new opportunities through vocational learning and better school-college links. The further growth and development of project Scotland—the UK's first national, full-time youth volunteering scheme—will play a critical role in re-engaging many youngsters.

Since May 2003 we have directed record investment to Scotland's health service. Through reforms to service delivery and by setting priorities, deaths from cancer, strokes and heart disease are all down; survival rates for childhood cancer are up; the longest waiting times have been cut; and more care is being delivered in local communities where new clinics deliver quicker and better care.

Our aim should not be just to treat more and more sick people. A better national health service alone will not deliver a better national health for Scotland. We know that Scotland is one of the unhealthiest nations in Europe and we know that the poorest families suffer the most. We know that to turn the situation around for future generations we need to help our young people in particular to make the right decisions about their health.

Our schools are central to our drive to build the lifestyles and habits that will support good health. Today, almost half of all primary pupils now take school meals. Primary schools provide free fruit for P1 and P2 pupils while most schools also provide fresh chilled drinking water.

I know from my visits to schools that big changes are going on in the school canteen—I even came across broccoli curry recently in one canteen. *[Interruption.]* I am not saying that I ate it, but the kids loved it and that is important. Schools are sourcing good, healthy food locally. Many have set up healthy tuck shops and others have removed all branded vending machines selling fizzy drinks.

There is a chance that this generation is breaking the Scottish culture of unhealthy living and this Government wants to increase the momentum of that change. During this parliamentary year, we will consult on a health promotion, nutrition and schools bill. We want to strengthen our approach, and we will create new powers to remove products such as fizzy drinks, which are so damaging to child health.

Today, I am also delighted to announce more than £70 million for the hungry for success programme over the next three years to allow local authorities to continue the work that they have started with our initial investment.

Our approach to school dinners has famously been described as “revolutionary”, but we want to take the revolution much further to keep Scotland at the leading edge in improving nutrition for better child health. If all that we had done was make school dinners free—however laudable the aims of that proposal are—we would not be making the difference that we are making.

We want all children to become healthier, and to do that we are targeting resources to address the issues caused by poverty. We target those who are most in need, and we also provide a better service to everyone else. This is not only about school dinners—our plans will go further to take forward the agenda for better national health.

However, there is one thing that we need to beat before we can truly transform our health in Scotland. That is, of course, smoking. Smoking is the greatest single preventable cause of ill health and premature death in our country. This year, our landmark legislation will begin to protect people in pubs, clubs and other public places throughout Scotland from the dangers of passive smoking. Thirteen thousand Scots die each year because of smoking-related diseases. This parliamentary year, public places in Scotland will become smoke free and our national health will be all the better for it.

One of the main ambitions of the coalition Government has been to give protection to all those in Scotland who need it. We legislated to protect our vulnerable adult population in the early days of this Parliament, but we now need to add to the legislation to give that group the protection that they need and deserve.

This year, we are taking further action to protect our vulnerable children and we will also take action to protect our vulnerable adults. Abuse of vulnerable adults is sickening and will not be tolerated in Scotland. Adults who are frail, elderly or vulnerable all deserve to live with dignity and to be treated with respect. Our legislation will plug gaps and help agencies to work together to provide better support to protect vulnerable adults from abuse of any kind.

The Scottish Government will also bring forward animal health and welfare legislation to ensure the highest possible animal health and welfare standards, and we will introduce a local government (electoral administration and registration services) bill to modernise our legislation and improve the security of absent voting.

Devolution is no longer in its infancy. It is time for us to enter the next phase. Instead of this place being somewhere that we find Scottish solutions to Scottish problems, it should be about finding Scottish success through Scottish ambition.

Now, more than ever before, our job is to give Scotland an edge over the competition. I want to be explicit—I do not want Scotland’s success to be defined by our relationship with England; I want our performance to be judged by indicators on a global scale. Where we lag behind we should catch up and where we are ahead we should break further away. We want to be more competitive, more productive and more innovative and to have a better quality of life.

In many ways, Scotland is already the best, and in others we have some way to go. Scotland’s employment rate is now the best in the UK and among the highest in Europe—150,000 more Scots have entered employment since the creation of the Parliament. In 1999, one in three Scottish children was living in poverty. Now the figure is one in four and we are on track to meet our aim of ending child poverty in this generation.

We are providing more new roads, more trains, and more new stations, resulting in more bus and rail journeys being made. New direct air routes to and from Scotland are making Scotland the first UK destination of choice for many more international travellers.

The research and innovation in our universities is also being transformed into commercial success. We are investing more in those

universities than ever before: a 30 per cent increase in three years represents an investment in the future of Scotland. We are backing Scottish companies and Scottish exports by aggressively promoting Scotland abroad.

We are now a place that welcomes fresh talent that contributes to our economy and to our cultural diversity. In the coming months, we will conclude our discussions with the Home Office on the implementation of the new UK points-based immigration system. We will make the most of the opportunity to find advantages for Scotland in attracting new talent.

We know that there are more things that we must do if we are to grow the economy for all, in all areas of Scotland. In rural Scotland, our draft crofting reform bill will update, simplify and extend existing crofting legislation. We want to offer more opportunities to individual crofters and crofting communities. By increasing crofters' involvement in land management, we hope to give them greater power to shape their futures and make the most of economic opportunities. We will discuss the detail fully with crofting interests before the bill is introduced in its final form.

Next summer we will introduce a fisheries and aquaculture bill to improve the regulation of freshwater fisheries, to strengthen the conservation of stocks and to provide a secure basis for Scotland's diverse fishing industries.

In tourism, the Scottish industry's performance is carving out a niche and an identity that are paving the way for faster growth. We have a natural advantage as we have icons that other countries can only dream of and a history, heritage and culture that resonate across the globe. We have scenery, diversity and cities to rival any of our competitors and, more often than not, surpass them. However, if we are to continue to attract more and more visitors to Scotland, we need to do as much as we can to support our rural and urban tourism industry. That is why, over this parliamentary term, we will introduce a tourism bill to complete the winding up of area tourist boards and to set up the VisitScotland network as a single legal entity. The new network is providing greater financial stability for tourism support and is helping to promote Scotland as a major tourism destination in an increasingly competitive global market. By establishing VisitScotland in this way, we will help our tourism industry to flourish well into the future in our ambition to grow tourism revenues by 50 per cent over the next decade.

This year, we will also modernise the laws of personal bankruptcy and diligence and strike a better balance between the rights of creditors and debtors.

Too many critical transport projects that we have planned are taking too long to implement. That is why, in the next parliamentary year, we will legislate to simplify the process for handling applications for changes with a transport and works bill.

We know that sustainable economic growth needs a modern planning system to speed up decisions, reflect local views and allow quicker decisions for businesses that want to invest in areas. A modern planning system will help to regenerate areas, pave the way for new jobs, create safer communities and bring investment to new schools and hospitals. It will help to deliver renewable energy, provide water and sewerage infrastructure and provide affordable housing where it is needed. Our current planning system does not meet our ambitions for a sustainable, prosperous Scotland. Seventy per cent of local plans are more than five years old and 20 per cent are more than 15 years old. Our current system is neither effective nor efficient—that has to change.

In June this year, we published a white paper that set out the way forward for Scotland's planning system. The legislation that we will introduce will lay the foundations for a planning system that will serve Scotland's aspiration for prosperity, a better environment and greater participation. The legislation will ensure that planning applications are handled in the most effective way. It will give councils greater powers to decide some types of application, give local people more of a say in the decisions that affect them and make the appeals process simpler and faster. This will be a whole new approach that will work in the interests of our communities and our environment and ensure that areas do not miss out on much-needed investment.

Finally, there will be two budget bills. For too long, Scottish economic growth has lagged behind that of the rest of the UK. The ambition of this Government is to take the actions that will raise our long-term growth rate. There are signs that Scottish economic growth might be starting to close the gap.

We have been listening hard to what business asks of us. On almost every single count, we have responded to those representations. We have invested in infrastructure and in education and research; we are simplifying the planning system; and we have improved international air routes. However, now it is time to secure greater competitive advantage for Scotland.

There is a limit to how long public expenditure can continue to grow. The past eight years have seen incredible increases in public investment—and rightly so—but the balance in Scotland's economy now needs to shift. Improving public sector efficiency has a significant part to play in

the overall improvement of Scotland's relative productivity. This time last year we announced our efficient government plans. We have exceeded our initial targets for cash savings in the public sector and all those savings are being reinvested in the front line.

Business rates are a small determinant of overall business costs, but at the margin they can be critical. Businesses tell us that they see a real significance in the perception that is created, too. Our policy of limiting rate increases to the rate of inflation or below has meant that, compared to England, the financial burden has been reducing. However, now we want to go further.

Because of the efficiency savings that we have made, later this month the finance ministers will announce steps to reduce Scotland's business rate poundage to bring it into line with that in England. *[Interruption.]* Oh, there is more. Because we want to provide further incentives that will give Scotland a competitive advantage, we will consider carefully a specific reduction in business rates for research and development-intensive companies. In doing so, we will make Scotland the most attractive place in the UK in which to invest in research and development. *[Interruption.]* I thought that the Scottish National Party members would be pleased, but they are not. They are upset that we have done it. We are doing the right thing for Scotland, and that is what is important to this coalition Government.

Halfway through a parliamentary session, the easy thing for a coalition Government to do is to settle down into the delivery of a partnership agreement. This programme is intended to break that mould. The coalition has the partnership agreement as a minimum requirement; it does not represent the limit of all the things that we want to do.

Devolution is working for Scotland. We are a country that is on the way back up, and we are now aiming to go further. Our economy can and will be more successful and more people will share in that success. Young Scots will have an array of opportunities open to them. Our communities will be safer and respect will be rebuilt. This is a programme for growth, for respect, for educational achievement and for a healthier Scotland. It is a programme for a strong and ambitious Scotland—the best small country in the world.

**The Deputy Presiding Officer:** The First Minister will now take questions on the issues raised in his statement. I intend to allow around 45 minutes, or slightly more, for questions. It would be helpful if members who wish to ask questions were to press their request-to-speak buttons now.

**Nicola Sturgeon (Glasgow) (SNP):** I do not know about broccoli curry, but the First Minister certainly likes his mince.

Before I turn to the specific measures that the First Minister has announced, I will deal with the generality of the Executive's programme. Someone should tell the First Minister that quantity of bills is no substitute for quality. Someone should also tell him that one in four kids living in poverty is no cause for celebration.

Given that copies of the First Minister's statement were delivered to Opposition parties exactly 30 seconds before he stood up, it appears that the statement was thrown together at the last minute. Is it not true that 20 bills thrown together adds up neither to a vision for Scotland nor to a coherent set of responses to the big issues of the day? For example, where is the bill to get rid of the unfair, ever-rising council tax and to replace it with a fair system that is based on ability to pay? The Liberals would surely have insisted on such a bill if they had any gumption at all.

Where is the commitment to get rid of hidden waiting lists and to do something about the fact that hospital waiting targets are still twice as long in Scotland as they are in England? Further, although I welcome some movement on business rates from the First Minister, where is the clear demand for real financial powers for the Parliament that a First Minister seriously concerned with growing Scotland's economy would have put at the very heart of his programme? Is it not the case that what the First Minister has announced lacks coherence, vision and—most of all—a clear set of responses to some of the biggest issues confronting Scots?

I turn now to the specific measures and in particular to the justice measures that the First Minister has chosen to make the centrepiece of his announcement. I wonder whether he agrees that many of the serious problems in the justice system do not need legislation but simply require his Government to get a grip. For example, is he aware that, five months ago, the Sentencing Commission for Scotland described as "endemic" the problem of people on bail not turning up in court and then not being pursued by the police? The commission made a number of recommendations and Cathy Jamieson promised a response by the summer. That response has not been forthcoming. Will the First Minister say how many, if any, of the recommendations have been implemented?

Does the First Minister also know that the Sentencing Commission revealed 15 months ago that 3,000 people who face charges of murder and assault—including serious assault, sexual assault and robbery—are granted bail every year? Does he share my view that that is not consistent with

public safety and will he say why nothing has been done about it before now? Is it the case that on crime, as with so much else, the Executive and the First Minister talk tough but deliver precious little?

**The First Minister:** I am happy to say that the reason why the response on bail will be delivered, of course, to the Parliament rather than during the summer by the Minister for Justice is that not only is that the right thing to do, but the Sentencing Commission's recommendations are being carefully considered by ministers. Indeed, we might want to go further than the commission's recommendations. In doing so, we would ensure that people across Scotland would have even more confidence in the justice system—they would realise that the bail and remand system is working in their interest to protect them and would not have to suspect that occasionally it perhaps works against their interests, as some people currently believe.

The reforms of bail and remand, having been considered properly and carefully by the Sentencing Commission and brought forward by us in a bill next year, will be lasting and sustainable. I hope that they will generate cross-party support in the chamber. However, I caution politicians of any party against suggesting that, regardless of the judgment of a judge sitting in a court, bail for all offenders in specific categories should be refused. We must have a system that is based ultimately on the judgment of a judge, but at the same time we have a duty and responsibility as a Parliament to ensure that the statutory provisions and the guidance that is given to judges in our courts are as clear as they can be and that public safety is paramount.

As for the earlier comments of the deputy leader of the Scottish National Party, I think that it is a bit rich for the SNP to ask for a coherent position on financial powers when, week after week in the chamber and elsewhere, on the one hand we hear it tell the business community and others that it would cut public expenditure and cut taxes for businesses, while on the other hand its spokespersons use every occasion to call for more resources, more spending and more public services. The SNP makes no attempt to have a balanced, coherent approach, so it is no wonder that people do not trust it with financial powers or government. The SNP really needs to get a grip. It needs to have a more coherent approach both in the chamber and elsewhere.

I recognise that the sacking of Jim Mather as the SNP's economic spokesperson might be an attempt to move in another direction. It might be an attempt to become a bit cheerier about the economic prospects for Scotland and to talk up our country occasionally. That would be very welcome. However, I also recognise that it might

be because Jim Mather was too optimistic and too cheery about Scotland's prospects. My genuine hope is that the months ahead will see the SNP's new front-bench team—in which, it is to be welcomed, Mr Swinney has been brought back to replace Mr Mather—for once talking up our country and talking about the successes of Scottish companies and of young Scots. We need to build on the powers that we have to ensure that Scotland is a better place in the future.

**David McLetchie (Edinburgh Pentlands)**

**(Con):** I thank the First Minister for his statement. He said that he is keen to do the right thing for Scotland, but it is interesting that, whenever the First Minister does the right thing for Scotland, it is usually something that the Conservatives have been advocating for the past six years. In a spirit of generosity, I congratulate him on finally taking action on business rates. It is just a pity that his previous policy of keeping business rates in Scotland 10 per cent higher than rates in England has cost our businesses more than £700 million over the past five years. There is perhaps a great deal of recompensing to do. However, we will always commend the First Minister when he sees the Conservative light. We look forward to the scales falling further from his eyes in the remaining 18 or 19 months of this parliamentary session.

Like Ms Sturgeon, I have one or two questions on the specifics of the criminal justice system reforms that the First Minister mentioned. In particular, I want to ask about bail, about which we have heard a great deal from the First Minister in recent days, following the tragic murder of young Rory Blackhall in Livingston. Is it not the case that, prior to the incorporation of the European convention on human rights into Scots law, it was virtually impossible for individuals who had been charged with serious offences such as murder to be granted bail? For example, will the First Minister confirm that, in 1999, bail was granted to only three people who had been charged with murder, whereas the latest figures show that the number has risen to 55 as a direct result of ECHR incorporation? Is it not also the case that the Criminal Procedure (Amendment) (Scotland) Act 2004, which was passed by the Parliament last year, has actually made it easier for people to get bail? Are we not in a situation in which the First Minister is trying to rectify problems of his own making?

A more important question for the Parliament about the First Minister's proposals concerns how he can effect them. For example, he said that he wants to amend the law in relation to bail for sex offenders—if he were more accurate, he would have referred to bail for persons accused of serious sexual offences—but the Minister for Justice said recently:

"Five years ago Scotland's law on bail was brought into line with the European Convention of Human Rights. As a result bail cannot simply be banned in relation to certain accused."

Is that still the case? On this issue, are the Executive's hands in effect tied? I put it to the First Minister that he must be extremely careful not to mislead the public by promising more than he can deliver. To my mind, the only way in which the position could be changed would be for him to ask his good friend the Prime Minister to review the operation of the Human Rights Act 1998. Has the First Minister done that? Are there plans to review that piece of legislation, which lies at the root of the problem?

**The First Minister:** I thank Mr McLetchie for his comments on our proposal to reduce business rates. I welcome his support for the proposal, although I will return to what he said in a second.

Everybody in the chamber is horrified by what happened to Rory Blackhall and by the events in Livingston that have been reported over these past few weeks. At the same time, we need to recognise that investigations are on-going, which means that it has been difficult for ministers to comment on the case—I respect the way in which members of other parties have refrained from making too many comments during recent weeks to give the police the opportunity to conclude their investigations. I give an absolute assurance to the Parliament and to the family of that young boy that any lessons that need to be learned from the tragedy will be learned. Action will be taken to deal with the lessons that require to be learned.

On the specific issue of bail, my statement was quite clear that, in our country, decisions on bail are ultimately for the judge or court to make. That is quite right and proper. However, I believe that we need to be clearer about the guidance, both statutory and non-statutory, that we give to judges and courts in relation to bail and remand. This is not an easy area—I think that Mr McLetchie accepted that in his comments on the ECHR—but it has always been the case in Scotland, both before and after the incorporation of the ECHR, that judges have had the right to make such decisions. However, we have a duty and responsibility as a Parliament to be as clear as we can be about how they should carry out that responsibility.

I remind members that one recent change is the widespread introduction of electronic monitoring, which gives us the opportunity to ensure that the movements of those who are serving a sentence or on probation in the community—and, sometimes, those who are on bail—can be monitored more effectively than was possible before. Some of the reforms that we introduced—and that some members opposed—have already

made a difference. However, there is more for us to do. That is why we will introduce a comprehensive package of measures. It is also why, rather than reacting immediately to the Sentencing Commission's report, the Minister for Justice is considering how best to take the proposals forward and to go further than them, if that is required.

On Mr McLetchie's first point concerning Conservative ideas, I always welcome the opportunity to agree with Opposition parties whenever doing so is right for Scotland, but I must remind him that, in the area of justice on which he chose to concentrate, we have introduced to the Parliament measures on which the Conservatives have not been so enthusiastic for progressive change in Scotland. As Mr McLetchie knows, I was shocked at the time and remain surprised that the Conservatives chose to oppose measures that we introduced to deal with antisocial behaviour. The Conservatives were wrong on that occasion. If he believes that, from time to time, we have been converted by Conservative arguments, I hope that he will be converted by the action that we took to protect local communities and to ensure that they will be safer, more secure places in future, with more respect for individuals and for the forces of law and order.

**The Deputy Presiding Officer:** We now move to questions from back benchers. As usual, I want to call as many back benchers as possible. If a member's question has a preamble, that will mean that some of their colleagues will not be called, which is unfair. Therefore, if the question has a preamble, I may—indeed, I will—stop the member.

**Bristow Muldoon (Livingston) (Lab):** I know that the First Minister will share the heartfelt sympathy that the whole community of West Lothian feels for the family and friends of young Rory Blackhall after his tragic murder. I know that the First Minister will be constrained to a degree by the on-going police investigation, but will he explain how he intends to ensure that all the facts surrounding the case are brought together so that every aspect of the Executive and the justice system that needs to respond to the lessons that might follow on from the circumstances surrounding the tragic murder does so effectively?

**The First Minister:** Procedures are already under way in some of the forces and organisations that are involved in different aspects of the case. It is right and proper that standard procedures for looking into what has happened should be allowed to run their course. The Minister for Justice will ensure that all the different reports—as well as any others that are required—are pulled together in a comprehensive package with clear recommendations on any lessons that have to be learned. I know that that is a particular concern for

Bristow Muldoon—the Minister for Justice will be happy to keep him informed of progress. Indeed, we intend to ensure that members of the Scottish Parliament are kept informed; it is in the public interest that a proper report is prepared for the Parliament. Although we can never bring back this young boy or alleviate the devastation that his family must be feeling, we can ensure that whoever requires to learn lessons can use different elements of the case and can make changes that might make a difference in future.

**Mr John Swinney (North Tayside) (SNP):** The First Minister said in his statement that there is evidence that the gap in economic growth between Scotland and the rest of the United Kingdom is being closed. However, the most recent figures, up until the first quarter of 2005, show that assertion to be palpable nonsense.

Does the First Minister believe that his welcome U-turn on business rates will close the gap between Scotland and other European countries, such as Ireland, where economic growth was double that of Scotland; Finland, where it was 50 per cent higher; or Sweden, where it was also 50 per cent higher? Does he believe that his welcome U-turn on business rates will close the gap or does he believe that this Parliament needs real financial powers to allow that to happen?

**The First Minister:** First of all, of course we are using the powers that we have to ensure that the growth rate in the Scottish economy improves and has a greater chance not just of being closer to the rate of growth of the economy of the rest of the UK but of exceeding past trends over the years to come. We are doing that not only by supporting companies through cutting business rates and through other measures, but by investing in the things that can make a real difference in a modern knowledge-based economy. We are investing in our universities, in our colleges, in apprenticeships, in transport and in the commercialisation of research. We are targeting resources in schools and in our poorest communities and we are bringing young people into working opportunities. We are also ensuring that, in reducing poverty, we increase the wealth in our economy overall, creating the cycle that will ensure that our companies can grow, too.

At the same time, we are promoting Scottish success internationally. The long-term success of Scottish companies and the Scottish economy will be built not only here in Scotland, but in a global market. Companies will be competing in that global market, winning contracts under the good name of Scotland by using the knowledge, the creativity and the innovation of the people in those companies.

Mr Swinney and the SNP love to select statistics from other countries and from quarter to quarter

inside the UK in order to paint a gloomier and gloomier picture of Scotland today. Next week, the fifth biggest bank in the world will open its new global headquarters in this city. It is proud to be here in Scotland and it has succeeded not by limiting its ambitions inside the borders of Scotland, but by expanding worldwide, by taking on international competition, by being proud of its roots and its identity and by ensuring that it benefits from the financial stability of Scotland's membership of the United Kingdom.

**Nora Radcliffe (Gordon) (LD):** As a Scottish Liberal Democrat, I believe that it is important to recognise and protect human rights. I welcome what the First Minister said in his statement on the Scottish human rights commission bill, which was one of the partnership agreement commitments from the Liberal Democrats' manifesto.

Does the First Minister agree that it is very often the most disadvantaged and vulnerable people in society—those who most need the protection that human rights can afford—who are least aware of their human rights? Does he further agree that, once the commission is established to promote and support wider awareness of both the human rights of the individual and the responsibilities of public bodies to uphold them, its work will make a major contribution to a fairer, more equal and more just Scotland?

**The First Minister:** The human rights commission will indeed do that. It will ensure that public bodies and Government are more aware of the measures that they require to take and are provided with expert guidance on the policies that they pursue, in order to ensure that in a civilised, 21<sup>st</sup> century Scotland we have human rights at the core of our work.

When we talk about ensuring that we have greater respect in our communities or that we are harder on those who require the attention of our criminal justice authorities, we must always remember that, in this country, people are innocent until proven guilty. That is why we are always trying to ensure that we have an appropriate balance and do not start convicting innocent people. However, at the same time, we must ensure that those who are guilty are not only convicted, but rehabilitated to ensure that they do not reoffend.

That is why, since the beginning of this session of Parliament just over two years ago, what has been the most comprehensive reform of our justice system has mattered—not dealing with one individual item, not making a knee-jerk reaction, but providing a comprehensive programme of modernisation that ensures that people in Scotland not only have rights that are fit for the 21<sup>st</sup> century, but can believe that the justice system is on their side and operating efficiently in



their interests. We set out that mission in May 2003; it is a mission that we will conclude by the fulfilment of this legislative programme.

**Robin Harper (Lothians) (Green):** The First Minister said that he had been

"listening hard to what business asks of us."

I hope that he has not listened too hard. Does he agree that gross domestic product is a very poor way of measuring the success of our economy and that focusing on GDP encourages us to continue to pollute our environment? It is high time that we started using well-being indicators to measure the success of our economy—indicators measuring health, happiness and the aspirations of our people. Does he agree?

**The First Minister:** There are, of course, other measures that are used in the public domain in Scotland and elsewhere and the calculations are not always the same everywhere. However, whether we use GDP or another measure, the comparisons are important as an indication of the health of our economy and as an indication of the direction in which we are travelling. However, I have never believed that GDP is the sole determinant of a successful society or of this Government's success. I think that it was Robert Kennedy who said that there was much, much more to life and society. He said it far more eloquently than either Robin Harper or I could—well, perhaps Robin could equal him, but he said it far more eloquently than I ever could. However, the message was clear and right.

For society, economic growth is important, but this legislative programme and the work of this Government cover much more than that. The quality of our environment, the quality of our society, the strength of our communities and our families, the way in which the strong look after the weak and the way in which our education system promotes confidence and ambition in our youngsters, as well as a caring side, are all important to us. Those things do not always require legislation; sometimes they require only leadership. I hope—particularly in this new Parliament building—that we have provided that.

**Mr Duncan McNeil (Greenock and Inverclyde) (Lab):** Will the First Minister outline how hard-pressed communities can benefit from the programme for growth and prosperity that was announced this morning? Will he ensure that constituencies such as Greenock and Inverclyde—which has an abundance of brownfield sites that are ripe for regeneration—are considered in any development plans?

**The First Minister:** One of the most significant problems across Scotland, in far too many council areas, has consistently been the delay in the updating of local development plans—although

that is not the only factor in economic growth and it is not the only factor in attracting companies into an area. We need to ensure that there are close links with our universities. I know that companies that I have visited in Duncan McNeil's area benefit from strong links with local schools and with universities and colleges—particularly in the field of languages, which has proven to be especially important for employment in the constituency.

If we are to encourage responsible and sustainable development, we need an up-to-date, efficient and modern planning system in Scotland. I hope that our forthcoming planning bill will give the Parliament the opportunity of a lifetime to make the changes that will bring that about. If we take that opportunity, we will be the envy of the rest of the UK and we will make Scotland a place where people want to live as well as to do business.

**Murdo Fraser (Mid Scotland and Fife) (Con):** The First Minister's adoption of a Conservative policy on cutting business rates is welcome, but will he say exactly when Scottish business will see reductions in their rates bills? Will he also take the opportunity to apologise to the business community for overburdening it with business rates for the past six years?

**The First Minister:** I certainly do not take any lessons from the Tories on overburdening people with taxation. I do not recall the Tories calling for incentives for companies for research and development and other purposes. The issue is not just about ensuring, through business rates, that Scottish companies have a competitive advantage across the board; it is also about ensuring that the best, most innovative and most creative Scottish companies are being better supported by the Government.

We will go much further in this area than the Conservatives ever proposed, but we will not do so in the way that the Conservatives wanted, by cutting public expenditure in schools. We all remember the promises that were made before, during and after the election that the change in business taxation would be brought about by cutting education expenditure. We will ensure that the change is brought about in a responsible manner through efficiencies—through running the Government in a better way.

**Members:** When?

**The First Minister:** That is something that the Conservatives never achieved in 18 years and which they could never achieve in future.

**Members:** When?

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

**Shona Robison (Dundee East) (SNP):** I welcome the proposed health promotion, nutrition and schools bill, which bears a remarkable resemblance to my member's bill—the bill for using those proposals will be in the post, although, as the First Minister said, we like to share good ideas in the Parliament.

One of my main concerns is what was not contained in the First Minister's statement. The statement was very light on health, with no mention of the key challenges facing the health service. It did not mention how and when the Executive plans to respond to the report that was produced by Professor David Kerr before the summer recess. Given the significance of that report for the future of our health service, will the First Minister say when the Parliament will have the opportunity to debate its contents?

**The First Minister:** The legislation that I have proposed today is, for the second year in a row, about health improvement. It is about driving up standards and ensuring that young Scots in particular have greater opportunities to improve their diets and to improve their lifestyles in other ways. The action being undertaken to reduce the longest waits, to reduce the number of deaths resulting from cancer, stroke and heart disease and to improve survival rates among children suffering from cancer continues. The Minister for Health and Community Care will respond to Professor Kerr's report when we have a response ready to publish. We will make a properly considered response that reflects the minister's recent public discussions with the health boards about their plans and progress, so that we develop the nationwide strategy for our health service that appeared to be missing before.

I must disagree with Shona Robison's starting point. She said that our legislation will not address the key challenges facing the health service. We indeed need to invest in our health service. That investment is important, but it would be reduced through the policies of the SNP. We indeed need to reform our health service, but the SNP has opposed every reform of the health service that we have proposed in the Parliament since 1999. Just last Friday, Ms Sturgeon and Mr Salmond were at it again, saying that they would cancel all the operations in the independent sector that we are currently funding, because they have an ideological objection to flexibility and to those variations in service.

The key objective for Scotland and the key challenge facing Scotland's national health is health improvement. That includes improving our national diet, improving preventive care, improving our level of exercise, improving the way in which we predict what might be wrong with us, going to the doctor more often and taking the necessary

steps to prevent the ill health that might be on the way. We now have a programme of health improvement that is addressing those key challenges. It is good that we get the occasional support of the SNP for that and I hope that we can build a consensus in the chamber to drive our measures even further forward.

**Iain Smith (North East Fife) (LD):** I, too, welcome the proposed health promotion, nutrition and schools bill which, irrespective of anything else that other parties might wish to say, actually bears a remarkable resemblance to the commitments that were made in the Liberal Democrats' manifesto of 2003 and in "A Partnership for a Better Scotland".

Does the First Minister agree that in promoting the health of the nation, it is important to improve the eating habits of our young people, and that the steps that we have already taken through improvements in nutritional guidance in schools and reduction of the amounts of fat, salt and sugar in school meals—which means that Scottish school dinners are light years ahead of those in England—have been important? Does he also agree that the removal of fizzy drinks from our schools and promotion of fresh local produce in schools are also important?

**The First Minister:** Those are important steps, but they will form only part of the proposed bill. When we publish it for consultation, it will contain more than just action on school dinners, because we have wider responsibilities. We have broader opportunities to ensure that the drive for nutrition and healthy eating extends far into Scotland's communities and families.

I congratulate everybody who was involved in the development of the hungry for success programme—school canteen staff, head teachers, parents, pupils and people in the Scottish Executive Health Department who have driven forward the hungry for success agenda—on leading the rest of the United Kingdom. Our task in the time ahead is to ensure that we stay ahead and that we make a once-in-a-lifetime change in Scotland's national health.

**Margaret Jamieson (Kilmarnock and Loudoun) (Lab):** Will the First Minister confirm that reforms to bail procedure will be brought in during the remainder of this session and that procurators fiscal will be required to provide community impact reports for consideration by judges and sheriffs, thereby underpinning the importance of public safety in my constituency of Kilmarnock and Loudoun and elsewhere in Scotland?

**The First Minister:** For obvious reasons, I have been careful not to lay out the specifics of our proposals on bail, which the Minister for Justice is

currently considering and will announce to Parliament in due course, and which are being made in response to the report that we received from the Sentencing Commission for Scotland and in preparation for our forthcoming bill. I am sure that the Minister for Justice heard the point that Margaret Jamieson just made and will respond to it when her wider response is published.

**Tommy Sheridan (Glasgow) (SSP):** I will be uncharacteristically helpful to the First Minister and ask him to remind the principal Opposition and his own partners in the Executive that, if they wish to abolish the council tax, they will be able to vote for that very soon, as the passage of the member's bill to abolish it begins on Thursday.

On diligence, will the First Minister take this opportunity to give us an absolute assurance that the current bank account arrestment regulations will be radically overhauled to ensure that the whole of a debtor's bank account cannot be seized?

On justice, will the First Minister take this opportunity to assure us that he has not ditched the idea of an independent police complaints commission which, although it formed part of the Executive's commitments many moons ago, seems to have dropped from the agenda?

Finally, is the First Minister prepared to reconsider his opposition to our School Meals (Scotland) Bill, given that the powers that it contains would allow the regulation and removal of fizzy drinks and other damaging products from school canteens while enabling the 100,000 poorest kids in Scotland, who currently do not have access to free school meals, to have access to a healthy and nutritious meal?

**The First Minister:** I welcome Tommy Sheridan back to the chamber; it is very good to see him here today. His first question was about arrestment of bank accounts. It is right that we will respond to it when the further details of the bankruptcy bill are set out.

The member's second question was about an independent police complaints commission. We will introduce an independent element to the police complaints system and will announce our detailed proposals in the forthcoming police, public order and criminal justice bill. I assure Mr Sheridan that that element of our agenda—the importance of independence in the police complaints system—has not been lost.

However, I cannot assure the member that we will support the free school meals bill that is proposed by the Scottish Socialist Party. The decision that the coalition partnership made—and which Parliament supported—to invest resources in the success of our school meals and the difference that they can make to diet and health,

rather than to reduce the cost of school meals for the wealthier members of our society, was the right decision. It was a principled decision that targets resources where they are most needed. I disagree with the member's proposal, because it would target resources where they are least required. I therefore believe that Parliament should stand firm, and direct its resources at improving the content of and access to school meals, rather than at subsidising those who can afford to pay for them.

**Christine May (Central Fife) (Lab):** I welcome the First Minister's announcement on business rates, especially because of the impact that it will have on manufacturing industry, research and development, and job creation and stability. Does the First Minister agree that the well-planned long-term economic policies of the Executive—as opposed to the boom-and-bust scattergun approach of Opposition parties—have made that announcement possible? Will the First Minister confirm that the reduction in business rates can now be achieved as a result of our prudent management of the economy and without detrimental effect on our public services, which are also important for economic growth?

**The First Minister:** I have two things to say in response to that question. First, the resources that are available to us are the result of the most stable and successful British economy that we have enjoyed for a very long time. We know that some members in the chamber would like to break up that arrangement and ensure that we do not continue to benefit from such success.

Secondly—and importantly—in making that decision we considered carefully the resources that are available to us. In the current circumstances, the resources that have been generated by our efficient government initiative—which has ensured that in both the civil service and the wider public sector in Scotland resources are being used more effectively—are best used to reduce business rates. We are making that decision to ensure that Scottish companies have an advantage. When we deliver the change, we will ensure that they continue to receive the many other means of support that our budget currently provides.

**Alex Neil (Central Scotland) (SNP):** The First Minister said that success in Scotland should “be judged by indicators on a global scale”.

I agree. In the light of that comment, I draw the First Minister's attention to last week's report by a Scottish Executive working party, which highlighted the fact that Scotland has the highest proportion of 16 to 19-year-olds who are not in education, employment or training among all the members of the Organisation for Economic Co-

operation and Development. Given that that is clearly a failure “on a global scale”, will the First Minister take urgent action to get many more young people into employment, education or training?

**The First Minister:** Scotland’s employment rate is not just higher than it has been for well over a generation, but is among the highest in the European Union. Young Scots have never had more opportunities to enter higher and further education, full-time volunteering and, more recently, apprenticeships. Our school system is more able and likely to motivate youngsters to stay on to gain qualifications that are more varied than ever. At such a time, it is a tragedy that a significant number of young people are not in education, employment or training. That is why I highlighted the issue in my statement, although it is not part of our legislative programme.

We need concerted action not just to identify such youngsters, but to support them. We must not only give them opportunities, we must help them along the way. We must give them not only a first chance to take up opportunities, but a second and a third chance if they fail at the first attempt. Those youngsters are the most disengaged from our society, the most vulnerable and, therefore, the most likely in the years to come to be disenchanted adults, who may cause trouble or find themselves on the margins of our society. In the face of increasing prosperity for almost everyone else, we have a duty and a responsibility to ensure that such youngsters become the focus of our attention over the next few years.

**Mr Ted Brocklebank (Mid Scotland and Fife) (Con):** Although I welcome the First Minister’s commitment to growing economic prosperity for all Scotland, does he accept that since the Scottish Parliament was set up in 1999, the dream of economic prosperity for rural Scotland has become a virtual nightmare? Our fishing industry has been decimated. Six years ago, there were more than 400 boats, but now there are fewer than 120.

**The Deputy Presiding Officer:** Come to the question.

**Mr Brocklebank:** Does the First Minister accept that, whereas the number of fishermen regularly employed on Scottish boats was greater than 6,000, it is now half that figure? Does he accept that, according to the “Scottish Economic Report”, between December 1999 and December last year about 3,000 full-time employees on main farm holdings lost their jobs? That is a 17 per cent drop.

**The Deputy Presiding Officer:** This is now a speech.

**Mr Brocklebank:** Finally, does the First Minister think that any of the measures for rural areas that

he has announced today will alleviate any of the problems that rural Scotland faces?

**The First Minister:** I sincerely hope that, given the position that Mr Brocklebank has set out, the Conservatives will vote for crofting reforms when we introduce them. The Conservatives do not have a great history of supporting the people in rural Scotland who really need Parliament’s support. The Conservatives tend, to their shame, to support only their supporters in rural Scotland. That is one of the reasons why rural Scotland has been more successful and has prospered more decisively and dramatically since devolution than during the Tory years.

Of course, we face real challenges in fishing and agriculture and in sustaining some of our more peripheral rural communities in Scotland. However, we should not talk down rural Scotland and Scotland as a whole. After decades of depopulation, there is a rising population and growing confidence in the Highlands and Islands. Inverness is still the fastest-growing city in the United Kingdom. The north-east of Scotland faces challenges in fishing and agriculture, but it is one of the most prosperous, and still one of the most attractive places to live in the whole United Kingdom. The Borders is not just one of the most attractive places in Scotland—in which rising house prices are pricing local young people out of the market—but an area where growing investment in infrastructure will make a difference in years to come.

I am proud of the improvements that have been made and of the success of parts of rural Scotland. However, I am determined—unlike the Tories, who never were—to support people on the margins who need the support of Parliament and of devolution. They will get that support in the years to come.

**Donald Gorrie (Central Scotland) (LD):** In order to deliver the excellent programmes that the Executive has to help young people, will the First Minister consider involving them more in decisions about allocation of funds, and drawing on their ideas and energies? In particular, will he examine the way in which the Big Lottery Fund in Scotland has decided to allocate its funds for projects for young people? That fund is setting up a national committee and a network of local committees that are composed almost entirely of young people, who will have real power over funds. The First Minister often talks about many young people being good and constructive. We could find ways of involving them in the schemes that are meant to benefit them.

**The First Minister:** That is a very good idea, which is being taken up currently not just by the Big Lottery Fund, but by other public bodies in Scotland. We should encourage much more of that.

I talk a lot about pride in Scotland. One of the things that I am very proud of—and of which I was very proud this summer—is the fact that our elected Youth Parliament, which is unique in Europe, is setting a standard for elsewhere, and not just in Europe, but beyond.

This summer, we were able to hold in Scotland the world youth congress—a fantastic, dynamic event that engaged young people from around the world. Also, in advance of the G8 summit, we were able to hold the C8 and G8 events that engaged young people in looking to the future and considering the decisions that affect them. However, that should apply locally as well as internationally. I am very keen that we—in local government and in national Government, in public agencies and beyond—engage with young people and encourage them not just to volunteer in their communities, full time or otherwise, but to get involved in the delivery of responsible decisions and to learn about influencing the responsibilities of government at local and national levels.

**Dr Elaine Murray (Dumfries) (Lab):** The First Minister has drawn our attention to the importance of schools and parents working together. The new legislation is designed to encourage parents who are not involved in their children's education to become active members of the school community. I was interested in the First Minister's statement that the new parent bodies will have powers to request inspection by Her Majesty's Inspectorate of Education. Can he advise us whether that will include requests for inspections of local authorities as well as of individual schools if parent bodies are dissatisfied with the standard of education provision in their locality?

**The First Minister:** I have long felt that we should give parents the responsibility and also the right to have schools inspected, should the work of the local authority and the school management consistently let them down and should their complaints not be treated fully and seriously either by schools' management or by local authorities. We need to take a more bottom-up approach to the system. The new rights for parents that I have announced today, which will be granted under the forthcoming bill, will be an important step forward.

I am interested in the suggestion that that right could be extended to give parents the opportunity to request inspection of a local authority education department. Since the introduction of such inspections—one of the key education reforms that have been introduced since devolution—we have seen some highly successful local education departments praised by the inspectorate and helped to improve even further. We have also seen some highly deficient local education departments being targeted by the inspectorate, with demands made of them to turn around their

performance, as a result of which there have been significant improvements in those local authorities and, crucially, in their local schools. Perhaps that procedure also requires a bottom-up approach. I am sure that the minister would be happy to discuss that with Education Committee members and others when the bill is introduced.

**Margo MacDonald (Lothians) (Ind):** I congratulate the First Minister on having ditched the puer-moothed talk of this place being about "Scottish solutions to Scottish problems", and on instead picking up the mantra of it being about Scottish success and ambition. That is a great improvement. Now, all he has to do is get rid of the "best wee country in the world" bit.

On the proposed police, public order and criminal justice bill, I wonder whether the Executive has given any thought to the recommendations that were made by the committee that was set up under Sandra Hood to investigate the management of street prostitution. That committee suggested a change in the law—which might fit neatly into the proposed bill—to equalise the treatment of and attitudes towards offenders, in that the attempted procurer and attempted seller of sexual services would be treated in the same way under the law. Is that likely to be attended to?

**The First Minister:** I confirm that the legislative programme will contain such measures and that the Minister for Justice will address that specifically in her speech this afternoon.

**Ms Wendy Alexander (Paisley North) (Lab):** Like others, I warmly welcome the landmark decision to see us move again to a level playing field in business rate poundages. I have no doubt that the reaction beyond the chamber, from businesses up and down the land, will not be the sneering that we have heard today, but some pretty loud cheering. I thought that it was just my memory but, like the First Minister, I do not recall anybody else ever suggesting that we should go beyond a level playing field specifically to reward high-tech companies. I ask the First Minister whether he will undertake—on another occasion, perhaps—to comment further on the important initiative that has been announced today and on his hopes about how Scotland can become home to high-growth companies in particular.

**The First Minister:** We attract and support high-growth companies in Scotland by a variety of means. We do that partly by ensuring that there is a close link between the research that goes on in our universities and colleges and the commercial success of our companies; we do it partly by ensuring that those companies have the physical and electronic infrastructure to communicate and compete; and we do it partly by ensuring that there are more direct international air routes into and out

of Scotland, so that those companies do not have to travel via London or elsewhere to reach their destinations.

We do it by encouraging a culture of enterprise among our young people—that is why the determined to succeed initiative is so important—so that young people in Scotland are more enterprising, ambitious, confident and, therefore, more able to be part of the success of those companies. We also do it by talking Scotland up and talking those companies up, rather than by talking them down. I believe that we in this chamber should celebrate the success of those companies, celebrate Scotland's image internationally and ensure that those companies have a culture in which they can thrive and not a culture that encourages them to cringe.

**The Deputy Presiding Officer:** I apologise to the 10 other members who have indicated that they wish to speak, but Fergus Ewing's will be the last question.

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** The First Minister introduced the higher poundage—which I call Jack's tax in honour of its inventor—but is now scrapping it. He has said that the business rate poundage will be cut to the levels pertaining in England. When? From the start of which financial year? Does he not know?

**The First Minister:** As I said in my statement, the Minister for Finance and Public Service Reform normally makes a statement on such matters in the autumn. He will outline our proposals not just for next year, but for delivery of this package. I am sure that members will look forward to hearing the details of that in the minister's statement.

11:57

*Meeting suspended until 14:30.*

14:30

*On resuming—*

## Scottish Executive's Programme

**The Presiding Officer (Mr George Reid):** Good afternoon. The next item of business is a debate on the Scottish Executive's programme.

14:30

**The Minister for Justice (Cathy Jamieson):** Scotland is engaged in the farthest-reaching reform of criminal justice in 50 years. Our criminal justice plan, which we published in November, drew together the various strands of our reforms and showed how they fit together. We already have major new legislation on antisocial behaviour, and improved arrangements for the management of offenders are currently before Parliament for consideration. As the First Minister outlined this morning, we intend to build on that in the next two years.

We will have to tackle some difficult issues, such as bail and remand, and how we deal with sex offenders and violent crime. However, we must do that because, if we want to build respect for individuals and communities, we need faster and more visible justice that delivers effective sentencing and sentence management that focuses on reducing reoffending. In short, we need joined-up services that bring order to chaotic lives—services that make people's everyday lives safer and give them confidence that the justice system is on the side of the law-abiding citizen and that it punishes the guilty and acquits the innocent. The proposed legislation is not legislation for legislation's sake. We are making changes because those issues matter to ordinary citizens in our communities and to the professionals who are trying to do a good job in the justice system.

The Antisocial Behaviour etc (Scotland) Act 2004 gives local authorities and the police more powers to tackle antisocial behaviour. We are seeing positive change. In Fife, vehicles were seized that were being used in an antisocial manner. In January, Fife was also the first area in Scotland to issue a closure order, giving immediate relief to the surrounding community.

Working together, we can take a stand against antisocial behaviour and make Scotland a place where we respect each other, our neighbours and the wider community. That is important for all communities, such as the one in Clackmannanshire where a couple of weeks ago residents said clearly to me, "We've lived here for 40 years, but we feel as if we don't own our community any more. Please give us back our

community. Help us drive out the drug dealers. Help us support the decent young people in this area and change the antisocial behaviour of the few who would cause misery.”

Last month during a visit to the drug treatment and testing scheme that operates in Edinburgh and Midlothian, I spoke to service users and heard from them about the scheme’s potential to turn their lives around, to help them emerge from their chaotic and offending lifestyle and to get into a better and more productive lifestyle in the future. The scheme succeeds because of the dedication of everyone involved and because staff and offenders recognise that support to deal with their addiction problem and enforcement in terms of drug offences go hand in hand.

Last week I visited Cornton Vale to open a new house block and visit a new garden, which members might have seen when it was featured recently on the television programme “The Beechgrove Garden”. Over several months, 20 women prisoners transformed a gravel yard in the middle of the prison into a place of beauty, gaining new skills and a real sense of achievement in the process. As one woman said to me, “I wouldn’t have believed when we started this that we could have done it. It’s been good to see something actually happen. It’s helped my confidence in myself. I just want to get my life together when I get out of here.” Such opportunities afford the chance to rebuild self-respect.

**Richard Lochhead (North East Scotland) (SNP):** I welcome the minister’s comments about drug misuse in Scotland, but can she explain why, after the Executive’s six years in power, drug-related deaths are on the increase? Is that not an indictment of the Government’s failed policies to tackle drug misuse in Scotland over the past six years?

**Cathy Jamieson:** The Deputy Minister for Justice, who commented on the drug death figures, made it clear that we want to stop drugs getting on to our streets in the first place, but that we also want to tackle some of the problems of people who need to get into treatment and rehabilitation. That is a primary focus for us, which is why we are targeting the resources that we have made available to create more opportunities for people to get into treatment. As members heard this morning, we also intend to strengthen the position of the Scottish Drug Enforcement Agency.

On drugs, antisocial behaviour and a range of other issues, we need the right legislative infrastructure. We must build on what we have done already. As the First Minister outlined this morning, our police bill will ensure that the police have the powers that they need to do their job and that they get the support that they need.

**Mr John Swinney (North Tayside) (SNP):** Will the minister give way?

**Cathy Jamieson:** I would like to move on.

We are already seeing the benefits of our reforms to the High Court, which were introduced last year. Our summary justice bill will make the summary justice system more efficient and effective. The bill will bring all courts under the management of the Scottish Court Service; introduce more flexible court procedures; increase the powers of sheriffs to allow them to deal with a wider range of cases; make fine collection and enforcement simpler and more effective; and give prosecutors more options to deal with minor offences outwith the court system. The changes will result in efficient courts that deliver effective sentencing.

The process does not end at the door of the court or at the point of sentencing. The Management of Offenders etc (Scotland) Bill, which is before the Parliament, will establish community justice authorities, which will be tasked with putting in place plans to deal with punishment and rehabilitation as part of sentences and which will, crucially, focus on reducing reoffending.

Legislation is, of course, only one part of the picture. Each of the many proposed bills is important in its own right, but they are all part of a bigger picture. Each bill has the potential to be the catalyst for change on the ground. However, we need the professionals in the criminal justice system to embrace the changes, play their part and consider their contribution, not only to their agency but to the wider system. During the summer, Hugh Henry and I met people who had the commitment to question the way in which things have been done in the past—they had the courage to break the mould and the confidence to do things differently. Through the legislative programme for the justice system, I want to ensure that more people in the system have the tools to do the job better and that we speed up the whole process. In short, I want people to find ways of solving local problems, rather than just describe the problems to us.

**Mr Swinney rose—**

**Cathy Jamieson:** We need a justice system in which people can have confidence. Therefore, we will introduce bills to improve the regulation of the legal profession and to ensure access to legal assistance. I suspect that John Swinney may want to ask about the regulation of the legal profession.

**Mr Swinney:** In addition to being the Minister for Justice, Cathy Jamieson is a mind reader. When will the proposed bill on the regulation of the legal profession be introduced? Can the minister give Parliament a guarantee that the bill will be enacted before the 2007 elections?

**Cathy Jamieson:** It is certainly my intention to introduce the bill in the present parliamentary session. I am sure that the member will take a close interest in the issue, as he has done until now.

If we are to build public confidence in the system, it is important that we improve the regulation of the legal profession, ensure access to legal assistance and put the arrangements for judicial appointment and removal on a statutory basis. As the First Minister outlined this morning, we intend to do all that in the current session. The police bill will make the police complaints system more transparent and we have plans to create a Scottish human rights commission. All those measures show that we are trying to create legal services and safeguards for the way that people live today.

To look further ahead, next summer we will introduce a bill to reform the arrangements for the early release of prisoners, which will build on the work of the Sentencing Commission for Scotland. It is a priority for us to change the law on early release: the status quo is simply not an option. However, we need to get the matter right, which is why we have asked the Sentencing Commission to deal with early release as a priority. We expect the commission's report by the end of the year, after which, informed by the findings, we will draw up comprehensive proposals on the matter.

**Miss Annabel Goldie (West of Scotland) (Con):** Even allowing for the elasticity that accompanies the minister's interpretation of the term "priority", can she say whether the pledge, if such it be, to review automatic early release will extend to all terms of imprisonment and not just short-term imprisonment?

**Cathy Jamieson:** I have asked the Sentencing Commission to consider early release across the board. Obviously, I will be informed by the commission's findings. We intend to consider the findings, draw up comprehensive proposals and introduce a sentencing bill in the summer of next year. The member might, I hope, describe that as a commitment.

We will criminalise the nuisance that is caused by kerb crawling. We intend to clamp down on extreme pornography; to strengthen the laws that deal with hate crime; and to tackle knife crime.

**Margo MacDonald (Lothians) (Ind):** I welcome the fact that the recommendations of the Hood committee are to be adopted by the Executive. However, what is the timescale? Patterns of street prostitution are changing and the people who are adversely affected by it, such as our constituents who live in Leith Links, would like a speedy response.

**Cathy Jamieson:** A number of matters in relation to a full announcement following on from the report that was submitted to us are still to be resolved. I am sure that Margo MacDonald did not intend to put words into the Executive's mouth about which recommendations we intend to develop and when. However, I give her the commitment that we intend to use the legislation that is available to us to ensure that we deal with the problem of men who solicit or try to purchase sex; we will also try to deal with some of the problems that are experienced by the women who have been involved in that industry and want to move away from it.

I am conscious that I have only a couple of minutes left, but it is important to recognise that we have a huge agenda for change. We are already seeing the benefits of the changes that we have made in the past two years. No one pretends that everything has been resolved and we have been up front about saying that we need to make progress in other areas.

By the end of this session of Parliament, however, we will have achieved some significant steps towards having a justice system that is fit for purpose in the 21<sup>st</sup> century. The challenge is to ensure that the system delivers what the people of Scotland deserve. It is true that there is a lot of legislation; I do not apologise for that. Each and every one of those bills will bring change for the better. The legislation will bring change to our communities and it will help to build respect for individuals in communities. That is what the people of Scotland sent us here to do.

14:42

**Nicola Sturgeon (Glasgow) (SNP):** I begin by expressing—just in passing—some concern for Nicol Stephen, who is conspicuous by his absence this afternoon. This time last year, the then Deputy First Minister Jim Wallace was trusted to lead the debate on the legislative programme on behalf of the Scottish Executive. It seems, however, that the new Deputy First Minister Nicol Stephen is not considered to be quite such a safe pair of hands, since he has been unceremoniously dumped from the starting line-up.

Perhaps Nicol Stephen is too busy trying to ease the tension that exists between his department and the Department of Trade and Industry, to which the First Minister alluded rather mysteriously in *The Herald* yesterday. If there is indeed discord between those two departments, for once my sympathy lies with the DTI. I suspect that, like everyone else in Scotland, the DTI is absolutely appalled that Liberal ministers are so incapable of protecting Scottish jobs that over the summer they awarded a public sector contract to a Polish shipyard that is under investigation for illegal



subsidies rather than to a Scottish yard that plays by the rules and delivers high-quality vessels on time and on budget. The First Minister said in his statement that he wanted to make Scotland the most attractive part of the UK to invest in. Although I echo that sentiment, I suggest that people might be more likely to take the Executive seriously if it were to lead by example and invest in Scotland when it is given the opportunity to do so.

I said this morning that the Executive programme contained many measures that are worthy of support. Many of those measures, such as the action on business rates and the bill on nutritional standards in schools, were first proposed from the SNP benches.

Among other bills, the planning bill will require careful scrutiny to ensure that it gets the balance right between economic development and public involvement and that it does not simply pave the way for the Executive to ride roughshod over public opinion on intensely controversial issues such as new nuclear power stations.

Overall—no doubt this is why the Executive has dodged a debate on the totality of its programme—what it announced this morning lacks cohesion, vision and, despite the warm words, ambition, particularly in terms of the Scottish Parliament's ability to make a real difference. The programme lacks a clear set of answers to some of the biggest issues that confront ordinary Scots each and every day of their lives. I hope that members will forgive me if, before I turn to some of the justice issues on which the minister spoke, I concentrate on some of the big omissions in the Government programme.

The First Minister mentioned child poverty this morning and seemed—quite astonishingly—to take pride in the fact that one in four kids in Scotland still lives in poverty. He failed to mention pensioner poverty. That is not surprising, however, given that it is Labour's council tax that contributes most to pensioner poverty in Scotland. Since 1997, the council tax has gone up by 55 per cent. The problem, of course, is that, because neither incomes nor pensions has gone up by 55 per cent, people are paying a bigger and bigger proportion of their income on an already unfair tax.

A Government that was interested at all in fairness in the taxation system or in lifting pensioners out of poverty would have included in its programme a bill to abolish the council tax. It would have replaced the council tax with a fair system that is based on the ability to pay. I am sure that the Liberals would support such a move, even if they could not muster the backbone to demand that it was put into the programme.

The programme omits to mention the health service. Although thousands of people in Scotland

are now on hidden waiting lists and have no waiting time guarantee whatever, no mention was made of bringing to the system the transparency and fairness that the Executive promised but has not delivered.

On the economy, I have no hesitation in welcoming today's announcement on business rates. Certainly, the announcement is overdue, but any sensible move is better late than never. A First Minister with a touch more grace would have acknowledged that the Scottish National Party has supported the policy consistently—indeed, the Tories have supported it too—but Labour and the Liberal Democrats consistently opposed it. However, it is probably asking for a bit much to ask for grace from the First Minister.

Cutting business rates is a welcome step forward; it is a positive move that the Executive can make within the existing powers of the Parliament. However, more and more people in Scotland, including those in every corner of the chamber and every walk of life, realise and understand that, for the Scottish Parliament to be in a position to create the most favourable economic climate in which our businesses can compete, we need to have full financial powers. Of late, the First Minister seems to like putting his toe into the water of more powers. Will he put his money where his mouth is and start to demand for the Scottish Parliament the kind of powers that every other country in Europe takes for granted? I suspect not. Until he does, his political posturing will be seen as just that.

I am sure that the Minister for Justice will be pleased to hear that I now turn to the justice measures that were announced today. I am disappointed in the extreme to hear that the programme contains no proposals to further restrict the sale of air guns in Scotland. It is six months since the First Minister promised action. Before the recess, the Minister for Justice promised to announce new proposals before the end of July. We are still waiting.

**Cathy Jamieson:** Does Ms Sturgeon accept that it is absolutely correct to get the right response to the very serious incidents that have occurred? Only last week, when I met the victim of an air gun crime, the young person and his parent made the point that the Executive was right to ensure that whatever we brought forward in conjunction with the Home Office was enforceable and had the support of the police north and south of the border. Does Ms Sturgeon accept that it is right and proper to do that and not to rush into a knee-jerk response and promise things that cannot be delivered? She is focusing on the constitution rather than on our communities.

**Nicola Sturgeon:** Six months is not a knee-jerk response. I agree that it is important to have the right proposals, but the blockage has been caused not by a lack of funding for the right proposals but by getting the Home Office to agree to the right proposals. The truth is that, if the Scottish Parliament had powers over the use of firearms in Scotland, we could have taken action on the right proposal long before now.

If it is okay for us to exercise a power over knives, why on earth should we not exercise such a power over air guns? The minister cannot answer the question.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** The member's Westminster colleagues had the power to submit a position to the Home Office's consultation paper on the matter. Why did they not do so?

**Nicola Sturgeon:** My Westminster colleagues make their views on such matters clear on behalf of Scotland every day of the week. We in Scotland should be legislating on the big issues that affect the lives of people in Scotland, but that is what the Executive fails time and again to do.

On the face of it—although we still have to scrutinise the detail of the proposals—many of the bills that have been announced today are eminently supportable. However, the fact remains that many of the problems that were identified by the Sentencing Commission five months ago do not need legislation. They need firm action by a firm minister who is prepared to make it clear that shoddy standards that put the public at risk are not acceptable.

**Phil Gallie (South of Scotland) (Con):** Will the member give way?

**Nicola Sturgeon:** Not just now.

Earlier, I raised the issue of the failure of people on bail to turn up for court appearances. In April, the Sentencing Commission said:

"In respect of non-appearance, we assess the problem as endemic. Accused persons on bail frequently fail to turn up for court appearances. In those cases, non-appearance warrants are usually issued but their enforcement is not always carried out."

Fixing that does not need a new law; it needs firm ministerial action. Perhaps the minister can explain, in a way that the First Minister failed to do this morning, why nothing has been done.

**Cathy Jamieson:** If Ms Sturgeon were to cast her mind back, she would recall that, before the Sentencing Commission made those comments, which I have obviously taken account of, I commissioned a piece of work on warrants that was led by Ricky Gray from Strathclyde Police. A number of issues have already been dealt with and we will continue to deal with those matters.

However, does Ms Sturgeon agree that it is right that we ensure that there is a culture change in the organisations and that the legislation is in a proper form in order to ensure that we have a joined-up approach and, instead of a knee-jerk reaction, proper legislation that will deliver for the people in our communities?

**Nicola Sturgeon:** The right solutions have to be balanced with quick solutions. On 5 April, after the Sentencing Commission issued its recommendations, the minister issued a press release promising that there would be a full response to those recommendations before the summer. The summer is over. It is now autumn and we are still waiting for that response, just as we are still waiting for action on air guns. That culture of doing nothing has to change before anything else will change.

I can give an assurance that the Scottish National Party will scrutinise each of the bills carefully and responsibly. However, as we go through the next parliamentary session, we will also do what this Executive is unable or unwilling to do. We will push for the Parliament to be bolder in the use of the powers that it has and will demand for it the powers that it needs to deliver on the high expectations of the people in this country. We will demand the powers that every other Parliament in the world takes for granted: the powers of independence.

14:53

**David McLetchie (Edinburgh Pentlands) (Con):** Although we will be able to support aspects of the legislative programme, I submit that it is not the programme that Scotland needs. It is still all too symptomatic of an approach to government that we have criticised and will continue to criticise. It adds further to the impression given by the Scottish Executive that passing a piece of legislation is tantamount to solving a problem. It is not.

In six years, the Scottish Parliament has passed 89 acts and 3,645 statutory instruments, with more on the way. I doubt that there are many people who think that all that frenetic legislative activity has solved any of the fundamental problems facing Scotland.

The tests that the Conservatives set for government in Scotland are a little stiffer than this "never mind the quality, feel the width" approach. Does legislation help to protect the public and make our streets safer? Does it lead to smaller, more effective government? Does it reduce the burden of tax and provide real value for money? Does it help to improve our public services and strengthen our economy?

Like Ms Sturgeon, I will start by welcoming the long-awaited decision to reduce the burden of business rates in Scotland. It is a great pity that it has taken this Executive so long to acknowledge what the business community, Conservatives and the SNP have been saying for so long. This dose of humble pie must have been particularly difficult to digest. After all, it was the First Minister who created the discrepancy in the first place, and for years, time and again in the chamber, Mr McConnell and Mr Kerr ridiculed the very idea of parity with England when we suggested it.

The latest poor growth figures in Scotland seem to have swung the balance in favour of common sense at long last. However, tokenism is never far from this Executive's agenda and the First Minister's knee is always poised, ready to jerk in response to any media inquiry. We have seen that in relation to reform of the law on bail, to which I referred this morning. What is proposed is a pale shadow of what the headlines led us to believe, for the simple reason that our hands are tied by the European convention on human rights and the Human Rights Act 1998. Instead of window dressing, the First Minister should be on the phone to the Prime Minister demanding a review of the application of the 1998 act to our system. However, by all accounts of their relationship, that is unlikely to happen.

The charge of tokenism applies equally to the nutrition in schools bill. I do not belittle the problems of childhood obesity and ill health, and I accept that poor-quality school meals, and the prevalence of the consumption of fizzy drinks and so on, may have played a significant part in that. However, what is so depressing is that the First Minister and the Scottish Executive seem to think that only Government has the answer to the problem—through the spending of more money and the passing of more laws in this chamber. If parents could choose schools and schools could control their own affairs, between them they could choose better menus and improved diets without the need for legislation. But the Executive's attitude to giving parents more say in the running of schools is ambiguous to say the least.

The consultation paper on the Scottish Schools (Parental Involvement) Bill seemed to signal the end of the school boards and the statutory right of parents to representation that was granted by the School Boards (Scotland) Act 1988. Today's statement seems to roll back a bit from that position, but I would suggest that parents sup with a long spoon when dealing with the Scottish Executive; it is full of instinctive centralisers who do not trust parents in relation to the education of their children.

We will examine the detail of the legislation on school boards closely, and we will vigorously

oppose anything that smacks of dismantling the existing highly successful system established by the previous Conservative Government. That system today covers more than 90 per cent of Scottish schools and rising.

The other major problem with the Executive is the grandiose claims that it makes about its record and proposals; they simply do not match the perceptions of ordinary people. The claims for the fresh talent initiative are a case in point. Members will recall that it started as a great Scottish initiative that would see us in the vanguard of attracting graduates to Scotland. However, in the First Minister's statement today, it is described as part of a UK system of points allocation. That is no doubt a more accurate statement of the truth—it is what we suspected and said all along—and the initiative is far from being the groundbreaking

"Scottish solution to a Scottish problem"

that we were led to expect from the early fanfare.

If the First Minister were prepared to talk more to his friend the Prime Minister, the Executive might be prepared to admit the error of its ways in the running of our public services and to adopt, in essence, Conservative ideas and policies. It will be recalled that, in the brave new world of 1997, all that we heard from Mr Blair and the newly elected Labour Government was about how central targets and the Treasury-driven mechanisms to direct and enforce them were the new answers to all our problems. We do not hear so much about that any more. The reason is simple: they did not work. Down south, targets and central direction have been replaced by an emphasis on greater choice and competition in the provision of health and education services—devolving down to people and institutions, or, in other words, letting go.

Now it is reported that the Prime Minister wants to take that process of reform even further: he wants all hospitals to be foundation hospitals; greater involvement of the independent sector in providing health care; more power for head teachers to give schools more independence from local councils; more criminals to be sent to prison; and more accountable police forces. I do not necessarily agree with all the details of that programme, but it certainly goes in the right direction.

Let us contrast that with what Scotland has: an Executive that rejects greater independence for schools and hospitals, even when generous benefactors are willing to invest their own money in independent state schools, and an Executive that says that our prisons are already too full, yet would prefer to lock up people who might be innocent while letting out early prisoners who were certainly guilty.

Prime Minister—I beg your pardon; I meant to say Presiding Officer. You might go on to greater things, Presiding Officer; you could certainly do a better job. Presiding Officer, I agree with the First Minister that Scotland is a great country. However, it is a country that is being let down by its Government, and we need a Government of a very different character. Patients and parents must be able to make their own choices for themselves and their families, and the flow of funds must reflect their choices and decisions, not those of ministers and bureaucrats at the centre.

In tackling crime, the keys are to make our police forces more accountable to the local communities that they serve and to ensure that the punishment that criminals receive really does fit the crime. The question whether someone goes to prison after sentence or on remand cannot depend on the current size of the prison population or on any policy to reduce it. The number of people in our prisons at any one time must be determined by the needs of justice. The evidence shows that the more likely it is that criminals are to be sent down, the lower the overall crime rate.

We need to combine the decentralisation and devolution of power in the ways that I have suggested with greater financial discipline. Even the Scottish Executive has acknowledged that money is being wasted at present. Efficiency savings will be credible, however, only if people see something tangible as a result. The best way to ensure that is to give people back some of their own money in the form of lower taxes. That is why the Scottish Conservatives, in looking ahead to 2007, will conduct our own thorough review of spending in Scotland to identify the scope for further reductions in the tax burden.

I firmly believe that Scotland needs to escape the tax-and-spend consensus that has led to a bloated public sector, which has damaged productivity and strangled economic growth. Scotland needs a new consensus that aims to foster growth and improve our public services. We will support measures that move Scotland in that direction. I welcome the Scottish Executive's U-turns towards the Tories but, in 19 months' time, people will be able to vote for the real McCoy, not the pale imitations.

15:03

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** This afternoon's debate gives us an opportunity to consider the justice programme for the coming year. It also gives us an opportunity to consider, in this sixth year of the Parliament, where we are on building a safer and more liberal society in Scotland. It will be a busy programme. The minister has outlined the proposed legislation as well as the Executive's

other, non-legislative work. That work is ambitious and, more important, forms part of a consistent approach of reforming and renewing our justice system, which, in its fundamental form, is sound. We are already seeing the results of that work by the Executive.

In continuing with our focus on problems with reoffending—particularly by people of my age or younger who have already been in custody or have had contact with the state in the guise of social workers, the children's hearings system or special schools, and who have a series of problems in their often chaotic lives—and in toughening our approach to knife crime and signalling that we judge the conduct of some people to be absolutely unacceptable, we have the right priorities for Scotland.

**Phil Gallie:** The member mentions knife crime, an issue in which I took a great interest in another place, where I introduced and saw through the Carrying of Knives etc (Scotland) Act 1993. The Executive promises to look at and rehash that legislation. Does the member agree that it would be pointless for the Executive to do that unless early action is taken to ensure not only that sentences increase, but that they mean what they say?

**Jeremy Purvis:** The member knows that the forthcoming police, public order and criminal justice bill will include measures to deal with knife crime. We are also looking at the issue more fundamentally, through the consultation paper that is still live. I am sure that the member will submit his experience to both of those processes.

In its excellent consultation paper, the Sentencing Commission for Scotland questions whether we have the correct balance between custody, supervision and release for prisoners, both short term and long term. The commission is continuing its work. Liberal Democrats are also pleased to be taking forward reforms of our police and our civil justice system with our Labour colleagues.

We have a busy year ahead. However, today's debate provides us with an opportunity to pause. Reinhold Niebuhr said:

"Man's capacity for justice makes democracy possible, but man's inclination to injustice makes democracy necessary."

If we take that to an extreme, we almost get a self-fulfilling prophecy, so that the fear of crime affects people's lives to a greater extent than actual crime. In a previous debate on justice, I said that our generation was living in a safer Scotland than that in which the previous generation lived. That statement caused great angst among our Conservative friends, but it is true. Perhaps we do not get our names on the front pages of newspapers for saying so, but it is still true.

We have falling crime rates, but we have an increasing prison population—in fact, there are a record number of prisoners in our institutions. Over the past nine years, the number of directly sentenced prisoners has gradually fallen and the number of fine defaulters in prison has declined considerably. However, the number of people in prisons on remand has increased considerably. Getting the system wrong, using the simplistic approach that Ms Sturgeon would take, would only add to the problem.

Of course, we are all shocked by the most serious and heinous crimes, which make us pause to question humanity and the principle of evil. Those crimes include a teenager murdering another teenager in Midlothian, only a short distance from where our debate is taking place this afternoon; a child being killed in Glasgow with an air gun; and a child being killed in West Lothian by someone suspected of a child abuse crime. There are and will continue to be others.

**Stewart Stevenson (Banff and Buchan) (SNP):** Has the member read the statistics for the prison population that were published last month, which show that in each year since 2000 the number of people convicted of violent crime is more than 1,000, whereas prior to 2000 it was less than 1,000 each year? There has been a consistent increase in the number of people convicted of violent crimes.

**Jeremy Purvis:** I like nothing more than to be involved in a debate with the member about statistics. However, I hope that he will forgive me for the fact that my remaining comments will not be based on statistics. Instead, I will offer some thoughts on whether we have the right balance in our justice system.

Do the crimes and terrible incidents that we have seen this year represent a greater breakdown of society and law and order, or are they incorrectly represented by the media and some members as part of a trend that does not exist? Are they used to provide an inaccurate representation of modern society? The Prime Minister reacts to focus groups for his respect agenda. Regrettably, we have heard too much about that today. Hoodies are the latest pariah group, and there will be others. Is there a problem in some areas with the behaviour of some young people? Of course. Are a record number of young people volunteering for public and community service? Yes. Was that publicly recorded by the Prime Minister as part of a context? No.

Thankfully, the most awful crimes are incredibly rare. We must always seek to stress that, without undermining their seriousness. That raises questions for the Parliament and for all the parties represented in it. Should we have an approach to justice that is shaped in reaction to the latest

terrible crime? Is society safer if people incorrectly fear an exaggerated crime level? Of course, there are times when incidents allow us to see the failings of our justice system. There are other terrible incidents that can have further unintended consequences if they are met with an ill-considered overreaction—a self-fulfilling prophecy indeed. Does the desire for immediate responses make it more difficult to put such crimes into their context of extreme rarity? What would be the reaction to a statement after a terrible crime that the system is sound, but may never prevent another serious crime? It would probably be condemnatory. However, the view that everyone should be viewed with suspicion should also be condemned.

Technology makes it easier to detect crime and for agencies to share data and information. That is good. However, technology also makes it easier for individual liberties to be curtailed. Unless we are vigilant, we will all suffer from what I term institutionalised suspicion of guilt. We heard from members in the debate on ID cards that if someone has nothing to hide, they have nothing to fear. We have also heard immediate reactions to the most recent horrendous crime, in comments that have been made by the First Minister and leaders of all parties.

A 21-year-old constituent came to see me. His life is being affected because, four years ago, he was accused of a very serious crime. A police report was filed but no proceedings were taken by the procurator fiscal. According to my constituent, the alleged victim has subsequently withdrawn the allegations, but information is still retained as intelligence by the chief constable and that continues to blight my constituent, as the information appears on an enhanced disclosure certificate. There is no future for my constituent unless that blight is lifted. I raise the issue not for me or the Minister for Justice to determine innocence or guilt, but to highlight a concern that, when the justice system has also not determined guilt, there is still assumed guilt for my constituent and, arguably, for many others. What incentive is there for the police to remove such information? None. Who polices the police on whether the information is held? Currently, the police.

We are asked to add further information to databases—DNA samples of those who are suspected as well as of those who are found guilty and, indeed, those who have submitted their information voluntarily. A single Scottish or UK Driving and Vehicle Licensing Agency and local authority criminal history, health and taxation database linking with the ID database that the UK Government wants to establish is technologically feasible. The inventor James Dyson argued recently that it is not only possible but desirable that every child in the UK should be DNA sampled

at birth, with the data made accessible to security forces and others. He said that that is now vital in the light of 56 people being killed in the London bombings. However, 242 people died on London's roads in the year to May 2005.

For one person, police intelligence is just that: intelligence that is captured professionally and robustly; for someone else, it is a combination of suspicion and hearsay. The question is whether we are moving into an area where the basic tenets of our system are being undermined and whether we will have a system in which the official policy is that someone has nothing to fear as long as they have nothing to hide.

15:12

**Robin Harper (Lothians) (Green):** This morning, the First Minister mentioned a commitment to rehabilitation almost in passing, and the Minister for Justice, Cathy Jamieson, mentioned just one instance of rehabilitation at Cornton Vale prison, although that was a welcome reference. As Jeremy Purvis has said, we have almost the worst record in Europe for the proportion of our total population that is banged up in jail. Clearly, we are not doing enough about that, and one of the solutions is rehabilitation. Other countries are ahead of us because they have better rehabilitation strategies that are effective and, paradoxically, cost less than locking people up in prison for 24 hours a day. The big question is: when is the Executive going to invest effectively in rehabilitating prisoners and cutting reoffending rates through education and post-prison support? There is an appalling gap there.

The same appalling gap exists in support for young people who are leaving care, a disproportionate number of whom land up in the prison system. Yesterday, in Glasgow, I attended a forum for young people who are in care, who are leaving care or who have left care. They talked among themselves about their experiences of the system that exists to support them at the moment, and they gave a very blunt response to the lack of effective and co-ordinated strategies to help them. They have issued wrist bands that say on them—I hope that the Presiding Officer will forgive me if this is unparliamentary language, but I am reporting faithfully the views of our young people—“The system sucks”. That is their opinion of the system as it is at present. That is young people's judgment on the progress that is being made to help them. The system is not providing justice for many of our young people.

**Dr Sylvia Jackson (Stirling) (Lab):** I ask the member for his comments about the time-out centre in Glasgow and how it is working to help in rehabilitation.

**Robin Harper:** Not being an MSP for Glasgow I have not visited the Glasgow time-out centre, but it

sounds as if it is working effectively or Dr Jackson would not have mentioned it. I would support more such centres because it is clear that young people need some kind of co-ordinated response to their requirements.

In his speech this morning the First Minister referred to giving communities a greater say in the planning system. From what I know and from what I have picked up over the past few months from many groups in Scotland I can tell the Parliament that there will be an outpouring of outrage if the planning system does not give real rights and powers. People do not want a pretendy, “We are giving you a greater say”; they want real rights and powers, and those rights and powers must be there.

Cathy Jamieson outlined the Executive's programme for justice in the coming year. My colleague Patrick Harvie will take up more on justice issues, but because this is the opening session of a one-and-a-half day debate on the Executive's entire programme for government, I will follow the lead given by Nicola Sturgeon and widen the debate by addressing the key issue of environmental justice through sustainable development.

This time last year, the First Minister said:

“I do not accept the historical separation that has existed for far too long in Scottish and British politics between economic growth and job creation on the one hand and environmental sustainability and sustainable development on the other.”—[*Official Report*, 7 September 2004; c 9887.]

What progress has been made towards sustainable development and environmental justice since the First Minister said those warm, green words a year ago? It was not a good start. Shortly after the First Minister spoke in September 2004, an independent report for the Parliament's Environment and Rural Development Committee called in question the Executive's ability to deliver sustainable development, saying:

“The most significant weakness emerged in relation to the perceived need for economic growth and the failure to acknowledge the negative environmental impacts of such policies.”

In October, Scotland became 16<sup>th</sup> in the world league table of unsustainable countries. In March, the Executive approved the M74 motorway extension. The nod was given for the Aberdeen western peripheral road, and the Executive refused to set targets for road traffic reduction between the present and 2021. In a debate in Parliament in January, the Executive continued to rule in new nuclear power stations, as it continued to underfund the massive potential for Scottish renewable energy technology, best exemplified by the fact that Ocean Power Delivery left this country for Portugal. In June, the Executive attacked

democracy and announced proposals to end public inquiries for projects it deems strategically important. The Executive also rejected TPRA—or third party right of appeal—which is the right of communities to appeal planning decisions.

Last week, following the Environment and Rural Development Committee's scathing report on the Executive's failure to address climate change, the Executive responded with a complacency that beggars belief when it announced that it will not set an overall national target for reducing greenhouse gases because it does not have full control over the levers required to deliver it. The Executive has a target for reducing teenage pregnancy. Does Mr Kerr tell us that he controls all the levers that contribute to teenage pregnancies? The failure to set a national overall target for reducing the pollution that causes climate change is a travesty. I ask the First Minister to explain why his Executive, like Mr Blair's friend George Bush, is refusing to adopt a climate target.

There have been some positives for environmental justice in the past 12 months, for example the green jobs strategy—a term that I think I first introduced to the chamber way back in 2000; the investment in recycling; and the forthcoming Environmental Assessment (Scotland) Bill. However, it is a pity that the First Minister is not taking an active part in this debate in order to explain the huge gulf between his forward-thinking words of last year and what is coming out—or is likely to come out—of the Executive this year.

**Phil Gallie:** Will the member give way?

**The Deputy Presiding Officer (Trish Godman):** The member is in his final minute.

**Phil Gallie:** Does the member recall the wonderful days of 1997, when Scotland had the lowest gas emissions rate in Europe, thanks to nuclear energy?

**The Deputy Presiding Officer:** I ask Mr Harper to wind up.

**Robin Harper:** I recall that, but will not say that the rate was thanks to nuclear energy.

Above all, the Executive needs to challenge the perception that gross domestic product growth can deliver well-being in society. Its attention must be turned to making our economy and our society sustainable in the long term.

It seems that the Executive will be dragged into a UK strategy for sustainable development and will have to introduce its proposals in the autumn. However, the Executive will have to undergo a sea change if its record of saying one thing and doing another is to change and if I am to say something here next year that is more positive than what I have said this year.

**The Deputy Presiding Officer:** We now move to the open debate. Members will start with six minutes, but their speeches will have to be rather tight, as I want to call all members who want to speak. Speeches may have to be reduced to five or four minutes.

15:21

**Pauline McNeill (Glasgow Kelvin) (Lab):** I do not want any member to get the impression that I do not care about anything but criminal justice reform, but I thought that the debate was about criminal justice. That is why my remarks will be exclusively about that.

Criminal justice is at the top of our political agenda; it is right that it probably always will be. The impact of serious crime on our citizens—those who are directly affected and those who witness the impact—means that we will always have work to do. There must be respect on all levels and we must respect all opinions in the chamber if we are to have a mature debate about the way forward.

This morning, we heard much about further reforms of our criminal laws, and it is again clear that there will be a busy justice agenda. However, I want to talk about the importance of having in the years ahead clear lines of thought in our responses to the recent tragedies that we have witnessed. As elected members and representatives of the community who are charged with power over the criminal law, we must use our powers wisely. We must be careful not to overlegislate or to overreact. Parliament has already passed important measures, such as the Protection of Children (Scotland) Act 2003, which has yet to be really used as part of our criminal law. We have crossed lines with our legislation, as Jeremy Purvis mentioned; we have changed balances. Parliament has been clear that it has changed balances because it believes that that has been necessary to protect children.

We cannot lose our sense of consistency in ensuring that there is the right response and we should be careful not simply to react to a set of circumstances. We should still abide by clear principles: safety in our community, a speedy process in law and fairness to the accused. I say that because events in the past few weeks and our debate on sex offenders have alarmed me. Perhaps we are simply reacting to a set of circumstances. I refer to the Association of Chief Police Officers in Scotland in particular, which has suggested the setting up of a temporary register for sex offenders. I am deeply worried that it is so heavily in favour of one solution. I could not support such a solution at this point.

The leader of the SNP asked the First Minister to get a grip and suggested that the Executive has

not implemented all the Sentencing Commission's recommendations. It is the leader of the Opposition who should get a grip. This is meant to be a mature debate. If we want to get proposals right, we must consider the complexities of what we are trying to address.

The leader of the SNP calls for a ban on air guns and for powers for Parliament to ban them now, but the Executive's approach is more sensible. I support reform in respect of banning air guns, but there is a deeper question and members who want to consider cases should consider the case in which a sheriff decided to continue a drug treatment testing order for reasons that I am sure that it is important to take into account. She could have decided to remand the person in custody. A whole set of circumstances and how decisions are made must be considered.

I do not agree with all the recommendations of the Sentencing Commission for Scotland, but I would have been absolutely furious had I come back here after summer recess to find that the Executive had implemented the commission's 36 recommendations without reference to committees or Parliament. I do not agree with recommendation 12, which is about ceasing to remand automatically persons who have no fixed abode, but I agree strongly with recommendation 32, that people who offend while on bail or who abuse their bail should be subject to a court disposal. I believe that there should be a presumption against granting bail if bail has been breached, and I tell David McLetchie that I believe that that is justified within the terms of the European convention on human rights. If a person has already promised to abide by the rules of their conditions of bail, a breach should be the basis for removing their bail.

Of course, the Tories' challenge to the Executive is essentially about removing our commitment to the European convention on human rights, which is what they have always argued for—let us be under no illusion about that. I know that the convention is a high test, but I also believe that there are reforms that we can make within the operation of the ECHR without actually removing ourselves from that overall commitment. Judges could be tougher within the rules, and I certainly think that we, as politicians, are entitled to true consistency in decision making. That is why I commend the establishment of the Sentencing Commission, which will have a chance to examine that.

Let us be clear: if we reform the way we deal with accused persons and people in the criminal justice system, that will undoubtedly have an impact on the prison population. If I had had more time, I would have liked to say more about that. We need to consider how our decisions will impact on other parts of the system. We need more

prisons—we know that for sure—and we need to end slopping out. I know that the Scottish Prison Service has announced plans for a second private prison, and I hope that pressure is being put on the SPS to ensure that that second prison can genuinely be allowed to be a public-sector prison.

I have run out of time. I wanted to say something about reform of the civil agenda. The ministers know my issues, but I just want to put them on record. I hope that the minister will say something about the matter in summing up. Much time has been spent reforming criminal justice, but our civil justice system needs some attention. In particular, we must consider the way in which asbestos victims have been dealt with. We have made some progress, but we need to make more, and I would welcome anything that ministers can put on the record to reassure Parliament that that is an issue for them too.

15:27

**Mr Kenny MacAskill (Lothians) (SNP):** I intend to deal only with the criminal justice aspects of the legislative programme. I was intrigued not simply by what the First Minister said in the morning but by what the Minister for Justice has said this afternoon. In particular, I was intrigued by her points about introducing proposals to deal with kerb crawling and serious pornography. That is something that we will fully support. Such crime is not victimless; it is not a transaction between a willing buyer and a willing seller. It is almost invariably a case of an exploited woman—it is almost always a woman, somebody under threat of violence or in great need, poverty or desperation—being used and abused, and we shall certainly support any action that is taken to tackle that.

We reserve our right to examine any such proposals, but we fully agree that we should go with a distinctive Scottish solution where we see a need to address issues in that way, because what is suitable in Soho might not be acceptable in Scotland. We shall fully support the Minister for Justice and the First Minister in those matters, because we believe that addressing those problems is long overdue. However, we shall continue to ask the Executive why it is prepared to take a distinctive view on that but not on other matters.

**Margo MacDonald:** Will the member give way?

**Mr MacAskill:** I will not give way at the moment.

We must recognise that nobody moves into politics in Scotland to make it a worse place or to seek to increase crime. Although we are in a less confrontational place than Westminster, we are still in adversarial politics, but we must remember that we are trying to deal with matters where there



is a general intention to achieve the right result, even if we disagree on policies.

I accept that the Executive has made progress. Many of the initiatives that have been introduced by the Lord Advocate and administered by the Solicitor General are long overdue. They did not come about earlier for two reasons. First, it was because of neglect; we simply allowed institutions to go unchallenged and to set their own agendas and we did not give rights to the citizen because the participants seemed to matter more. Secondly, it was because we did not have a legislative chamber and we did not have access to the legislative time to overhaul and redraw our justice system. We now have that legislative chamber, so it is important that we make progress and that we recognise where progress has been made in relation to victims and others, but that we recognise the distance that we have still to travel. We must also recognise that, even then, mistakes can still be made and must be investigated.

However, there are areas in which progress has not been made, and firearms is one of those areas. I disagree fundamentally with Pauline McNeill; we cannot simply depend on the Home Secretary. We have powers that we can use so that we can act. We can act by using the licensing system to bring in an opportunity to deal with the situation. If we can license sex shops and greengrocers, we can license shops that sell weapons and ammunition. The tragedy is that the Executive is not using the powers that are available to it, never mind seeking to obtain the powers that we really need to be able to address such matters.

There are fundamental differences between gun crime north and south of the border—touch wood, it will remain that way. We do not have drive-by shootings such as take place in the likes of Nottingham or south London. However, urban and rural Scotland has a serious problem with idiots—youngsters and adults—firing air weapons and we have to address that problem.

Bail also requires to be addressed; it has been a problem for a long time. It was a problem when I gave up practising law and was elected in 1999, and the problems with bail have spiralled out of control since then. It is not just a problem for people who are facing charges for serious sexual offences, for example. It is unacceptable that 55 people were granted bail when they had been charged with murder. Scotland has a system that recognises the presumption of innocence, but our police do not arrest people on a whim or fancy. Our procurators fiscal are charged with the duty of deciding whether they believe that there is enough evidence to bring a charge, whether that evidence will stand up in court and whether it is in the public's interest. Those caveats are in place and

we have to consider whether the scales of justice are balanced when we consider the protection of our communities and children.

Our bail system is fundamentally flawed. We have standard bail conditions. Should there be conditions that the accused should turn up at court on each and every diet, that they should notify the court of a change of address and that they should not commit another offence while on bail? It seems to me that those conditions represent normal courtesy. Perhaps we should have a top-to-bottom review of the bail system. There is a fundamental problem, particularly with youngsters who are serially offending but who are repeatedly being released on bail, and the system is being brought into disrepute. The system must be reviewed from top to bottom and we will support the Executive in its drive towards that agenda.

The First Minister commented on safer and stronger communities. He also mentioned the respect agenda: whether it was started by him or by Tony Blair, we fully support it. We are talking about people exercising responsibility and showing respect for their neighbours. That agenda is also about our society showing responsibility for all our communities and persuading our people to have some respect for themselves.

The First Minister would do well to address another matter that was raised by Tony Blair many years ago. As well as being tough on crime, we have to be tough on the causes of crime. We will not be able to address crime in this country until we take care of drink, drugs and deprivation—the three Ds—that fuel crime in our country. Sadly, I think that that was left off the agenda. We have to clamp down on offenders and those who supply drugs, but we also have to address the demand for drugs from a section of our society that is so alienated and where people have so little respect for themselves—never mind for others—that they prefer to inject into their veins something that will kill them and which continues to fragment our communities. We have to be tough on crime and on the causes of crime.

15:34

**Miss Annabel Goldie (West of Scotland) (Con):** Given the minute attention that the First Minister devoted last week to grabbing headlines about his bold resolve to examine deficiencies in our criminal justice system, and to be equally resolute in addressing those deficiencies, I imagine that a considerable number of people—perhaps even those in his Cabinet—would have been anticipating this morning's legislative statement with keen interest.

Initially, the statement was encouraging. It was

"a programme for justice and respect ... a vision to build safer, stronger communities".

The First Minister's stated objectives included a pledge to "support the victim". Those brave proclamations were timely and encouraging, as well as much needed, for reasons that might be uncomfortable for the First Minister and his Scottish Executive.

In the six years of devolution, the number of recorded crimes and offences has increased. Mr Purvis does not like statistics. No giddy wonder; if I was part of the Executive, I would not like the statistics. The recorded crime in Scotland bulletin of June 2004 shows that fire raising and vandalism have increased; rape and attempted rape have increased; offences involving the handling of offensive weapons have increased; and drug-related crimes are up. Recently, indeed, there was a tragic disclosure that drugs deaths in Scotland are now running at about one per day. That reflects a lot of misery in many of our communities.

What about the Scottish Executive's attempts in the past six years to ensure that our criminal justice system deals robustly with persons who are charged with committing a crime and with persons who are convicted of committing a crime? Currently, as we have heard, those who are sentenced to imprisonment get out early automatically and there is disturbing evidence that serious crimes have been committed by certain individuals who got out early and were therefore free to commit those crimes.

Furthermore, there is the turbulence—there is no other way to describe it—of the operation of the bail system. In 1999, the system saw fit to allow only three persons who were charged with murder out on bail, but by last year that figure had increased to 55. I agree with Kenny MacAskill that that is unacceptable, because if someone is charged with murder there is a victim, there is a victim's family and friends and there are prosecution witnesses who might all live in the same community. That represents a situation to which most right-thinking members in the chamber would be deeply opposed. I suspect that, in the chamber, there is already universal disquiet at what has been happening.

The Lord Advocate may want to investigate how many bail applications are opposed by the Crown. As we know, the judge is powerless if, on application, the Crown offers no opposition. The judge cannot intervene of his own volition. I suspect that there are many cases in which, privately, the judge is deeply unhappy that no opposition was offered.

The Sentencing Commission estimates that the bail system allows 9,000 people per year to reoffend, of whom 4,000 offend more than once, and the bail system in Scotland has resulted in 30,000 outstanding warrants for arrest for people

who failed to return to court. According to the Sentencing Commission—as we have already heard—those failures are "endemic"

I suspect that many MSPs' constituents have come to them to voice the very concerns that are the human face of what the statistics mean. They might include victims' relatives who are appalled that the accused is free in the community and is living a few doors away, in the case of a murder charge. There are witnesses who are frightened to go out in their own communities for fear of being intimidated and threatened.

Those concerns arise in cases in which people have been through the system and allowed out on bail, but what about people who have been convicted and given an alternative disposal rather than being detained in custody? Robin Harper was vociferous in his support for such solutions, but the facts are again troubling. In 2003-04, 18 per cent of community service orders, 33 per cent of supervised attendance orders and 34 per cent of probation orders were breached.

If we add to that troubled picture the fact that three crimes in four are no longer reported because people have lost confidence in the criminal justice system—I tell Mr Purvis that that figure comes from the Scottish crime survey—it becomes clear to me that a programme for justice and respect is overdue and that a pledge to support the victim has never been more necessary.

There are positive areas in the legislative programme that the First Minister announced this morning, but unfortunately they are at the margins of the problem that I have just described. The Scottish Executive is allowing our once-revered criminal justice system to sink in quicksand. Without more police officers back in our communities and without their being visible regularly, the depressing increases in criminal activity will not be reversed. Without a pledge to stop automatic early release from prison, our criminal justice system will not enjoy respect, our victims will not be supported and our communities will not be safer and stronger. Without a radical review of the operation of bail, the same will apply.

If the First Minister really wants to convince people that when he talks tough he means business, he needs to take action now to end automatic early release. His Minister for Justice says that that is a priority; he can show that by supporting the Conservative amendment on that to the Management of Offenders etc (Scotland) Bill. We shall make our own judgment according to the response to that amendment.

If the First Minister really wants to stop the abuse of bail, he can enlist the co-operation of his colleagues at Westminster to review the operation

of the European convention on human rights with reference to our criminal justice system. If the First Minister is not prepared to take that robust action, he and his ministerial regime will be seen as nothing more than passive patsies who are hard-wired to the soundbite and totally weak-kneed on solutions. The people of Scotland know what is wrong; it is the First Minister who is not getting that message.

15:40

**Mike Pringle (Edinburgh South) (LD):** I support the Executive's programme, particularly on justice. There is no doubt that some features of our 2003 manifesto are in the new programme.

I will highlight three areas in which we might improve justice. The suggestions for improvement of the justice system result from my involvement in a case since about July 2003, not long after I was elected. The case involves three young men who were convicted of rape. They went to prison on 31 October 2000. They had faith in the justice system and they appealed but, sadly, their appeal was lost. I am no lawyer and I do not understand why that happened. They found themselves back in jail on 5 June 2002.

Back in 1994, the then Scottish Office instigated two reviews with the consultation paper entitled "Criminal justice (Scotland): improving the delivery of justice in Scotland: juries and verdicts" and with "Firm and fair: improving the delivery of justice in Scotland". Unfortunately, I have not been able to get a hold of those papers; they are not on a website and we have no copies. Those documents were all about reviewing the jury system. As we all know, a jury in Scotland has 15 members and a decision can be made by eight to seven against or in favour of a defendant, which is unusual. In England, a majority of at least 10 to two or 11 to one is needed; that depends on the situation with the jurors. In New Zealand criminal trials, a unanimous jury verdict is required. Luxembourg has abolished the lay element, but I do not suggest that we should do that. In Norway, a majority of seven to three is required from the 10 jurors. Therefore, we are unusual. My first question is: will the Executive do anything in the current justice system to consider that or does it intend to do that? I understand that the case that I have dealt with for some time was concluded by the narrowest of margins.

In April 2004, a Queen's counsel and two solicitor advocates were asked to give opinions for the Scottish Criminal Cases Review Commission about whether there was a case for the commission to reconsider the matter. I will quote just one of those opinions, which is by the solicitor advocate who acted on behalf of my constituent, David Pugh. He said:

"In light of this decision I find it difficult to see how SCCRC can possibly conclude that there is no miscarriage of justice in the circumstances of the ... case."

The fact is that a refusal was given. However, my question is about the time that was taken. I wrote in May 2004 to ask the commission to make a speedy decision, but it was 1 December before the decision was finally made. I therefore suggest that the commission's people and offices need more resources. Are such decisions intended to be speeded up? After all, we are dealing with the lives of people who are in prison.

**Stewart Stevenson:** I am listening with great interest to Mike Pringle, but might he care to agree that the disappointingly low conviction rate for rapes is of equal concern in the criminal justice system, albeit that I am not sure whether anyone has identified a clear way to step that up much?

**Mike Pringle:** I totally agree with that. However, we are dealing here with a miscarriage of justice.

Subsequently, the three men in question asked for and received an opinion from Aidan O'Neill who, as any lawyer in Scotland knows, is perhaps among the most highly respected Queen's counsel who deal with human rights issues. Anyone who reads his opinion will be left in no doubt whatever that he thinks that we should look at this case again.

The First Minister said today that he wants to reform legal aid. As far as that case is concerned, we are now waiting for a decision on the question whether the gentlemen will receive legal aid. A letter that I received when I returned to Parliament today says that that decision will now be taken on 27 September. We have been waiting for it for a substantial time.

The First Minister also said in today's statement that he wants to restore among communities and individuals respect in the law. I have to say that the three individuals—David Pugh and Kevin Kane, who are my constituents, and Brian Meighan—have lost faith in the justice system. I have been involved with their case for more than two years and have lost count of the number of meetings that I have had with all sorts of people in the legal system. Of course, I am no lawyer, but all that I have seen leads me to the conclusion that the three men deserve to have their case brought back before the courts. They have said that even when they are released on 1 November they will continue to fight the case because they know that they are innocent of the charges. I, too, believe their innocence.

It is not too late. People out there know the real facts of the case. Sadly, I cannot bring those facts forward. However, I hope that, at some point soon, someone will be able to prove the men's innocence and exculpate them.

15:47

**Karen Gillon (Clydesdale) (Lab):** As the theme of this section of the debate is justice, I will focus my remarks on an area where I think justice is still lacking: corporate accountability for culpable homicide.

On 22 December 1999, an explosion rocked large parts of my constituency. Some thought that it was a bomb, while others thought that it was a plane crash reminiscent of the Lockerbie tragedy. Windows 6 miles away rattled in their frames.

In the hours that followed, the full scale of the explosion and the tragedy that it caused just three days before Christmas became apparent. On the evening of 21 December, with the excitement of Christmas approaching all too real, Andrew and Janette Findlay put to bed their two children—13-year-old Stacey and 11-year-old Daryl. By 5.30 the next morning, they had all perished in a massive explosion that destroyed their family home. Those of us who visited the site that day found it unbelievable: a whole house had disappeared and small fires burned round about us. I pray to God that I never see anything like that again.

Initial investigations in the immediate aftermath pointed to a gas explosion. Within the week, my colleague Jimmy Hood and I had met the Health and Safety Executive and Transco. We were assured by the HSE that there would be a thorough investigation and Transco promised full co-operation in an attempt to avoid any further distress for the families and the community. We took both parties at their word.

For its part, the HSE was true to its word. Working with the police, it carried out an extensive investigation. Eventually, in February 2002, a decision was taken—rightly, I believe—to prosecute Transco on a charge of culpable homicide and on an alternative charge under sections 3 and 33 of the Health and Safety at Work etc Act 1974.

Although the case was due to come to court in March 2003, Transco successfully appealed. The appeal court ruled that a charge of culpable homicide could not be brought against a company per se and that, under Scots law, it was necessary to identify a controlling mind. As a result, the company somehow appeared to be above the law.

A company—in this case, Transco—which, at the beginning, promised full co-operation has done nothing but the opposite. It has done everything in its power to avoid its corporate responsibility and has demonstrated everything that is wrong with today's corporate society. That was never truer than in the case that concluded on 25 August. I pay tribute to the prosecution team, which was led so well by advocate depute Frank Mulholland QC. The team was involved from day one, and went

above and beyond the call of duty and kept the family fully informed of progress. Many others could follow that example of good practice. I hope that ministers and the Lord Advocate will examine that.

The trial lasted six months. The crux of the matter was a type of gas main that as far back as 1984 was shown to corrode within 10 years of being laid in clay soil; yet, by the time 42 Carlisle Road Larkhall was destroyed, there was no co-ordinated and considered programme to replace ductile iron pipes. Throughout the trial, Transco tried to duck, dive and downright avoid responsibility for what was in front of it. In fact, I am sure that if it could have done so, it would have laid the blame for this deep-seated corporate failure on somebody else.

There was a lot of talk of cost and risk. Like most people, I accept that risk exists. If I get into a car or undertake a difficult and hazardous job, there is a risk. However, I cannot accept that when I put my two children to bed there is an acceptable risk that none of us will see the morning—not when that risk is determined by a private company that can put profits before people. In this case, Transco did exactly that and determined that the replacement programme for ductile iron pipes should take second place. From the time of privatisation in 1985, Transco made annual post-tax profits that were often in excess of £50 million. Mains replacement can, of course, be written off against tax.

When the explosion happened, Transco could not tell us what type of gas main ran through Larkhall. It thought that the heavily corroded pipe was polyethylene. Surely in 14 years it could have found out that information. It also tried in its defence to shift responsibility for the deaths of Andrew, Janette, Stacey and Daryl. In the dock was a corroded mains pipe with more than 19 holes in it—a gas main that carried a highly explosive material but which was so corroded that a witness was able to make an additional hole with their fingernail. It literally flaked away in front of the jury. Transco tried to avoid responsibility, but the jury was not fooled and unanimously found the company guilty of all charges in relation to breaches of health and safety legislation. However, Transco cannot find it within itself to say sorry.

The judge handed down the biggest fine in history of £15 million and was scathing about the company's failure to show corporate regret. In the days that have passed, some have said that justice has been done. In some ways it has been—it is a remarkable result that 13 ordinary men and women said that corporate Transco failed the public and failed the Findlays. However, I believe that Transco has escaped facing the

charge that it undoubtedly should have faced: corporate culpable homicide. That is because Scots law is unable to deal with a company that has changed in so many ways over the past 20 years. Although of course, in some circumstances, it will be impossible to identify an individual, if they can be identified, they should be prosecuted. However, that does not mean that a company that failed in its duties and was guilty through its acts—sometimes of omission—for the deaths of others should not be responsible for their culpable homicide.

I firmly believe that a gap exists. In a modern Parliament in a modern Scotland, we must make our laws reflect what is happening globally, and in turn reflect the nature of companies. We must hold them better to account, in the same way that we would anyone else. I know that the Minister for Justice is examining the issue and has set up an expert group, but in time it will be for the Parliament to legislate. The question for the minister is, if the expert group recommends changes to the law, will there be time in this legislative programme to make them?

This is unfinished business. Only when the loopholes have been plugged and we have made changes will we as a Parliament be able to look the family of Andrew, Janette, Stacey and Daryl in the eye and say that they did not die in vain and that justice has truly been done.

15:54

**Ms Rosemary Byrne (South of Scotland) (SSP):** The Executive has been in power since 1999 and likes to make statements about justice, yet poverty and the injustice that it brings still exist. A quarter of children live in poverty; an improvement on a third is nothing to celebrate—it is shameful in a country with Scotland's wealth.

Although drug-use patterns vary throughout the country and drug use tends to be highest in urban areas, the problem is countrywide. As we know from recent figures, the number of deaths that result from drug use is on the increase. The most recent figures from the registrar general for Scotland show that the number of drug deaths is up in greater Glasgow, Grampian, Argyll and Clyde, Lanarkshire, Tayside, Fife, Forth valley, Ayrshire and Arran and the Highlands. In 1999, the Executive set a target of reducing the number of drug deaths by at least 25 per cent, but the number has increased by 12 per cent in the past year. Of those who died, 87 per cent were under 45 and almost 25 per cent were under 25. We are now in a tragic situation in which almost one person dies every day from drug misuse.

Where are the drug rehabilitation centres that are so badly needed? When Cathy Jamieson

recently announced extra funding for drugs services, I remember talking once again about the campaign for a rehabilitation centre in Irvine, which has been going on for five years. There is a great need in north Ayrshire to deal with the massive problem of the queues of people who are waiting to get on to methadone. However, instead of money for a rehabilitation centre, we got money for an abstinence programme. I do not have a problem with abstinence programmes, but people must be led towards such programmes and the best way in which to do that is to have decent community-based rehabilitation facilities. I intend to resubmit my proposals for a bill on community-based rehabilitation.

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

**Ms Byrne:** I am sorry, but I do not have time.

Many talented and hard-working individuals and organisations work in the field of drug rehabilitation, but they need funding to carry out their work. In July, Cathy Jamieson announced the allocation of £4 million for drug treatment services, which is to be welcomed. However, that is not extra money but merely part of the £6 million to which I referred earlier. We must consider where the money is to be spent, because that is the greatest concern. It is crucial that money goes to the front-line services that have the greatest impact on reducing drug harm.

It is typical of the Executive's approach to the drug problem that it has ring-fenced £2 million for criminal justice intervention. It is indicative of the Executive's attitude towards drug services and drug users that if a user successfully completes a drug treatment and testing order—under which they are given the treatment and help that they need—they are then forced to join the back of the queue for mainstream drug services in the community. If a person lives in north Ayrshire, that is a long queue.

Drug users and their families need help and support, not just to stop using drugs but to stay off drugs and to get the training and education that they need to turn their lives round. The emphasis on reducing reoffending will have no effect without proper long-term funding of front-line services. Without that, drug users will continue to undergo treatment and then return through the revolving door to prison when the treatment runs out, or they will continue to stagnate on a waiting list.

The Advisory Council on the Misuse of Drugs estimates that between 41,000 and 59,000 children in Scotland live with a drug-using parent, which means about 4 to 6 per cent of all children under 16. Many of those children are looked after by family members, often grandparents. We must recognise kinship care properly and realise what it

can bring to vulnerable youngsters. Such care gives children a sense of emotional permanence and stability, maintains links with other family members and friends, and sustains racial and cultural heritage, all of which are greatly beneficial to children. However, it must be recognised that for the grandparents who provide such care, it can mean a shortage of money, a loss of independence, overcrowding in the home and increased stress. We should address those matters. We must develop specialist support for those grandparents and family members. We must have a system that takes a proactive approach to the care of children rather than one that uses family members to bail it out. We require a national strategy to tackle the inadequacies of the current system.

The Executive's other pet project in justice is antisocial behaviour. Yet again, we have heard the usual rhetoric. The Executive finds it easier to demonise young people than to engage with them and prefers to punish them rather than identify and address the reasons for their challenging behaviour. Not only do the policies that the Executive pursues not address the reasons behind antisocial behaviour; in many cases they cause that behaviour. Young people are continually stigmatised, which lowers self-esteem, marginalises them and sends a clear signal to them that they are worthless and not valued by their society. Is it any wonder that they lash out?

Many of our young people are not given the education that they need. They are not adequately supported in their special educational needs. Some 50 to 65 per cent of the prison population lack functional literacy and numeracy, which is nothing for us to brag about. In 2005, 60 per cent of inmates at Polmont young offenders institution could not read or write. We are failing a significant number of our young people on a daily basis.

Class sizes in the primary sector might be decreasing, but that refers to the class average. Many of our children and young people still sit in classes of 33. The situation is unequal and causes disadvantage. It is time to move on class sizes and to legislate to have no more than 20 pupils per class. If the Executive is not prepared to look at the matter, I will consider lodging a member's bill. It is a disgrace that we have such an uneven system for our young people, so much illiteracy and a lack of numeracy skills. I hope that the minister, who congratulated himself this morning on improving our schools, will bear it in mind that, in improving our schools, we are not best serving the needs of every young person.

16:01

**Mr Stewart Maxwell (West of Scotland) (SNP):** Many of the measures that have been announced

today are welcome. They do not divide the chamber and they will be supported by most members. However, in some areas it is not clear how those wishes will be enacted.

There is widespread support for remanding in custody many of the people who are charged with the most serious of offences but, as the First Minister said, even after the proposed changes, it will be up to the judges to decide whether to grant bail in those cases. Judges will have to take into account the rights of all those involved, both the victims and the accused. They will also have to take heed of the ECHR. However, that does not mean that they should give bail almost automatically; there needs to be a more robust interpretation of the ECHR. It is not the case that all over Europe everyone is getting bail. In many other countries, the use of the ECHR has not fundamentally changed the number of people who receive bail or who are remanded.

It was good to hear in the First Minister's statement about the priority that is being given to tackling the scourge of drugs in our communities. However, his upbeat message of success does not equate with the reality of life in those areas that suffer under the scourge of drugs. Only this morning it was reported that the price of cocaine on the streets of Scotland has fallen by 20 per cent since last year. The only reasons for a drop in price are that the supply has increased or that there is more competition in the marketplace—in other words, there are more drugs on the streets and more dealers.

The Executive is simply not doing enough to tackle the problem. Drugs destroy lives and blight communities. They place an extra strain and burden on the health service and on local government departments such as social work and they are responsible for a large percentage of the crime that is committed. The crimes that are committed range from petty theft or shoplifting in order to raise funds to pay for the drugs right up to neglect of their children by some addicts, and they include assault and murder by the dealers. We cannot allow that to continue because to do so would be to deny justice to those who are suffering under the drug culture. We need to invest in the treatment and rehabilitation of addicts to ensure that they get themselves drug free and remain so. As my colleague Kenny MacAskill said, we have to tackle the problems of drink, drugs and deprivation if we are truly to turn things round.

I welcome the announcement of the doubling of the maximum penalty for carrying a knife. I hope that the courts will take note of that and treat knife crime with the seriousness that it deserves and demands. One just has to ask any doctor or nurse—particularly any who works in accident and emergency—about knife culture in Scotland and

they will paint a vivid picture of the problem. However, much of the evidence is anecdotal, as knife wounds are not notifiable. Why is it that a knife wound is not a notifiable injury? When someone comes into A and E with a wound from a firearm, hospital staff are obliged to notify the proper authorities, but they are under no such obligation to report knife injuries in the same way. Surely we should reconsider that and look at making knife wounds notifiable. By doing so, we would start to gain a clearer understanding of the problem and we would help the police to do their job.

It is clear that Scotland has a problem with knife crime and it is only right and proper that we introduce laws to tackle it, even if they are different from what happens in the rest of the UK. That is why it is puzzling and downright illogical for the First Minister to argue that it is right to have different laws on knife crime on either side of the border but wrong to have different laws on firearms. The First Minister talks about the benefits of consistency in gun laws across borders but argues the opposite in relation to knives. He is right that the Scottish Parliament should do the best for Scotland when it comes to knives, but he is completely wrong to say that we must not take a different point of view from Westminster on firearms. What will he tell the people of Scotland if Westminster decides not to act or if it does not go far enough in tackling the problem? Is there a plan B? It does not sound as if there is one. It is clear that we need to act. No solution to the firearms issue in Scotland will come from begging, hoping and praying that Westminster will act for us. We should take the powers and we should take the action.

I am sure that many people will be waiting with interest to hear the detail of the Executive's plans for the children's hearings system. It sounds fine for the Executive to do such things as reducing paperwork, as the First Minister stated this morning. However, as we do not have the detail of the changes that are to be made, we will have to reserve judgment until we find out what is proposed.

The Executive did not announce today its plans to tackle one of the biggest problems that faces the children's hearings system, which is the lack of volunteers to staff the panels. The problem of recruiting and retaining panel members is not being tackled and yet, without the men and women who volunteer to sit on the panels, the system will collapse.

**The Deputy Minister for Education and Young People (Robert Brown):** I can answer that point with some degree of personal knowledge, having been responsible for and present at the launch of this year's recruitment process. As I

understand it, it is not true to say that we are not recruiting enough people. Both this year and last year, we got a lot of applicants. Obviously, if we are to keep up the numbers, the process has to be repeated each year. I accept that point entirely, but a shortage of children's panel members is generally not an issue across the board.

**Mr Maxwell:** My understanding from talking to panel members is that that is not the case. In fact, I understand that there is a problem with retention and numbers. There is also a problem in respect of people who start their training but fail to complete it; people are dropping out before they complete even the training. Clearly, the problem needs to be looked at.

I believe that the problem of recruiting and retaining panel members is not being tackled. The men and women who volunteer need our support. They also need the support of their employers, who are part of the recruitment and retention problem because they put pressure on employees not to volunteer as often as they would like to do. I hope that, in addition to updating the administrative side of the children's hearings system, the Executive will explain how it will tackle the recruitment and retention issue.

The Scottish National Party will support many of the measures that the Executive has announced today, but we will also await the detail of many of them with interest. However, on firearms and knife crime, the Executive plans may not go far enough.

16:07

**Cathie Craigie (Cumbernauld and Kilsyth) (Lab):** I am pleased to take part in this afternoon's debate. In outlining the Executive's programme up to 2007, the First Minister has set out a vision of a strong and ambitious Scotland where opportunities are available not only to a few but to us all, regardless of our background or where we live.

The First Minister set out a programme for health improvement, economic growth and prosperity for all of Scotland to share—a programme that will ensure that no child is excluded, left behind or held back. The programme will allow us to build a Scotland where we show respect for one another and where the justice system is efficient, fair and respected by all of us. I am sure that the vision is one that all members share—certainly, I share it.

We want to see safe and strong communities in which people can take a pride in their surroundings and feel safe and secure in their own homes. As the Minister for Justice outlined this afternoon, the Parliament has already passed legislation to give tools to the police and local authorities to protect our communities. We have heard about and we can see good examples of

where the new powers are being used. However, for some people the powers are not being fully used. The ministers with responsibility for delivering the antisocial behaviour legislation and programme should ensure that the good practice that they see up and down the country is adopted in all council and police force areas. We need to protect our communities, particularly the most vulnerable people in our communities.

This afternoon, I will highlight some concerns that a group of people who live in my constituency and elsewhere in Lanarkshire have about the justice system. They do not feel that they are served by our justice system. They have experience of seeing injustice and a lack of protection for the most vulnerable people: our young children. They see that their children have been denied justice because of their age, because they are considered by our legal system to be too young to be reliable witnesses in court. They see that their children have not been treated fairly and that they are not being given the protection that they need from paedophiles.

As I am sure we all know, paedophiles do not have horns or a tail; they look normal—whatever that is—and come from all walks of life. However, paedophiles are extremely cunning and clever people. They know the score exactly and they are always one step ahead. Their actions are premeditated.

Having found that out, this group of women banded together. They could not believe the experiences that they had had once they discovered that their young children had been sexually abused by a person whom they and the child trusted. When they took the matter to the police and the social work services, they were met with sympathy and were able to get evidence that could be backed up medically. However, when they took that to the courts, they were told that there was no corroborating evidence and that there were no corroborative witnesses. They were failed by the courts and the legal system.

The self-help group has banded together because its members want to change the way in which sexually abused young people are treated by the legal system. I understand that only around 5 per cent of the reported cases go to court and that only 2.5 per cent ever get a conviction. While the paedophiles walk free, the victims and their families have to get on with mending their broken lives. The parents have to deal with children who are emotionally confused, hurt and frightened because someone whom they trusted has harmed them and because their family has broken up. Having had no redress from the courts, mothers find themselves in civil courts defending their young child from the abuser by challenging access rights.

The parents in the self-help group feel that the present law and the child protection system are failing their children. I invite the minister to meet them, hear their views and concerns and try to find ways in which their suggestions can be addressed through legislation.

One of the Scottish Executive's documents says:

"All children in Scotland deserve to be cared for and protected from harm and to grow up in a safe environment in which their rights and needs are respected."

As I said, the paedophiles seem to be ahead of the game. Let us get ahead of them and put in place practices that protect all our young children all the time.

16:13

**Patrick Harvie (Glasgow) (Green):** The Minister for Justice described a huge agenda for change—it looks as though the Justice Department is in for another busy year. I am sure that many issues will be raised that well deserve to be on the agenda. In the debate on those issues, a response is demanded to recent high-profile and shocking events, to which Jeremy Purvis and others referred. The First Minister is right to say that we must learn lessons from those events. However, learning lessons is not the same as allowing our approach to be driven by those cases. Clearly, if someone poses a risk to the public, it might be dangerous to grant them bail. However, bail exists for good reasons and it would equally be wrong to place individuals on remand who do not need to be there simply because of a feeling that something must be done.

I was, therefore, a little disappointed by the First Minister's response to Mr McLetchie's question on that issue. I did not hear a robust and solid defence of the place of human rights in our society. We had to wait until Pauline McNeill spoke—and she did so very well—to hear a solid defence of human rights.

Human rights are a basis of a modern democracy. They have repeatedly come under threat, not only from those in the Conservative party who regret the introduction of the Human Rights Act 1998, but from the UK Government and other Governments. That is why the move towards a Scottish commission for human rights is so important. It is a move for which we have been waiting for some time. I congratulate the Liberal Democrats on whatever influence they have brought to bear. I welcome the fact that we will see the commission established through this year's legislative programme—and, incidentally, I think that MSPs need an independent source of advice on the legislation that comes before us.



In his statement, the First Minister implied a moving away from a narrow comparison with England and Wales; he talked about Scotland in relation to the rest of the world. I ask the Deputy Minister for Education and Young People whether, in his closing speech, he can confirm that the Scottish human rights commission will conform to the highest international standards for such organisations, will report to the Parliament rather than to the Executive and will have the power to take cases on behalf of individuals and groups in society. I also ask him to say something about the resources that the commission will have to do its work.

Another important body that the Justice Department will be working on during the coming year is the police complaints commission. That commission was promised in the partnership agreement; again, I congratulate the Liberal Democrats on whatever influence they have brought to bear. I hope that the commission will be all that it can be. Recent events in London have shown the pressing demand for truly independent scrutiny of complaints about the police. The commitment in the partnership agreement to create an independent police complaints commission appears to be a little stronger than what we heard from the First Minister, who spoke about introducing an "element" of independence into the police complaints system. I would be grateful for an explanation of the difference between the forms of words used.

**Jeremy Purvis:** Is the member aware that a crucial difference between Scotland and south of the border—I am thinking about the London case—is that, if there are allegations of criminality, we in Scotland already have the Procurator Fiscal Service to investigate cases? That service is independent of the police. The issue is about getting the right solution not only to secure independence, but to fit the Scottish system.

**Patrick Harvie:** The perception of independence is especially important. People who make complaints—in particular to do with difficult and high-profile issues that may come up, although we hope that they will not—have to have faith that the system dealing with the complaint is entirely independent not only of the police, but of political interference. I look forward to our attempts to debate these issues in more detail.

There are other issues on the justice agenda that I welcome but do not have time to go into. I am pleased that the First Minister confirmed that street prostitution will be addressed. The issue is by no means an easy one. In my party—and I suspect in most parties—a range of views is held. We will engage in that debate seriously, rather than, as Mr MacAskill did, making offhand comments about Soho—an area of London that I particularly enjoy, I have to admit.

I am sure that we will welcome the work on knife crime. I am also pleased that the issue of hate crime has been mentioned—I am sure that progress will be made on that. I congratulate the First Minister on his continued commitment to tackle the issue of sectarian marches. I am sure that he will have our support and the support of communities throughout Scotland for that.

16:19

**Paul Martin (Glasgow Springburn) (Lab):** I listened carefully to Jeremy Purvis's speech. It is none of my business where he lives, but I know that he does not live in the Croftcroighn Road area of Ruchazie. If he did, he would have welcomed the respect campaign of the Prime Minister and Jack McConnell. The people who live in that area deserve respect. The majority of people in Glasgow and other parts of Scotland are good and hard-working people and the people in my constituency, although a minority, deserve to be represented in this Parliament. I made it my business to represent them by helping to deliver the Antisocial Behaviour etc (Scotland) Act 2004. Those people are entitled to have bus services that others do not have. FirstGroup is entitled to run its bus service and not face £1 million of damage to its buses. We are entitled to represent those people. I welcome the respect campaign and the campaign that we have launched here today in that regard.

**Jeremy Purvis:** I could explain the problems of antisocial behaviour in my constituency at length—it is because of them that I supported the passage of the Antisocial Behaviour etc (Scotland) Bill in the Parliament. Does the member acknowledge that respect can be, and should be, a two-way process, especially when it comes to younger people?

**Paul Martin:** Absolutely, and I will return to that point later if I have time.

I agree with Pauline McNeill on a lot of issues, but I would like to clarify a point that she made about knee-jerk reactions. Mark Cummings was murdered last July. Any proposals that are made in the Parliament today to deal with sex offenders are not knee-jerk reactions. Let us make that clear. I note Pauline McNeill's concerns about the existence of some form of interim register. She is entitled to her point of view. However, I think that victims are also entitled to their views and to the maximum protection that we can afford them. I take the issue that Jeremy Purvis raised seriously and I think that these matters can be worked through. In particular, I believe that the sex offenders register can be made a permanent register.

To reiterate a point that the First Minister made, bail conditions alone will not manage sex offenders or potential sex offenders. There must be the maximum opportunity to consider legislation in this area. I would like to make a proposal similar to one that Stewart Maxwell made in respect of another issue. The Scottish Drug Enforcement Agency is one of the most successful models in the world in tackling the issue of drugs and I ask the minister to consider the establishment of a similar agency for dealing with sex offenders. Our current approach to managing offenders is well meant, but we do not have a co-ordinated way of dealing with offenders in the most effective manner.

**Tommy Sheridan (Glasgow) (SSP):** Will the member take an intervention?

**Paul Martin:** I am sorry, but I do not have time.

I ask the Minister for Justice to consider an approach in which a wide range of bodies could co-operate to ensure that we monitor—and enforce legislation dealing with—the most dangerous individuals in our communities. Cathie Craigie set out the concerns of her local community—many other communities throughout Scotland have similar concerns. The formation of an agency to share expertise throughout Scotland would give us the opportunity to manage the individuals concerned rather than allowing them to manage us. I have made that point on a number of occasions in the chamber and I make no apologies for making it once again. We need to manage the offenders. Far too often, they manage our communities. Civil liberty issues will arise. As a socialist, I have always respected those issues, but I point out to Patrick Harvie that the balance must be in favour of maximising the protection that is afforded to our children.

The minister spoke about the consideration of Margo MacDonald's Prostitution Tolerance Zones (Scotland) Bill. I continue to be utterly opposed to that bill, which I do not think offers the way forward. However, I welcome proposals to take to task those who are involved in the purchase of sexual services.

16:23

**Margaret Mitchell (Central Scotland) (Con):** The debate is aptly about justice and respect, for the two go hand in hand. The establishment of the rule of law is a prerequisite of any society that claims to be civilised. Put simply, there must be a healthy respect for the law. It is against that benchmark that the Executive's programme and priorities must be judged.

It is indisputable that, all too often on the streets of Scotland today, there is little or no respect for the law. That point is starkly highlighted by the

incidence of knife crime, which has reached epidemic proportions in Central Scotland alone. The following headlines represent a flavour of what has been going on in the real world while the Scottish Parliament has been in recess. In July, we read: "Late night taxi driver robbed by gang of knife thugs". Another headline was: "Girl, 13, watches in horror as dad is knifed by thugs". In August, there was the following report: "Knife victim fighting for life after brutal attack". The victim had been stabbed repeatedly in an incident that took place near his home. In September, the headline appeared: "Police renew appeal: Who saw this vicious knife attack on boy?" The boy had been left for dead in a pool of blood, with a 6in wound to his neck. Last week, a teenager appeared in court after a knife attack that left a 16-year-old boy with serious lacerations to his face and neck.

Although I commend the Executive for recognising and singling out knife crime as an issue that must be tackled, the proposed penalty for possession is woefully inadequate and will do little to end the spiral of vicious and brutal attacks, the number of which is continuing to increase. With automatic early release, a sentence of four years becomes one of two years. There is also the option of further time off under the home detention scheme. I call on the minister to think again and either to end automatic early release for possession or to impose a sentence that ensures that there is a realistic prospect of anyone who is found in possession of a knife serving four years in prison. There is no doubt that those who commit such crimes are deterred from doing so by the fear of being caught, coupled with the certainty thereafter of a stiff and prohibitive sentence. This morning, the First Minister stated that he wanted to re-establish respect and confidence in the law. Tackling knife crime by ensuring that four years means four years would be a promising start.

I call on the minister to consider introducing another measure that has not been mentioned today. We should ensure that the Scottish intelligence database, to which every police force in Scotland has been signed up since February, is linked to the violent and sex offenders register as soon as possible. It is essential that, in attempting to detect and deter sexual offences, the police have every possible resource at their disposal. I believe that linking SID and VISOR would provide an answer to much of the debate about an interim sex offenders register. Such a register would not be necessary if that simple and easily taken measure were put in place. Linking SID and VISOR would ensure that the police had every possible resource at their disposal and it would make a huge difference to the policing of sexual offences and sex offenders in Scotland.

**The Deputy Presiding Officer (Murray Tosh):** I offer my regrets to Bruce McFee, but we must now move to closing speeches.

16:28

**Dr Sylvia Jackson (Stirling) (Lab):** I welcome the Executive's legislative programme for the next 19 months. This afternoon's debate has rightly concentrated on the proposals for improving the justice system, which will build on the work that is already under way to modernise systematically the justice system in Scotland, as the First Minister said.

As the First Minister and the Minister for Justice outlined, work has already been done in a number of key areas. There has been reform of the High Court, the effects of which are already being seen. There have been new laws to deal with antisocial behaviour and the Parliament is considering the Management of Offenders etc (Scotland) Bill. The Local Government and Transport Committee, of which I am a member, is reviewing the licensing laws. There has been action on environmental crime. More police have been put back on the streets, with community wardens to back them up. The introduction of community wardens has been warmly received in my constituency and I am sure that the same is true in others. The measure will be built on.

Labour has always promised to create strong, safe communities and to tackle antisocial behaviour. We are taking the issue seriously—indeed, it was one of the main planks of our manifesto. We are not demonising young people, as some people think and as was suggested earlier—quite the opposite. With the huge input of money that is being provided to schools and for regeneration, we are endeavouring to give every pupil the best possible chance and a good start in life.

In my constituency, the new antisocial behaviour strategy that has been developed by the police, the council and other stakeholders is nearly complete. For the first time, we should have more cohesion within the system for dealing with what is a serious issue. At last, we will have more effective action against antisocial neighbours who make so many people's lives a misery.

As the minister outlined, there are many issues on which by continuing to work with the UK Government we can achieve a more effective outcome. Tackling serious organised crime and the war against terror are two examples of that. Over the next 18 months, we will also strengthen the work of the SDEA, which is to be renamed the Scottish crime and drug enforcement agency, reflecting its role to fight all forms of international and organised crime. There are also close links

with the UK Government to strengthen the law on firearms, especially air guns. I note, however, that there are different views on that issue. My view, contrary to the SNP's, is that our approach is, without question, the right way in which to go. The benefits of consistency in gun law across borders far outweigh those of any go-it-alone approach. The Home Office is in the final stages of considering the proposals and is expected to be able to announce details of new restrictions soon. We look forward to that.

The proposed police, public order and criminal justice bill will further improve community safety. The bill will introduce football banning orders and mandatory drug testing for people who are arrested for drug-related crimes—we have heard a lot about drugs this afternoon—and it will double the maximum penalty for carrying a knife, a measure that has been warmly welcomed. The bill will prevent the antisocial use of fireworks and it will allow suspects in crimes to be identified more effectively. It will also include new ways for local councils to impose conditions on marches and parades. As the First Minister said, sectarianism is a stain on Scotland. If there is a proven record of disorder, violence and displays of sectarian hate at marches, councils will, under the bill, be able to ban the marches in future years.

We have also heard about the proposal to improve the system of summary justice. The first priority must be to reform and improve systems for the bail or remand of individuals who are accused of crimes. Pauline McNeill mentioned that. I welcome the fact that the granting of bail will be more difficult in cases of serious, dangerous and sexual offences. I also welcome the fact that the punishment for breaches of that bail will be more severe and consistent.

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** Does the member agree that we must be careful to uphold the long-held tradition in Scots and British law that people are innocent until a court decides otherwise, so that people who are accused are not persecuted? I know that the member has not said that they might be, but other members have said that. We must be clear about what we mean.

**Dr Jackson:** That is a fair point.

Pauline McNeill made the important point that the breach of a bail order must be dealt with effectively. Public safety must be paramount and the proposals should and must make it easier to protect the public from serious and violent criminals. There must also be action to improve the quality of the lay justice system, making fine collection and enforcement simpler and giving prosecutors more options in the handling of cases.

Many other issues have been mentioned this afternoon, including the proposed sentencing bill, the reform of the legal aid system—which is also to be welcomed—and the procedure by which complaints against lawyers will be dealt with. I have handled a few cases relating to the latter issue in my constituency. The review of the judicial appointments system has also been mentioned.

I am pleased that the issue of vulnerable children is at the forefront of our attention, along with the modernising of the adoption system and the issues that have been raised about inspection and the children's hearings system. Unfortunately, time does not allow me to go into those matters.

People must have confidence in the justice system, but, as Karen Gillon and Mike Pringle demonstrated, that is still not the case. We need further, faster and more visible justice, which the Executive's proposals will help to provide.

16:34

**Bill Aitken (Glasgow) (Con):** We Conservatives have had some enjoyment from today's proceedings. It is always a cause for pleasure when a sinner repents and we heard the First Minister acknowledge for the first time that Scotland's economic growth lags far behind growth everywhere else in the UK. He claimed that there were signs of recovery. Few of us can see them, but we applaud and take pleasure from the fact that he is now doing what my colleagues and I have for years been saying that he should do—setting a level playing field for Scottish business in relation to business rates.

On the basis that, as everyone in Glasgow says—I am sure that they say the same thing in Ayrshire—God loves a trier, we congratulate the Minister for Justice on some of the proposals that she made today. Again, however, there seems to be some resonance with what we have been saying for a number of years. I look forward to seeing the specifics of the proposals, because we could well see a reiteration—I hope that this is the case—of things that Annabel Goldie, Margaret Mitchell and I have been saying in the Parliament for some time.

**Cathy Jamieson** *rose*—

**Bill Aitken:** Given that the minister is obviously about to confirm that that is the case, I will quite happily give way to her.

**Cathy Jamieson:** I am sure that the Labour Party manifesto is not bedtime reading for Bill Aitken, but, if he checks the manifesto for the 2003 election, he will see a number of the commitments that we are now delivering contained therein.

**Bill Aitken:** Not suffering from insomnia, I have never found the Labour Party manifesto suitable bedtime reading.

The minister is now considering the issue of the payment of fines. I have been banging on about that for some time, because everything that she has introduced so far is not working. The custodial alternatives to fines are derisory and I think that we all agree that it is undesirable that people should be incarcerated for one day—unless they are members of the Scottish Socialist Party—for the non-payment of fines. We have to acknowledge that the fines will not be paid unless they are deducted from salaries or benefits, whether we are talking about members of the Scottish Socialist Party or genuine offenders. I hope that that penny has dropped.

We have to consider the operation of the bail system, but that will not be quite as simple as the minister and other members have suggested. The problem has been caused by the incorporation into Scots law in 1998 of the European convention on human rights, which has to a considerable extent left Scottish judges and prosecutors hog-tied. There has been a bit of ducking and diving and weaving and dodging of responsibility, which is perhaps unfortunate. However, as Annabel Goldie said, a sheriff or judge cannot refuse bail where the Crown does not object to it in court. It is clear that prosecutors, cognisant of the workings of the act that incorporated the ECHR into Scots law, are inhibited in raising objections. The only way around that is to lodge an amendment, by what means I do not know—no doubt constitutional lawyers can come up with the answer—to extricate us from the inhibited position in which the act has left us.

**Pauline McNeill:** Stewart Maxwell and I made the point about the robustness of sheriffs and judges in their application of the ECHR. I know that Bill Aitken takes a slightly different position from mine. He has more experience in the matter than I have, but I am sure that he would agree that some sheriffs are known for refusing bail in most cases and some for granting bail in most cases. Are we not entitled to a wee bit of consistency from the judiciary on that?

**Bill Aitken:** Oh yes. I do not take issue with Pauline McNeill on that. I certainly think that some sheriffs should be more robust, but it is appropriate to point out the difficulties.

We will not get terribly far on the question of early release, because we are inhibited by the self-same ECHR, under which, for example, a prison governor is not an independent tribunal as laid down in article 6, which means that early release is, in effect, automatic. No matter what a prisoner does, unless he commits a serious criminal offence that brings him back to court, he will not lose any remission.

There is an absolutely ludicrous situation at the moment, particularly with summary complaints.

Someone with a record of previous custodial sentences who has not broken into a house before can be caught for housebreaking and can receive a maximum sentence of three months. He may be caught on the premises with the person's property in his possession and may plead guilty because bail is likely to be refused as a result of his record. The maximum sentence of three months could be immediately discounted to 60 days as a result of his plea and that can be immediately discounted to 30 days as a result of automatic early release. The message that that sends out is simply crazy.

I hope that the minister agrees that I have highlighted reasonably constructively the real difficulties that exist and I look forward to hearing what she will come up with. If she does not come up with solutions, she will certainly hear from us again.

16:40

**Stewart Stevenson (Banff and Buchan) (SNP):** It is easy for members to agree that there should be justice and respect. However, I am reminded of the first substantial piece of legislation with which Jim Hacker had to deal when he came to office. Sir Humphrey Appleby and Bernard Woolley were discussing the freedom of information bill that was to be brought before the Parliament in Jim Hacker's name, and Bernard Woolley asked Sir Humphrey why the bill was called a freedom of information bill. The answer was that getting the difficult bits out of the way in the title means that nothing has to be done about them in the detail. As I have listened to the debate and to what the Executive has said in it, I have wondered whether justice and respect—which underpin the First Minister's programme—will map into actions on policy, legislation and funding that will deliver anything remotely like justice and respect. Sir Humphrey Appleby has much to teach us. I suspect that he is still alive and well.

The issue of sex offenders has run as a distasteful thread through the debate and will continue to challenge members in all parties in the chamber. There are no easy answers to the problem—anyone who tells me that there are does not understand it.

I want to draw on my experience from three years ago, when I visited Bapaume prison, which is some 50 miles north of Paris. Initially, I was told that the French prison service thought that there was a sexual component to the crimes of more than 50 per cent of male prisoners. The figure here is under 10 per cent. I challenged the French justice system on the matter on a couple of occasions and received entirely consistent responses. Are the figures explained by the French being more successful at finding sex offenders than we are? Is their culture totally

different from ours, or is the power ratio between men and women different in France from that in our society? The reason for the difference in the figures may partly lie in such things or in none of them, but the difference tells us that the issue is probably not well understood by us and possibly not by the French.

We talk about offenders. Paul Martin referred to the horrendous crime that Stuart Leggate committed in his constituency. Essentially, that crime sprung from inadequate supervision of a sex offender who was released into society after completing their sentence. We can do much more about such matters as supervision and we can do better.

We should not let what I say blind us to there being probably 10 times as many sex offenders whose names we do not know. So far, we have not sought to help children to detect and avoid paedophiles, but we must start to consider doing so. I am the son of a general practitioner who was—I suspect—rather enlightened. My father told me about such things when I was a primary schoolkid and I knew the people in my town whom my father thought were a potential danger. They were nowhere near the criminal justice system and were unlikely ever to be near it.

Children can protect children. We must help them to do that. That is one of a number of glaring omissions in the proposals before us today.

Another omission can be found in the draft budget for 2006-07, where we see that the Criminal Injuries Compensation Authority has a flat-line budget of £28.4 million. By contrast, the Scottish Prison Service is putting aside £44 million for potential claims and for compensating prisoners for the conditions under which they are held. That sits uneasily with the public, as it does with me and with many members in the chamber. We can respond to that discomfort by taking steps to ensure that, if money is to go into a prisoner's bank account, it is ring-fenced while an opportunity for the prisoner's victims to take action to sue the prisoner for the money is put in place. If the money goes through to the victims, where appropriate and where the courts decide so, that would have broad support, and I am saddened that the Executive's proposals have nothing to say on the subject.

Rosemary Byrne commented on the lack of rehabilitation for drug users, and I entirely agreed with the general point that she made. However, she focused particularly on harm reduction and seemed to say that that is far more useful than abstinence.

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

**Stewart Stevenson:** I do not have time.

Professor Neil McKeganey has just done a piece of research on the views of addicts who seek help. More than 50 per cent of them say that they want to move to abstinence; less than 5 per cent say that they want to maintain a safe level of drug use. That is not the whole story, but it certainly tells us that we must be wary of thinking that methadone is the only way of dealing with the issue.

We look forward with interest to, and potentially will support, many of the measures that the Executive will introduce. I have highlighted some of the gaps.

We have heard the old chestnut from the Tories—that if we lock up more people there will be less crime.

**David McLetchie:** True.

**Stewart Stevenson:** If the Tories can show me the research that proves that view, and how the documents issued on prison statistics and the people we lock up support it, I will believe them. The documents contain an international table and we can see that there is absolutely no correlation whatsoever. There is no sustainable argument for that view.

I close by saying that I am deeply disappointed not to have had George Burns, our own dear Deputy Minister for Justice, telling Gracie Allen, the lead in the show, “Say goodnight, Gracie.”

16:48

**The Deputy Minister for Education and Young People (Robert Brown):** I thank members for the contributions that they have made to an excellent debate. It has been a particular privilege, if I may say so, to follow Stewart Stevenson, who made a helpful and thoughtful contribution on the issue of sex offenders and touched on issues wider than those to which we are able to respond today.

The debate began with, and has occasionally wandered back into, more general issues to do with the legislative programme and the work of the Government in general, about which I will say only a couple of things. David McLetchie offered us a Government of a different character, but we had one of them already, before 1997. We did not like it and Scotland is highly unlikely to want it again.

It is also disappointing that Nicola Sturgeon has come back from the recess with her usual ability to turn every subject into an argument about independence—we always seem to come to the end point that independence is the answer to everything.

**Nicola Sturgeon:** Robert Brown has got the principle wrong.

**Robert Brown:** That is actually what Nicola Sturgeon said.

I turn to the justice debate. At the beginning of the debate, the Minister for Justice outlined a comprehensive range of measures to deliver on the Scottish Executive's criminal justice plan. Most of those measures have had broad support across the chamber. There may have been issues about timing or about why we do not introduce measures now rather than debate and investigate them fully, but there has not been essential disagreement with the general direction in which the Executive is going.

The Executive's commitments build on the partnership agreement to continue to work for a safer Scotland, the court reforms, the work of the Sentencing Commission, greater support for victims and vulnerable witnesses—on which this Executive has done far more than was ever done by previous Conservative Governments—and the effective management of offenders, rooted in a rigorous approach to justice and to human rights. Patrick Harvie rightly made the point that human rights and justice issues lie at the base of any criminal justice system.

In closing today's debate, I will put the reforms in the context of our broader policies for young people and of human rights more generally. We are talking about tackling the causes of crime—a phrase that has been used many times—and creating sustainable reforms that will make a difference to our local communities. Ultimately, there are no simple answers, but our approach means creating an inclusive society, where young people are not alienated and in which, in the words of the partnership agreement, every child and young person has the best possible start in life, is able to realise their potential and gains a sense of self-fulfilment. That involves using a broad spectrum of policies and programmes: early intervention to support the children of fractured families; reforming and modernising the children's hearings system to address the neglect and abuse that are so often repeated across the generations and lead from neglect at the age of six to criminality at the age of 16 or 17; targeting repeat offenders; breaking the culture of drug and alcohol abuse, disaffection, and low expectations that afflict so many communities; speedy and effective justice to protect local communities; and rehabilitative and restorative measures to reduce the likelihood of reoffending.

On Stewart Maxwell's point, there are many issues surrounding the way forward for the children's hearings system. The consultation will end at the end of September and we will take part in a full debate after that. The issues of recruitment are not so much about people coming in but about training and sustaining. Inevitably, in a system that relies on volunteers, there is going to be a certain amount of leakage of people who

serve for only so long and have to be replaced. No doubt there will also be local difficulties.

It is crucial that we tackle those basic problems that threaten our young people and communities—the three Ds that Kenny MacAskill mentioned. In our hardest hit communities, it is often our young people who are the victims, who pay the highest price for crime and whose hopes are diminished and dreams extinguished.

Since I became Deputy Minister for Education and Young People in June, I have had the privilege of visiting several projects, of meeting some very special young people and of being inspired by the limitless potential of Scotland's young people. Last week, I visited St Michael's Primary School in Dumfries—one of the schools chosen for the pilot anti-sectarian project—where I saw the change in attitudes and culture that can be wrought by good education and schooling. Yesterday in Glasgow, I opened the Scottish Throughcare and Aftercare Forum, which brings together young people who have been through the care system to engage in and debate the issues that arise in their lives. I also visited it last year, before I was a minister.

As Parliament knows, the young people involved are the 60 per cent kids—60 per cent of them will achieve no qualification. They will be the NEET kids—not in education, employment or training—about whom the First Minister spoke this morning. Many have had the most appalling start in life, and yet I met many such young people—some of whom I met last year—who are and will continue to be a huge credit to themselves and to Scotland. It struck me that to lose those young people to crime, homelessness and educational underachievement is a crime in itself, and something that the Executive and Parliament are determined to tackle.

We have continuing concerns about the levels of offending and reoffending by young people. Despite the scare stories, overall levels of offending are relatively stable, but in recent years we have seen a significant increase in the number of young offenders, and they are committing more offences. That small core of prolific and persistent young offenders—1,200 out of 1 million under-16s in Scotland—undermine themselves and their communities and have a negative impact on public perceptions of young people and on the effectiveness of our justice systems. The Scottish Executive is determined to challenge offending, to tackle issues in the lives of our children and to meet, in the First Minister's words, "persistence with persistence".

A good part of that work is preventing and diverting young people from offending through a range of positive interventions in which we are investing heavily. I take issue with Robin Harper's

suggestion that the Executive is not putting a lot of money into rehabilitation programmes. On the issue of drugs misuse mentioned by Kenny MacAskill, a parliamentary answer clearly showed the scale of the investment in that area. One cannot level a complaint against the Executive about the level of investment in that area.

**Robin Harper:** Surely the measure of the success of those interventions will be a reduction in the prison population. It is not reducing, so we are surely still not investing enough money.

**Robert Brown:** There are issues about the effectiveness of the investment. We must concentrate on what works and what does not. Robin Harper will agree with me that this is about rehabilitation, reform and restorative measures: that includes work in prison, work pre-prison, on avoiding prison, and education.

Any legal system must be based on an effective system of justice that commands public confidence—that issue has cropped up often in today's debate. Human rights are built into the very fabric of our Parliament, as Patrick Harvie rightly said, through the Scotland Act 1998. I have long thought that the primary benefit of a Scottish human rights commission would be to equip this Parliament with a body that can provide us with an effective and challenging human rights critique of legislation, based on the universal rights that the European convention proclaims. I will talk to Patrick Harvie further about such a commission as announcements are made on it, but appointments to it will be made independently by Parliament.

As the founding convener of the cross-party group in the Scottish Parliament on human rights, I am pleased to be charged with taking the Scottish human rights commission bill through the Parliament. Human rights are the basis of social justice and a driver for public services that we want to grow and improve.

**Patrick Harvie:** Will the minister give way?

**Robert Brown:** I am sorry; I do not have time to give way because I want to answer one or two of the points that were made in the debate.

A number of valid warnings were given—by Jeremy Purvis and Pauline McNeill in particular—about the issue of immediate gratification, which seems to characterise some of the statements by the Opposition parties, particularly the Conservatives. In a mature democracy we need to avoid immediate gratification and legislate carefully and cautiously in a way that will be successful and sustainable in the long term.

I have already touched on the points that were made by Robin Harper and Kenny MacAskill. Rosemary Byrne and Stewart Maxwell also made points about alcohol and drugs issues, in

connection with which the alcohol plan, the Nicholson review of licensing, the legislation that is following from that and the moving forward of drug-testing orders are all extremely important.

Karen Gillon raised the issue of corporate responsibility. I am sympathetic to the issue, on which I know she has had discussions with the minister, but we will have to see the report of the working group before we finalise matters. Cathie Craigie talked about parents' concerns about paedophiles living in their vicinity, and I am happy to meet the group that she spoke about. Paul Martin spoke about risk management. The Risk Management Authority has been set up but, again, the minister is in close communication with him about the matter.

The Scottish Executive's approach is a holistic one. The old approach of tinkering with discrete parts of our justice system in isolation will not achieve the improvements to the quality of life to which we aspire. Underpinned by a commitment to human rights, our comprehensive reform of our justice system will make a real difference. That will happen against the wider background of education, society and social justice, to which the Executive is so committed. The widening and increasing of opportunity for all our young people—not least those who have had poor and sometimes horrendous starts in life—to realise their potential in our country is an essential key to Scottish success through Scottish ambition.

## Business Motions

16:58

**The Presiding Officer (Mr George Reid):** The next item of business is consideration of business motion S2M-3228, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a business programme.

*Motion moved,*

That the Parliament agrees the following programme of business—

Wednesday 14 September 2005

2.30 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Executive Debate: Clyde and Hebrides Lifeline Ferry Services

*followed by* Finance Committee Motions: The Budget Process (Written Agreements)

*followed by* Business Motion

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Thursday 15 September 2005

9.15 am Parliamentary Bureau Motions

*followed by* Stage 1 Debate: Family Law (Scotland) Bill

*followed by* Financial Resolution in respect of the Family Law (Scotland) Bill

11.40 am General Question Time

12 noon First Minister's Question Time

2.15 pm Themed Question Time—Education and Young People, Tourism, Culture and Sport; Finance and Public Services and Communities

2.55 pm Executive Debate: Improving Scottish Schools

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Wednesday 21 September 2005

2.30 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Environment and Rural Development Committee Debate: 5<sup>th</sup> Report, 2005, Inquiry into Climate Change

*followed by* Standards and Public Appointments Committee Debate: Draft Consultation on the Code of Practice for Ministerial Appointments to Public Bodies in Scotland



*followed by* Business Motion  
*followed by* Parliamentary Bureau Motions  
 5.00 pm Decision Time  
*followed by* Members' Business  
 Thursday 22 September 2005  
 9.15 am Parliamentary Bureau Motions  
*followed by* Scottish Green Party Business  
 11.40 am General Question Time  
 12 noon First Minister's Question Time  
 2.15 pm Themed Question Time—  
 Environment and Rural  
 Development;  
 Health and Community Care  
 2.55 pm Executive Business  
*followed by* Parliamentary Bureau Motions  
 5.00 pm Decision Time  
*followed by* Members' Business.—[*Ms Margaret Curran.*]

16:59

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

My reason for opposing the business motion is the scheduling on Wednesday 14 September of an Executive debate on the Clyde and Hebrides lifeline ferry services. Members will recall that we had a debate on the issue last December and that the Executive's motion on its proposals for tendering most of the ferry services was finally defeated by one vote.

I am not arguing that the Executive does not have the right to bring its business back to the Parliament at some stage. I am arguing that, on the basis of other on-going events, it is premature to have the debate next week. There are two reasons for that. First, the Scottish Trades Union Congress, which is admittedly against the tendering proposals per se, has a meeting scheduled for 27 September with Jacques Barrot, who is the European Commission's vice-president with responsibility for transport. The STUC intends to explore some of the complexities of the issue with him—no one would deny that it is a complex and legalistic issue. Secondly, since the debate, I understand that the Local Government and Transport Committee has had witness sessions with various experts but has yet to publish its conclusions.

**Tommy Sheridan (Glasgow) (SSP):** Does Alasdair Morgan agree that the debate is particularly premature given that the Minister for Transport and Telecommunications has met the European commissioner but has not yet reported to the Local Government and Transport Committee to allow us to finish our inquiry? That is another reason why the debate should be delayed.

**Alasdair Morgan:** It is a good point that the committee should be able not only to listen to experts but to have the minister's response to the representations that have been made before it produces a considered report, which can hardly be done in time for next week's debate.

In the interests of democracy, of good governance, of those whom the ferries serve and of those who work with Caledonian MacBrayne, the proposed debate should be postponed—not indefinitely, but at least until the STUC has had its meeting and until the committee has produced its conclusions for members to examine. We have much experience of ministers having fairly elastic timescales when that suits them, so I simply ask for their timescale to be a little more elastic in this case.

If the Executive does not accept that argument, it runs the risk that others who are less charitable than me—I am always very charitable to the Executive—will conclude that the debate's timing next week perhaps owes more to the absence this month of four Scottish Socialist Party members than it does to any other necessity.

17:02

**The Minister for Parliamentary Business (Ms Margaret Curran):** I am happy to respond to Alasdair Morgan's points. I reassure him and all members that the business has been timetabled in that way for good reason. Ministers have undertaken all that they committed to do. I reassure Parliament that all options were addressed. The timetable honours the then Minister for Transport's commitment to return to Parliament at the earliest opportunity. I would have thought that it was in Parliament's interests that ministers should—as we are often asked to—treat Parliament as the primary organisation to report to.

I appreciate that some members take a different view and I acknowledge that they want to put off the matter for ever and a day in the mistaken belief that the harsh realities of hard decision making will go away, but that is not the case. I am in an odd position today. Normally, I face complaints from the Opposition about not timetabling debates; now, the problem is that I am timetabling one and that we are honouring absolutely the commitment that we made to Parliament.

I ask members, in making their decision, not to be distracted by the flimsy arguments that they have heard. The Executive is honouring its commitment. I can give guarantees that we are bringing forward the business on the basis of thorough and complete preparation. I therefore ask members to support the business motion.

**The Presiding Officer:** The question is, that motion S2M-3228, in the name of Margaret Curran, be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

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)  
 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)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marilyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 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)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)

Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 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)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**AGAINST**

Baird, Shiona (North East Scotland) (Green)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Lochhead, Richard (North East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 MacDonald, Margo (Lothians) (Ind)  
 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)  
 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)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)

**ABSTENTIONS**

Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

**The Presiding Officer:** The result of the division is: For 80, Against 34, Abstentions 1.

*Motion agreed to.*

That the Parliament agrees the following programme of business—

Wednesday 14 September 2005

2.30 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Executive Debate: Clyde and Hebrides Lifeline Ferry Services

*followed by* Finance Committee Motions: The Budget Process (Written Agreements)

*followed by* Business Motion

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Thursday 15 September 2005

9.15 am Parliamentary Bureau Motions

*followed by* Stage 1 Debate: Family Law (Scotland) Bill

*followed by* Financial Resolution in respect of the Family Law (Scotland) Bill

11.40 am General Question Time

12 noon First Minister's Question Time

2.15 pm Themed Question Time—Education and Young People, Tourism, Culture and Sport; Finance and Public Services and Communities

2.55 pm Executive Debate: Improving Scottish Schools

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Wednesday 21 September 2005

2.30 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Environment and Rural Development Committee Debate: 5<sup>th</sup> Report, 2005, Inquiry into Climate Change

*followed by* Standards and Public Appointments Committee Debate: Draft Consultation on the Code of Practice for Ministerial Appointments to Public Bodies in Scotland

*followed by* Business Motion

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Thursday 22 September 2005

9.15 am Parliamentary Bureau Motions

*followed by* Scottish Green Party Business

11.40 am General Question Time

12 noon First Minister's Question Time

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

2.55 pm Executive Business

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business.

**The Presiding Officer:** The next item of business is consideration of business motion S2M-3195, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out timetables for legislation.

*Motion moved,*

That the Parliament agrees—

(a) that consideration of the Environmental Levy on Plastic Bags (Scotland) Bill at Stage 1 be completed by 27 January 2006; and

(b) that consideration of the Housing (Scotland) Bill at Stage 2 be completed by 4 November 2005.—[Ms Margaret Curran.]

*Motion agreed to.*

## Parliamentary Bureau Motions

17:05

**The Presiding Officer (Mr George Reid):** The next item of business is consideration of five Parliamentary Bureau motions. I ask Margaret Curran to move motions S2M-3196 to S2M-3200 inclusive, on the membership of committees.

*Motions moved,*

That the Parliament agrees that Alex Johnstone be appointed to replace Mr Jamie McGrigor on the Procedures Committee.

That the Parliament agrees that Mr Ted Brocklebank be appointed to replace Alex Johnstone on the Environment and Rural Development Committee.

That the Parliament agrees that Mr Jamie McGrigor be appointed to replace Phil Gallie on the Equal Opportunities Committee.

That the Parliament agrees that Derek Brownlee be appointed to replace Mr Ted Brocklebank on the Finance Committee.

That the Parliament agrees that Mr David Davidson be appointed to the Local Government and Transport Committee.—[*Ms Margaret Curran.*]

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

## Decision Time

17:05

**The Presiding Officer (Mr George Reid):** I propose to ask a single question on motions S2M-3196 to S2M-3200 inclusive. The question is, that motions S2M-3196 to S2M-3200 inclusive, in the name of Margaret Curran, on the membership of committees, be agreed to.

*Motions agreed to.*

That the Parliament agrees that Alex Johnstone be appointed to replace Mr Jamie McGrigor on the Procedures Committee.

That the Parliament agrees that Mr Ted Brocklebank be appointed to replace Alex Johnstone on the Environment and Rural Development Committee.

That the Parliament agrees that Mr Jamie McGrigor be appointed to replace Phil Gallie on the Equal Opportunities Committee.

That the Parliament agrees that Derek Brownlee be appointed to replace Mr Ted Brocklebank on the Finance Committee.

That the Parliament agrees that Mr David Davidson be appointed to the Local Government and Transport Committee.

## Point of Order

17:06

**Chris Ballance (South of Scotland) (Green):** On a point of order, Presiding Officer. Will you clarify the status of party leaders with regard to ministerial statements from the First Minister on the legislative programme and other parliamentary occasions?

**The Presiding Officer (Mr George Reid):** The practice for at least the past two years has been to call party leaders to put questions to the First Minister in order and according to party size. I understand that, inadvertently, that did not happen this morning. I apologise to the Greens for that, and I intend to revert to past practice on future occasions.

## Autistic Spectrum Disorder

**The Deputy Presiding Officer (Trish Godman):** The final item of business is a members' business debate on motion S2M-2712, in the name of Karen Gillon, on autistic spectrum disorder. The debate will be concluded without any question being put.

*Motion debated,*

That the Parliament notes that, according to the latest census publication, *Pupils in Scotland, 2004*, there are 3,090 pupils diagnosed with an autistic spectrum disorder who have a Record of Needs and/or an Individualised Educational Programme in primary, secondary and special schools in Scotland; further notes that, as it is a spectrum condition, children with autistic spectrum disorders have a range of abilities with some having complex needs; believes that a range of provision is required to meet the needs of each child appropriately and that this may include support from other agencies, and considers that the Scottish Executive should ensure that the needs of children with autistic spectrum disorders are appropriately met so that they can benefit from education and learning.

17:08

**Karen Gillon (Clydesdale) (Lab):** I draw members' attention to my entry in the register of members' interests with regard to the Clydesdale autism support group.

I thank the 54 MSPs who have signed the motion, particularly those who have been able to stay this evening and take part in the debate. I also thank the people on the front line—the doctors, nurses, carers and psychologists—and the many organisations that provide services for and support to the many children and adults who suffer from autism or Asperger's syndrome and, especially, their families.

Autism and Asperger's syndrome are lifelong conditions that isolate a child or adult from the world around them and affect a person's ability to communicate, form relationships and understand everyday activities. People who have autism are not physically disabled in the same way that a person who has cerebral palsy might be and, because they do not have the obvious outward signs of disability, it can be much harder to make people aware of or to help them understand the condition.

Children and adults with ASD have difficulties with everyday social interaction. Their ability to develop friendships is generally limited, as is their capacity to understand other people's emotional expressions. Imagine what it would be like to meet people for the first time or to talk to someone one knows and not even be able to understand a smile or a frown. Naturally, that can cause fear, anxiety and frustration, which sometimes result in extreme behaviours. People with autism can also have

accompanying learning difficulties. However, everyone with the condition shares a difficulty in making sense of the world.

In Scotland, local studies estimate that one in 110 people are affected by ASD, which equates to about 15,000 children. However, according to Scotland's schools census, just over 3,000 children have been diagnosed with ASD. That means that almost 12,000 children in Scotland may be undiagnosed and may not be receiving proper testing and support services. Something needs to be done about that. NHS Lanarkshire, which covers my constituency, has the second highest number in the country, at 561, of children diagnosed with ASD.

It is therefore important that we raise awareness and increase understanding of ASD in Scotland. People with ASD and their families require a wide range of specialist support and advice. The Executive has done a great deal to ensure that all children in Scotland receive the education that they need to help them achieve their full potential. However, children with ASD require that bit more. They do not think or communicate in the same way as children without the disability, therefore it is important that those who offer support and education to ASD sufferers do so through specialised, unique processes. Only then can children with ASD make significant advances in social skills, in their ability to form relationships, and in their understanding of everyday activities.

Such young people and children can be taught in a range of settings. In my constituency, that can take the form of a specialist unit at Victoria Park School in Carlisle, mainstream school settings with appropriate support or, on a very few occasions, residential settings. However, in whatever setting, all schools should understand and have the resources, training and specialist support to meet the needs of each individual child.

Providing effective education is not easy. We must ensure that we do not let down those who suffer from ASD when we implement a range of changes. First and foremost, we need to examine the targeting of resources and funding. If we achieve that, it will be a huge step forward. It will allow us to identify at an early stage those who are in need and to provide earlier intervention. *[Interruption.]* My phone is like an electronic tag.

There is no cure for autism—we are not even sure what causes it. However, if it is identified early the chances of a person receiving appropriate help and support are greatly improved. We need better training for teachers and support staff to improve awareness and understanding of autism. In turn, that will enable practitioners to provide adequate and appropriate support for sufferers and their families.

Autism is a spectrum disorder, therefore a child with ASD might need support from a variety of sources. That requires joined-up government, in the best sense of the phrase. It makes sense that education professionals work in partnership with parents and a wide range of other professionals to ensure that children and young people can access the services that they most need.

In Lanarkshire we have developed the innovative Lanarkshire autism diagnostic service, which is a team of specialist practitioners, including speech and language therapists and staff grade paediatricians that has been set up to clear a backlog of people who are awaiting diagnostic tests. That service, which used to take up to a year, is now being completed in a matter of months, thanks to the joined-up approach. Perhaps that can be examined further.

The move to mainstream has faced many challenges. I welcome the Executive's review of how successful the implementation has been. I was on the Education, Culture and Sport Committee, which examined the issue. Resourcing was always going to be the key to the successful mainstreaming of children with a range of disabilities. We need to do more to ensure that resources are available at the front line.

The Office for National Statistics has just published a summary of its research into the mental health of children and young people in Great Britain, which found that children with ASD were three times as likely as other children to be behind in their scholastic ability, with two fifths of them being more than two years behind.

Two thirds of children with ASD find it harder than average to make and keep friends, with two fifths having no friends at all. However, children with ASD can be taught social skills that give them the ability to make and keep friends and engage more effectively in the social world. The National Autistic Society Scotland runs an after-school care project in Dundee called stepping stones, which is one example of a project that aims to promote social skills and play. In my constituency, the Clydesdale autism support group seeks to do something similar.

Clearly, much more needs to be done. I hope that this evening's debate will move us further towards solving some of the problems. At the very least, I hope that the debate will ensure that people with autism realise that the Parliament takes their needs seriously and that politicians are going to do something about the matter.

17:16

**Stewart Stevenson (Banff and Buchan) (SNP):** It is excellent that so many members signed Karen Gillon's motion—I congratulate her

on her efforts. We must focus on the needs of those with the condition and, more critically in many instances, on the needs of their families. When someone does not get the support that they need, that has a wide effect. I am sure that I am far from being the only member who has had people at surgeries seeking to have the needs of their offspring met. There is more than a passing suspicion that, in the system, support is constrained by finance rather than determined by the needs of the person with the condition.

In particular, people with the condition require stability and are upset and set back even by small changes. Three-year funding cycles often exist in the voluntary sector, which means that, at the end of the three years, the way in which support is delivered from the voluntary sector may change, which creates the real risk that someone with the condition may be set right back to the beginning, or perhaps even further back. I hope that the Executive will give thought to that issue.

**The Deputy Minister for Education and Young People (Robert Brown):** On the resource issue, does Stewart Stevenson accept that about £200 million extra has gone into special needs education, on top of the approximately £4 billion that has gone into education resource generally in the past two years?

**Stewart Stevenson:** That is true—credit where credit is due—but the money is not necessarily reaching all the people that it should. People with the condition often have intensive and expensive needs. Some of the decisions that have been made in my constituency and in other members' suggest that there are issues at the front line in getting the money to people with particularly intensive needs.

Another issue that Karen Gillon touched on and which will echo with all members is that of achieving the right balance between exclusion and inclusion. An issue arises for those among whom someone with a condition is included. When a primary school class has added to it someone with the condition, we must ensure that all the pupils have the right support. It is beneficial to children to see the condition and the needs of someone who is less fortunate than they are and to learn how to deal with that. However, equally, we should not push people with the condition into situations in which they will simply go backwards because the change is too great.

There are no magic answers, but I am interested to hear what the minister has to say in response to the debate.

17:19

**Mrs Nanette Milne (North East Scotland) (Con):** Before I entered Parliament, I had rarely

come across ASD—I knew little about the needs of those born with it and even less about what is available to them. However, in the past two years or so, I have learned a great deal from the parents of affected children and others who care for them, such as the highly trained teachers at St Andrew's special school in Inverurie in Aberdeenshire and the dedicated staff at Camphill, which is near my home on the outskirts of Aberdeen.

People on the autistic spectrum vary enormously. They include not only those who have very minor communication difficulties and the often highly intelligent individuals with Asperger's syndrome—who may be seen as somewhat eccentric and obsessional but are otherwise quite normal—but those who are very severely affected, with extremely complex needs. Such people require highly specialist handling, peaceful surroundings and well-established routines if they are to have any hope of thriving and of reaching their potential, however limited that may be.

However, those are also the sort of people whose lives are threatened by the possibility of Aberdeen's western peripheral road passing close to their homes at Camphill. I am delighted that a delegation from Camphill will come to Holyrood once more tomorrow to put their case to MSPs and to gain further publicity for their campaign to have the proposed road rerouted. The western peripheral road is desperately needed, but it should not use a route that would so disrupt the lives of the very vulnerable folks who know no other home than the peaceful retreat of Camphill village. I realise that I am digressing a little from the motion, but tranquil surroundings are part of the package that is required to fulfil the needs of the people I have described.

Speech and language therapy, and the diverse other therapies that are provided by a range of associated health professionals, are also required by such children. However, in the north-east at least, such therapists are in short supply and their lack puts added strain on parents and carers who are coping with tremendous problems every day of their lives as they struggle to do what is best for their children.

On top of that, many are faced with uncertainty of school provision, given the current climate in which mainstream education for all is often overzealously promoted. Having spoken to many concerned parents and teachers, I have no doubt in my mind that mainstream education is not the answer for all autistic children. Some cope well and can move successfully from special educational needs to mainstream provision and others benefit from attending an SEN unit that is attached to a mainstream school—as I have seen in north Aberdeenshire—but there are, undoubtedly, significant and growing numbers of

autistic children who need special schooling if they are to have any hope of achieving their educational potential. I hope that authorities such as Aberdeenshire Council that have sought to close such schools and replace them with SEN bases that are attached to mainstream schools will think again before it is too late.

The wide diversity of ability in children with autistic spectrum disorders makes diversity of provision a necessity. I fully endorse the motion's call for the Scottish Executive to ensure that the needs of such children are appropriately met, so that they can benefit to the full extent of their potential from the education and learning that they deserve.

17:22

**Robin Harper (Lothians) (Green):** I congratulate Karen Gillon on securing tonight's debate on a motion on such an important issue. I apologise that I will need to leave a bit early, as I have a previous engagement to meet young carers from West Lothian, who also have great needs.

I want first to highlight the problem of bullying. Some children with ASD truant from school because of bullying. They may even lash out against the perpetrators of the bullying. However, children with ASD can also display such challenging behaviours in class if they do not understand what is happening during lessons or if their particular needs are not recognised by staff.

The figures for school exclusions in 2003-04 show that exclusions of pupils who are entitled to free school meals, pupils with a record of needs—which includes children with ASD—and pupils who are looked after by the local authority are higher than exclusions in the school population as a whole. Furthermore, a recent Office for National Statistics report found that more than one quarter of children with ASD have been excluded from school at some point. Most of them have been excluded on more than one occasion.

By excluding children with ASD, schools seem to be placing responsibility for truancy and behavioural problems on pupils and their parents. Those of us who have met parents of autistic children know how stressful their lives are. It is clear that education authorities must have a responsibility to ensure that schools have in place a coherent behaviour policy, good classroom management and support for pupils from appropriately trained staff as well as anti-bullying strategies and other supportive systems.

The most common reason given for excluding a child with ASD is that the school is unable to cope with the child. It seems singularly unfair to exclude such children just because the school does not

have the appropriate support. I do not necessarily blame the schools, which are short of money, but the necessary support for ASD children must be provided.

There is a need for teachers and other staff in schools to be given autism awareness training. In the NAS report "Autism in Scotland's schools: crisis or challenge?" teachers were asked to rank the relative importance of seven measures to meet the needs of children with ASD. They ranked preventing bullying and teasing second last, despite research that shows that bullying and teasing are major barriers to children with ASD enjoying and making progress in education. I will close on that point.

17:25

**Donald Gorrie (Central Scotland) (LD):** The debate is important. I congratulate Karen Gillon on securing it. Any member who is involved in the cross-party group on the subject or who has visited organisations or groups that have a family interest in the subject will be well aware of the great anguish that the issue causes to families that feel that their children are not being properly dealt with.

The issue is slightly similar to the problem in New Orleans. Although there is a lot of help around the place, unless it reaches the family whose house is flooded or whatever, it is of no use to them. We have to direct our help to ensure that it arrives where it is meant to arrive. Robert Brown is a much better and more intelligent man than George Bush. I am sure that he will achieve the correct result as soon as possible: help for families with an autistic family member in the right way and at the right time.

There should be widespread training for people who work in health and education so that they can recognise ASD, arrange for a diagnosis and deal with the issue as quickly as possible. We need a system that ensures that an identified health or education official is in charge of the arrangements that are made for each person. The official would lead a multi-purpose, multi-agency unit, but the buck must stop with somebody.

We must be flexible: a range of options is needed to address the seriousness of the young person's problem and to offer what is best suited to them. The range should include being educated in a mainstream school with proper support; in a special unit in a mainstream school; in a special school; at home or in some other looked-after situation; or in a combination of those options. We need horses for courses. Above all, we need to ensure that the young people are identified as early as possible and that they are provided with the education and health support that they need to



live a full life. Their families also need help with respite care, social support and so on.

A lot of good things are going on, but a lot of people are still missing out. I hope that the Executive will ensure that that stops happening and that we help everyone who needs help.

17:28

**Christine Grahame (South of Scotland) (SNP):** I congratulate Karen Gillon on securing the debate, which is not the first we have had on ASD. I also congratulate the campaigning groups which, quite rightly, continue to lobby us hard and the individual parents. Like Stewart Stevenson, I have experience of individual cases from my constituency case load.

If I may, Deputy Presiding Officer, I will digress slightly from the motion. I want to make the connection between the fact that 3,090 pupils in Scotland have been identified as having ASD with the fact that they will leave school and become grown-ups. ASD is for life. If things are not good for the young person in the school setting, they are not much better when they leave school.

One young woman, who was 21 and pretty—I have mentioned her before in the chamber—was not recognised as having a disability because her disability could not be seen. She tried to lead an independent life: she had work in a supermarket and an understanding employer. However, she also required supported housing, supported sleepovers and, as other members have said in relation to other cases, no change to her routine. Any change to her care package caused chaos. I do not know how her parents' marriage survived the strain. They were wonderful parents who had to take it in turns to deal with their daughter, whose life was often disarranged by changes in the care package. That is a terribly important issue.

The one thing that I want to add to today's debate is that it is important to remember that ASD stays with people for life. There might be many people in prison, sleeping in the streets or with disorganised lives who have undiagnosed ASD. I know that this is not in the minister's brief, but I think that it would be interesting to have some analysis of the number of people who are in prison or are sleeping rough who have this disorder. That information would help us to find out where we are letting them down as well as where we are letting people down within the school framework.

17:30

**Murdo Fraser (Mid Scotland and Fife) (Con):** I congratulate Karen Gillon on securing this debate on this important subject. I agree with virtually every speech that has been made so far. Those of

us who are members of the cross-party group on autistic spectrum disorders, of which I am the secretary, will be familiar with many of the issues that have been raised this evening, as they have previously been raised in the meetings of that group. And, of course, all of us will have encountered them in our surgeries.

The motion is entirely right to highlight the complex needs of children who are on the autistic spectrum and the difficulties their parents face. That is the key part of the issue: many parents feel frustrated that, under the current system, they cannot enable their child to gain access to the quality of education and service that they feel their child requires and deserves.

There is a patchwork of provision for youngsters with ASD and it can be difficult for parents to access the quality of provision they think their children require. We all know of excellent examples of schools offering services for youngsters with ASD, but they can be the exception rather than the rule. I am sure that we have all been contacted by frustrated parents asking, "Why can't we get the service we require? Why can't we get the local authority to understand that the services they are trying to direct us towards are simply not what we believe our youngster requires? We can see good services being offered elsewhere, but we simply can't get into them."

Last week, I had the pleasure of visiting the new school at Butterstone by Dunkeld, which was set up as an independent specialist school in the early 1990s by Veronica Linklater—Baroness Linklater of Butterstone. Many of the school's youngsters suffer from Asperger's syndrome, attention deficit disorders or similar conditions. It was encouraging to see the progress that the youngsters were making in that setting because of the quality of the care they were receiving and the hands-on approach of the teachers. It was making a difference to the youngsters' lives. Youngsters who had not made progress in local authority schools or mainstream schools were turning around their performance. Many of the youngsters who were leaving that school were going on to further education—the school has a link with Elmwood College in Fife—and many others were going into employment. That would not have been possible without the level of care and support that they had received.

Of course, the problem is that that sort of service is expensive. The annual fees at a school such as that are £19,000 or much higher. We always have debates about finances in this chamber and I know the pressure the Executive is under but, as has been said before, if the appropriate intervention is not put in place at an early stage, public services will spend £2 million on an autistic

person over their lifetime. I put it to the Executive that it might be worth spending money at an early stage as it would save money in the long run.

17:34

**Ms Rosemary Byrne (South of Scotland) (SSP):** I congratulate Karen Gillon on securing this debate. As her motion rightly points out, ASD covers a broad spectrum of people who require varied levels of support and specialist teaching. In other words, one size does not fit all. My case load in the South of Scotland is weighty in this area and includes issues such as a lack of preparation for a child entering primary 1, no staff training, a classroom assistant who had absolutely no training at all, a teacher who had no training and a child who was excluded more than he was in school. Given that the child was in primary 1, it was a very bad start.

There have been inappropriate placements of children because of special school closures and there has been a lack of choice for parents and children. There has also been a lack of appropriate assessment. We know that early assessment and identification is key. The sooner we get the right programmes in place, the more success we will have with young people.

There has been inadequate staffing. Young people have not received the classroom assistant support they require and have been left isolated and bullied in the playground, as Robin Harper said.

I have had to intervene on behalf of a group of young people in South Ayrshire in relation to summer school provision; their parents were going to be left with no respite during the summer. Fortunately, with a lot of help from all the MSPs for the South of Scotland, that was overturned.

I could go on and give more examples. It is no wonder that 33 per cent of schools surveyed by the NAS felt that inclusion was not working. It is telling that 10 per cent of schools felt that inclusion worked only when adequate support and resources were available. Inclusion at any price is not what we want. We need to ensure that the right placements and the right choices are available for parents and young people.

My greatest concern is the shortage of speech and language therapists: 32 per cent of schools with pupils with ASD have no speech and language therapy provision at all. Speech and language therapy is crucial for a young person with ASD. Therapists, along with clinical psychologists, are the experts in assessing and giving advice on children and young people on the spectrum, and in identifying appropriate learning and teaching programmes and strategies.

Those concerns are compounded by the requirements of the Education (Additional Support for Learning) (Scotland) Act 2004. For a young person to be entitled to a co-ordinated support plan, there is a need for input from another agency—or other agencies—outwith education. Where does that leave those who are unable to access speech and language therapy?

I welcomed the ministerial announcement in 2004 of inspections by Her Majesty's Inspectorate of Education for ASD provision, but I ask the Executive to consider a national database for ASD and to instigate an international study of educational provision, of learning and teaching methods and of best practice, including a study into autistic-specific as opposed to autistic-friendly education.

Forty per cent of schools with pupils with ASD have no autism-specific training. That is a serious indictment of the education we are providing.

17:37

**Mr John Swinney (North Tayside) (SNP):** I congratulate Karen Gillon on securing this important debate and, specifically, on one particular remark that she made—that the challenge for children with autism is in making sense of the world. Those words sum up perfectly the challenge facing young people with this condition. In some ways, they also sum up the dilemma and the agonies that face many parents.

In all my involvement with the parents of children with autism, I have been struck by the fact that everything they do in trying to secure the support their children require is a battle. It is never easy, simple or straightforward; it is always a battle. For all parents of children with autism, regardless of where the child is on the spectrum, the stress is enormous. If we in public service cannot give priority to easing complexities and to breaking down barriers to the formulation of appropriate care and support packages for young people, we are letting people down in the course of our work in Parliament.

If I were to make one plea to the minister, it would be to let us work out a system that minimises the difficulties and the obstacles for parents in securing appropriate support for their children. I heard the minister on the radio the other day and he defended the Government's position in relation to the care packages that are available to young people under the Education (Additional Support for Learning) (Scotland) Act 2004. He made a number of fair and reasonable points about the Government's provision. However, many parents phoned the programme to make an equally compelling case about the difficulties that

they had endured in trying to find the right support for their children.

Although I voted for the Education (Additional Support for Learning) (Scotland) Bill, it is not much of a secret on this side of the chamber that I did so with a very heavy heart. In my view, the crux of that bill was a reliance on the credibility of the assurances that were given to the Parliament by the Minister for Education and Young People about the provision of support. If support is not in place when young people need it, as they need it and in whatever circumstances, the Education (Additional Support for Learning) (Scotland) Act 2004 is a very complicated disruption to the arrangements that are in place to support young people. We can ill afford that.

People who have been diagnosed and assessed as having autism will have a wide and diverse range of needs. No one solution will suit every young person. Some young people will benefit enormously from specialist education provision; others will find the challenges posed by the social interaction with their peers enormously assisted by the right amount of support in a mainstream setting. The key thing is to remember that every child is an individual, and we must support them in their individual needs.

17:41

**Lord James Douglas-Hamilton (Lothians) (Con):** Karen Gillon is to be strongly congratulated on raising the subject for debate. I vividly remember visiting the school for autistic children in Alloa. A young boy there asked me what my favourite film was. When I said "Chariots of Fire", he took me through every single detail of the film. I realised that he was extremely bright, but that he also happened to have substantial additional support needs, which very much needed to be addressed.

My first request to the minister is that we need the necessary resources and the expertise to go with them. A National Autistic Society report indicated that inclusion is not working in one in three schools and that two thirds of schools that have autistic spectrum disorder pupils do not have support assistants who have been trained in dealing with autism. My first request to the minister is therefore that there should be a variety of educational provision, and not just in the mainstream. The necessary expertise must also be made available in special schools.

My second point is about the Executive's announcement that Her Majesty's Inspectorate of Education will carry out inspections of autistic spectrum disorder provision in children's services. That should be strongly welcomed, and we look forward to the publication of the report on that next summer.

My third point relates to further education. The National Autistic Society highlighted the problems that face young people in the transition from school to further or higher education. Futureskills Scotland has asserted that many young people who have additional needs cannot access further education in Scotland and cannot get the funding to access the appropriate further education elsewhere. As an important first step towards ending that exclusion, I suggest that the minister consider the possibility of national funding, with consistent application across Scotland, especially for specialist schools.

I wish Robert Brown well in his new role as Deputy Minister for Education and Young People. I remember very well his excellent chairmanship of the Education Committee. I hope that he will take on board the points that have been made from all quarters of the chamber tonight, and that sufficient resources and expertise will be made available so that pupils who have additional support needs and autistic spectrum disorder may access appropriate further education, no matter where those pupils may live and no matter what their medical circumstances.

17:43

**The Deputy Minister for Education and Young People (Robert Brown):** I congratulate Karen Gillon on securing this evening's debate. I have my back to her, which is not very satisfactory, but never mind. I thank her for raising for discussion the issue of autistic spectrum disorder. This has been a very good debate, and many challenging points have been made.

I have some experience of involvement with the issue. Like Lord James Douglas-Hamilton, I have had the opportunity to visit Struan House School in Alloa. I recently met representatives of the Scottish Society for Autism, and I welcome some of its members to the gallery. I am also about to visit the Glasgow autism resource centre.

Many difficult issues arise out of this subject, and I will try to deal with them in some degree of order. As members are aware, the background to the debate is the recently passed Education (Additional Support for Learning) (Scotland) Act 2004, which will come into force on 14 November. Despite John Swinney's caution about it, the bill was designed to produce a better system for co-ordinating the support that exists across all agencies—including health agencies, social work agencies, education agencies and local authorities as a whole—so that they may more effectively concentrate on areas in which there is difficulty.

The experience of all professionals in the area is that things tend to break down at the join points. I refer to the join points between agencies, as well

as the points at which people move into education, between schools, from primary to secondary schools and—as Lord James Douglas-Hamilton mentioned—from secondary schools to further education or the world of work.

The Education (Additional Support for Learning) (Scotland) Act 2004 introduces the new concept of additional support needs. As members are aware, local authorities have a general duty to deal with such needs, which are very individual. The act does not single out any groups for particular mention, because the needs of every child vary. Even the needs of different individuals who have autistic spectrum disorder vary across the board. The act is clear in its intention to benefit all young people who have additional support needs, including those who have autistic spectrum disorder. It establishes an inclusive framework within which schools can work to meet the learning needs of all children and young people.

The motion that we are debating is well worded. I signed it before I became a minister, so I am in the unusual position of responding to it in that context. As the motion states, people with autistic spectrum disorder have a range of abilities and needs. Every child and young person is unique and has his or her own needs, aims, ambitions and aspirations. The 2004 act is very much directed towards the provision that is required by children as individuals.

A number of themes have emerged from the debate. During the passage of the Education (Additional Support for Learning) (Scotland) Bill, the Education Committee and the Executive identified the need for early identification and proper assessment at an early stage, which is very important. I hope that the arrangements that have been put in place will improve the situation. There is a need for parents to be much more involved and for decisions to be made in a friendly fashion at an earlier stage. People have often felt that they are batting their heads against a brick wall when they try to get the resources that they need. Mediation and advocacy are important.

**Mr Swinney:** I accept what the minister says about the ambitions and objectives of the 2004 act, but I return to the radio discussion to which I referred in my speech. Does the minister accept that, outside Parliament, there are people who feel badly let down by the service and the system? Does he have an open mind about listening carefully to their concerns and taking action, if he feels that the framework of the 2004 act is not delivering on the understandable ambitions that he has set out to Parliament tonight?

**Robert Brown:** Not only do I have an open mind, but the Executive has built-in review procedures, so that in a year to 18 months we can examine how the additional support for learning

code is operating, so that we can change and refine it in the light of experience on the ground and respond to issues that are raised. That work will take place against the background of the improvement agenda that goes back to the Standards in Scotland's Schools etc Act 2000. We are trying to improve the provision that exists across Scotland, elements of which are patchy. Different authorities do things in different ways and make different provision. Without imposing a single structure on authorities, we are trying to bring local authority practice up to the highest standards across Scotland. That is the objective of the exercise and the background against which the HMIE inspection relating to autistic spectrum disorder, which other members have mentioned, is being carried out.

The inspection, which will conclude in March next year, is taking an integrated assessment approach, using a multi-agency team. It will take note of the point that a number of members have made about the need to look right across the board. In particular, it will consider how far the use of alternative approaches or home programmes is an issue for education authorities and how that is monitored. It will consider training issues, especially in respect of how staff are able to deal with challenging behaviours. I know that the centre for autism in Alloa and the National Autistic Society's centre in Ayrshire provide training and act to some degree as specialist centres for dealing with such issues. The inspection will examine the extent to which children and young people have access to a broad and relevant curriculum, how resources are allocated and what strategies exist for meeting the wide range of needs. It will also look at how communication needs, social and life skills and flexibility of thinking are supported.

The inspection team is supported by a small advisory group, which is chaired by Professor Rita Jordan from the University of Birmingham. As has been mentioned, a final report that will be published in summer 2006 will highlight current good practice, identify gaps in provision and make recommendations on the way forward. That is the hook on which we will hang the practice that will be developed.

The code of practice that will accompany the 2004 act will provide guidance to support local authorities and other agencies that have functions under that act at both strategic and operational levels. In addition, a parents' guide to the act is being prepared by Enquire, the national information and advice service for additional support needs. A draft of the guide will be consulted on at events throughout Scotland later this month.

We recognise that it is important that health and social work professionals and other agencies are also involved in this sort of thing, which is why we are funding NHS Education for Scotland to develop information and training for general practitioners and primary care staff. That material will be widely disseminated. Training was seen as a priority by the national ASD reference group. That is why one of the projects that was delivered was the Scottish Social Services Council's development of ASD skills qualifications for social care staff.

**Christine Grahame:** Will the minister take an intervention?

**Robert Brown:** I am sorry, but I am reaching my time limit. The member may follow matters up with me personally afterwards, if she would like.

We are also funding training pilots to assess the use of specific diagnostic tools for both children and adults. Those pilots will take place in Fife, Argyll and Bute, Glasgow and the Lothians and will increase the level of knowledge of ASD among medical professionals.

The background to all of this is the need for quality, for standards, for training, for service and for comprehensive provision across Scotland. I mentioned earlier the £200 million of extra support that is going into special needs education. It is also important to recognise that, in terms of support staff, we now have more than 400 educational psychologists for the first time and we are training more people in that area. There has also been a rise of 5 per cent in the number of speech and language therapists, although I accept that there are still not enough to provide the support that is required. The target of 1,500 extra associated health professionals in post by 2007 should be achievable.

We are moving very quickly on a lot of the issues, and what matters most is change on the ground. The 2004 act is a major contribution to fulfilling our aspirations for Scotland's children. However, I stress that we are not starting from scratch. In many ways, the act is about legislation catching up with good practice and building on what we are doing at the moment. Young people—and in particular the young people about whom we are talking—are our future. The arrangements that are being put in place will, no doubt, have their difficulties, but they will go a long way towards improving the support and arrangements that exist as well as towards addressing the complaints that Karen Gillon has, rightly, raised in the motion today, for which I thank her.

*Meeting closed at 17:52.*



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