

# **MEETING OF THE PARLIAMENT**

Wednesday 14 June 2006

Session 2

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## Scottish Parliament

Wednesday 14 June 2006

[THE PRESIDING OFFICER *opened the meeting at 14:00*]

### Time for Reflection

**The Presiding Officer (Mr George Reid):** Good afternoon. The first item of business today, as it is every Wednesday, is time for reflection. Our time for reflection leader today is Connie Pearce of Stonelaw high school in Glasgow.

**Connie Pearce (Stonelaw High School):** I am delighted to address you on behalf of Stonewall high fair traders—a young co-operatives fair trade enterprise—and thank you for this honour.

What and how would you like to learn? The empowerment given through that unique question in one religious and moral education class had a positive, liberating effect on us, and its impact continues. We opted to invite speakers, including a Christian Aid speaker who inspired us to become active supporters of fair trade.

From that exercise in democracy, we now have a sustainable, ethical fair trade enterprise, involving pupils from all year groups. We have ownership of the business and are totally democratic, discussing and voting on stock, prices and selling venues. We enjoy the healthy flexibility of voluntary participation in varied activities so we do not get bored or stressed. Our team working, business and people skills have developed considerably.

We love to make sales and profit, but it is a healthy enterprise, because it is profit without victims. The goods that we sell come from producers in developing countries who are empowered in co-operative businesses and have a guaranteed income, with no child labour.

When we started out, we could never have anticipated that our sales would exceed £28,000. After reinvesting in stock, we send all our profits to Dr Ruth Bland, a British doctor in KwaZulu-Natal, South Africa, who uses the money to sponsor the education of AIDS orphans. Dr Bland recently wrote:

“It was amazing to see some of the pupils you have now supported for several years, ... how keen they are to learn, how well and healthy they are looking, and how much pride the carers have in them. One of the carers stood up to speak on behalf of all the people and asked that we should thank you for your continued care and support of them, even though you have never met them or seen their homes. This seemed to be the overwhelming feeling, that

people from so far away should be concerned about their welfare”.

We in Stonelaw high fair traders are passionate about giving those children the rights that we take for granted in Scotland. We recognise our global responsibility and are contributing to developing their skills, tapping their potential, enabling them to improve their communities and enriching their lives.

Young people in Scotland are not citizens in waiting; we are local and global citizens now. We urge you to promote youth involvement in co-operative ethical enterprises so that more young Scots can gain confidence and compassion and fight poverty through trade, making the world a fairer, better, brighter place.

Thank you.

## Business Motion

14:03

**The Presiding Officer (Mr George Reid):** The next item of business is consideration of business motion S2M-4544, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a timetable for final stage consideration of the Waverley Railway (Scotland) Bill.

*Motion moved,*

That the Parliament agrees that, during the Final Stage of the Waverley Railway (Scotland) Bill, debate on groups of amendments shall be brought to a conclusion by the time limit indicated, that time limit being calculated from when the Stage begins and excluding any periods when other business is under consideration or when the meeting of the Parliament is suspended (other than a suspension following the first division in the Stage being called) or otherwise not in progress:

Group 1 - 45 minutes  
Group 2 - 1 hour 20 minutes  
Group 3 - 1 hour 40 minutes.—[*Ms Margaret Curran.*]

*Motion agreed to.*

## Investigation and Prosecution of Sexual Offences

**The Presiding Officer (Mr George Reid):** The next item of business is a statement by Elish Angiolini on the Crown Office and Procurator Fiscal Service review of rape and sexual offences. The Solicitor General for Scotland has agreed to take questions at the end of her statement; therefore, there should be no interventions.

14:04

**The Solicitor General for Scotland (Mrs Elish Angiolini):** Members are aware that, in October 2004, I instructed a comprehensive review by the Crown Office and Procurator Fiscal Service of the investigation and prosecution of rape and serious sexual offences. The report of the review was recently submitted to the Lord Advocate, who has now considered it and its 50 recommendations, which he has accepted in full. The full report is published today.

Rape is one of the most vile crimes that can be committed and is, accordingly, treated with the same degree of seriousness in the Scottish criminal justice system as murder is. The damage caused to individual victims, their families and wider society is enormous, and there is a responsibility on us all to respond to offences of sexual violence with determination and with sensitivity to victims.

The report of the review explains the reality of allegations of rape in Scotland and details the almost unique difficulties that are attached to the proof of such cases. It sets out a clear way forward on how we can best address any weaknesses in the process that might arise from the investigation and prosecution of such cases. I exhort those with an interest in these issues to read the entire report, which I believe provides the single most comprehensive and frank study ever in Scotland of the complex and difficult issues involved.

It is important to recognise that the policy and practices of the prosecution service cannot tackle all the diverse issues that affect the conviction rate in isolation. While the recommendations of the report signal a profound change in our approach to these cases, the report also explores the influence of such factors as the legal framework and evidential requirements that operate in Scotland; society's level of understanding of the true nature of rape; and misplaced perceptions about how victims of these crimes ought to present and react. All those factors have a part to play in the attrition rate of these cases.

The report and its recommendations contain no glossy gimmicks. On the contrary, this is a report and series of recommendations that are practical and pragmatic and which are intended to effect real change and improvement in the Scottish context. It addresses the issues that we see as presenting barriers to effective, fair and sensitive investigation and prosecution.

The review has also provided the prosecution service in Scotland with an unprecedented opportunity to appraise critically its approach to this difficult area of crime in consultation with victims, witnesses, those supporting the survivors of rape and other sexual offences, the COPFS staff who investigate these cases, those who prosecute them in court and key professional colleagues from across the criminal justice system, including our defence colleagues. The members of our advisory group gave freely of their time and shared their experience and expertise. That has greatly informed the review and we are indebted to them.

Crucially, the review has been outward looking and has examined the challenges facing our prosecution colleagues in other jurisdictions in responding to this area of crime. It is evident that the same issues that prompted this review also pose considerable challenges to prosecutors elsewhere in the world.

While it is asserted extensively and repeatedly that Scotland has one of the worst conviction rates for rape, the reality is that we have the narrowest definition of rape of any of the jurisdictions that we examined. It is so strictly defined that it excludes a vast raft of sexual offences that are included in definitions of rape elsewhere in the world. We noted in the review that, in jurisdictions where the ambit of the definition of rape was wide, there was, unsurprisingly, often a higher conviction rate.

The review also considered the way in which different legal systems and cultures have responded to the difficulties that we all face. We examined the key benefits that those responses offer and considered their application in the Scottish context. I am very grateful to our prosecution colleagues across the world, the International Association of Prosecutors, Eurojust and the American Prosecutors Research Institute for their considerable assistance in our work.

Latterly, victim organisations represented on the advisory group assisted the review team in convening meetings with victims of rape and sexual offences who were prepared to discuss their first-hand experiences. I cannot overstate how significant and informative the insight they provided has been to the review process. It has directly influenced the recommendations of the review.

The report makes 50 detailed recommendations that can be broadly grouped. It recommends that the development of comprehensive training and guidance for prosecutors and the introduction of a process of certification be achieved before staff are permitted to work in this difficult and sensitive area. I will say a little more about that later.

A range of revisions to prosecution practice and policy are recommended, including a presumption in favour of prosecution where there is sufficient credible and reliable evidence to prosecute. Only where there are insurmountable weaknesses in the case that mean that there is no reasonable prospect of conviction should a decision be made to take no proceedings.

Accelerated precognition, working within the stringent time limits that apply in custody cases, should be undertaken where there exist from the outset substantial concerns about the quality, as opposed to the sufficiency, of the evidence.

Rape victims should have early and co-ordinated access to medical support and advice as well as counselling and practical support.

It is recommended that there be a restatement of the forensic, analytical approach that must underpin investigation of these cases by COPFS staff.

At times, the interviewing process, which is known as precognition, has not been sufficiently robust in exploring with the victim any weaknesses and contradictions in the evidence. We believe that that climate developed with the best of intentions to make the victim feel believed and comfortable with the process, but it might have inhibited and undermined investigations with the result that opportunities to address evidential weaknesses are lost and the presentation of the case is compromised. The precognition must be a frank but sensitive dialogue between the victim and the precognoscer.

The report includes a range of recommendations aimed at strengthening our communication with victims to improve their level of preparation for the trial. Communication between the police and prosecutors at the earliest stage is also to be strengthened to allow the procurator fiscal to provide advice and direction and to influence evidence gathering. It is recommended that, where there is insufficient evidence, formal feedback to the reporting police officer is introduced to improve common understanding of what constitutes sufficiency. The Lord Advocate will issue guidance to the police to improve the consistency of approach to the reporting and investigation of these crimes.

It is further recommended that, until the law is reconsidered by the Parliament, the charge of sodomy involving male or transgender victims and

equivalent offences against women and children should always be prosecuted in the High Court.

Some of the more significant findings of the review recognised the difficulties with securing sufficient credible and reliable evidence on which to found a prosecution. A third of all cases of rape that are reported fall at the first hurdle when they are reported to the procurator fiscal by the police. The overwhelming majority of those cases—approximately 80 per cent—are marked no proceedings by the procurator fiscal on the basis of insufficient evidence. We might not be able to change the ultimate outcome of the analysis of evidence, but we must ensure that the investigation is as thorough and fair as it can be.

The restrictive definition of rape in Scotland—when compared with definitions used in other jurisdictions—coupled with the almost unique requirement for corroboration, presents a major challenge for the prosecution service. The limitations of the evidential relief provided by the so-called Moorov doctrine are significant for the prosecution in Scotland. The doctrine allows two or more victims whose evidence is otherwise uncorroborated to provide mutual corroboration where there is a close connection in the time, character and circumstances of the charges. However, it often precludes mutual corroboration of the allegations of victims from successive generations who have been abused by a parent or grandparent, even though the offending behaviour is strikingly similar. Likewise, where the accused is alleged to have abused several individuals of different genders or different vulnerabilities, the distinct nature of the circumstances of the charge or of the sexual conduct means that the Moorov doctrine cannot be deployed.

The conviction rate for rape in Scotland is low, which is in line with the rate in most other adversarial jurisdictions, but Scotland is not a social backwater and the review confirms that other jurisdictions also struggle with these cases. We examined the approaches that are taken by a range of prosecution services in other Commonwealth jurisdictions and we have studied systems that have responded to the challenges of rape and sexual offending by introducing an element of specialism in their approach.

The review considered the benefits and the detail of systems of specialism and—with no element of pride or preciousness—their application in Scotland. It is apparent that what works in one jurisdiction, with its particular legal framework and culture, might not fit into another, distinct system. The review concluded that there is a high degree of specialism within the structures and system of prosecution in Scotland that is broadly equivalent to jurisdictions that employ specialist models. Crucially, it also concluded that,

in line with other systems of specialism, the pivotal factor is the provision of detailed, comprehensive, specialist training and guidance to prosecution staff.

The outcome of the review is a proposed approach that is tailored to meet the needs and circumstances of the prosecution in the small jurisdiction of Scotland. The approach will draw on the benefits that have been observed in other jurisdictions rather than trying to bolt on to our system wholesale elements that were developed in other jurisdictions with their own unique legal and social cultures.

The report contains a range of recommendations that seek to ensure that staff are provided with enhanced guidance to ensure consistent, high-quality investigations, and we will introduce a competence-based training programme with a departmental certification procedure for staff who work in the area. No new member of staff should undertake work in the area until they become so certified. The review recognises that that is a substantial undertaking and acknowledges the tremendous experience and skill that already exist among COPFS staff, who have been engaged in dealing with these cases for many years. Indeed, the review found many examples of excellent practice that demonstrate the care and professionalism that prosecution staff bring to their work in the area. The report recommends that all actions, including the delivery of suitably targeted introductory, intermediate and advanced training, should be complete within three years.

Members should be assured that the outcome of the review signals a major reform of the way in which the COPFS approaches the investigation and prosecution of rape and sexual offences. We look to our colleagues from victim organisations and other criminal justice professionals to assist us in implementing the changes and in measuring their impact, but I am confident that implementation of the recommendations in the report will provide a sound basis to deliver an improved quality of investigation and prosecution. Our aspiration is to build strong, more compelling cases, while treating victims with the courtesy, respect and sensitivity that they are due.

**The Presiding Officer:** The Solicitor General will take questions on the issues that her statement raised, for which I will allow about 20 minutes.

**Mr Kenny MacAskill (Lothians) (SNP):** I thank the Solicitor General for the prior briefing and the courtesy copy of her statement. On the Scottish National Party's behalf, I welcome the efforts of her, the Lord Advocate and others in the Executive to address this most serious issue. As she said, rape and sexual offences are a considerable



concern, not simply because they are vile offences, but because of the difficulties that are narrated in the conviction rates. Those rates do not tell the whole story, but they testify and perhaps point to an underlying problem.

The changes to the methods of prosecution are welcome but, as the Solicitor General was right to say, difficulties will require to be dealt with through legislative changes that will need to take place and by addressing cultural attitudes that have shifted but which the law and those who require to enforce it have not recognised. Will the Solicitor General say where we stand on matters that she or any of her colleagues is dealing with in relation to proposed legislative changes, although they are not part of her remit? What information is being sought on societal or psychological issues?

We welcome the enhanced role for specialist procurators fiscal in dealing directly with the police at the outset of cases. Will that involve a synergy with existing specialist units in the police or will contact be broadened in some cases to deal with other elements of criminal investigation departments or uniformed branches?

**The Solicitor General for Scotland:** I am obliged to Mr MacAskill for his comments.

On the legislative position, the First Minister referred the important matter of the substantive law and the law of evidence in such matters to the Scottish Law Commission some time ago, and the commission has issued a consultation on that. The commission has been in contact with Crown Office officials, who fed our observations to the commission throughout our review. The commission also has the report of our review.

As I said, the commission's paper is out for consultation and I imagine that, following that consultation, a proposal for legislative change will be made. That is undoubtedly important but, as members will appreciate, it is not for the prosecutor to select what the law should be. It would be utterly improper for the partisan prosecutor to select the law in respect of such matters; that requires the Parliament's democratic consideration.

The prosecutor's enhanced role means that they will be available at earlier stages. These crimes tend to occur sporadically and at different times of the day. Often, local police officers encounter victims, so our police colleagues in the Association of Chief Police Officers in Scotland have considered carefully the policing of such matters. They were represented on our advisory group and made a major contribution to it. They have considered the police approach, and the forensic approach in particular, to such cases. The relationship between local police units and the procurator fiscal will be custom-built for each area.

Given that the jurisdictions and communities in which we live are disparate, the review would fail if we simply had a one-size-fits-all approach. The approach must be appropriate to the locality.

**Miss Annabel Goldie (West of Scotland) (Con):** I, too, thank the Solicitor General for the advance copy of her statement. On behalf of the Scottish Conservatives, I welcome the statement, which makes a positive contribution to dealing with an extremely serious issue that has been regarded as complex and perplexing in recent years. The statement represents progress.

If we accept that the very nature of what has taken place in a case of alleged rape means that there might be totally conflicting accounts of what happened and that, as the Solicitor General's statement makes clear, a third of all cases that are reported therefore fall when they are examined by the Crown Office, can the Solicitor General confirm that we might need to consider what other charges might be relevant for prosecution in those cases?

The statistics on the percentage of convictions arising from cases in which a charge of rape or attempted rape has been brought are perhaps slightly more encouraging, in that they stand at 56 per cent. In the light of her statement, does the Solicitor General believe that the measures to which she referred will lead to an increase in that 56 per cent conviction rate?

**The Solicitor General for Scotland:** Rape cases are uniquely difficult because, unlike in many other crimes, rape often involves only the two individuals who were present, with no extraneous witnesses. Indeed, although there may be a belief that rape will involve injuries, very often there are no injuries. Also, after such events, many victims do not manifest distress in a florid, hysterical way but act counterintuitively by suppressing the trauma and thereby attempting to normalise their life for a number of days, or indeed years, afterwards, until eventually it becomes too much. What we perceive to be the natural reactions have been shown by research to be very different from those of individual victims.

As I said, rape cases are uniquely difficult, and juries struggle with the issues of credibility and reliability. The accused in most cases do not present as strange-looking individuals who lurk in bushes. Very often, they are good-looking young men who present well; the jury might also have an equally presentable victim. That is a difficulty.

However, where corroboration is a difficulty outwith the testimony that is given by the victim, the Crown will always look to what other charges could possibly be proved. The difficulty that we face in some circumstances is that, if the victim has in fact been raped with penetration—the

definition of rape requires that some form of penile penetration of the vagina must have taken place if the test in Scottish law is to be satisfied—but we cannot corroborate that aspect of the case even though that is what happened, the victim is required to give evidence in an artificial way so as to exclude reference to the penetration aspect. In such cases, victims are required to do the opposite of what they swore to do—namely, to tell the whole truth—in order not to prejudice the position. To deal with that issue, the review has made a specific recommendation that I hope members will look at.

On whether the review will increase the conviction rate, as I said, the new measures are not a panacea. The actions that we take as prosecutors might contribute to better, stronger cases, but other complex variables are also at work. In particular, I refer to societal attitudes and the expectation that, in large part, a rape trial will involve someone being dragged off a street into an alleyway. The reality of rape in Scotland is that it is largely acquaintance rape, involving a victim who may have known the accused casually; indeed, the accused may be a friend or family member of the victim. That is the reality of the vast bulk of rape cases that we deal with. Therefore, the other factors include educating the public as to what rape is in Scotland in 2006. However, the law and the legal framework are highly relevant factors.

We will do our part to ensure fair and thorough investigation. By fair, I mean fair not just to the victim but to the accused in such cases. As the public prosecutor, we act on behalf of the public interest. That means that we must take a fair approach to rape cases that also takes into account the vulnerability of those who may be accused of such crimes.

**The Presiding Officer:** I would be obliged if we could have shorter questions and answers. Otherwise, I will not get everyone in.

**Pauline McNeill (Glasgow Kelvin) (Lab):** Prior to the Lord Advocate's reference, it was necessary to address the issue of whether force or the threat of force had been used, so we have moved on considerably since then. However, given that it is still necessary to address the issue of how to prove consent, will the Solicitor General confirm that there will be a focus on ensuring that the law is clear in relation to consent? Does she agree that, if we can provide clarity on the evidential issues, victims will have more confidence in the system?

Can the Solicitor General further assure me that we will take our time to get this right to ensure that we strike the right balance between the victim and the accused in these very difficult crimes? Will she also assure me that we will consider whether the honest belief test should remain a subjective test?

Finally, if she has time, will she confirm who was on the advisory group?

**The Solicitor General for Scotland:** Until the 1980s, the common law in Scotland was fairly undeveloped. Until as late as 1989, it was lawful for a man to have forceful intercourse with his wife. Only in 2001, when the Law Advocate referred the matter, was the test of overcoming the victim's will removed from our common law. The test of consent makes proof of rape more difficult and challenging, because more cases can now be prosecuted. By their nature, such cases are more difficult to prove because of the circumstances in which the alleged rape took place. If someone is dragged off a street, it is often much more straightforward to prove rape than in the cases that we now face. That does not mean that the law should not address that social evil. We do our best to ensure that cases are investigated with that new and important aspect of criminality in mind.

The First Minister specifically asked the Scottish Law Commission to consider the issue of consent, and it gave careful consideration to that very significant issue in its consultation paper. In the circumstances that we are discussing, consent may be express or implied, but it may also be contextual. If someone has been battered black and blue the night before and has been in an abusive relationship for 20 years, they may acquiesce to sexual intercourse with their partner or husband, but that may be in the expectation that if they fail to do so, they will undergo another episode of violence. Is that truly consent? In law, sexual intercourse with a child under the age of 12 is rape. Through the grooming process, a child may learn to accommodate and acquiesce to that type of conduct, but sexual intercourse with a child between 12 and 16 is not regarded as rape. We need to consider the context of consent in such cases. Quite properly, the Scottish Law Commission is looking carefully at that matter. As Pauline McNeill says, we must not have a knee-jerk reaction. This is a substantial and important part of our common law that requires very careful consideration.

The advisory group was an important group that represented a wide spectrum of people with an interest in the area. We were very much assisted by Scottish Women's Aid, Rape Crisis Scotland, the Glasgow violence against women partnership, the Equality Network, Outright Scotland and a number of other groups, including a representative of the Faculty of Advocates and a representative of the Law Society of Scotland. The group also included experienced prosecutors. A list of its members is contained in the report.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** The Solicitor General said that in a large number of rape cases the victim is

related or known to the perpetrator. How will the way in which the review is taken forward be consistent with the approach to other areas of criminal justice, such as domestic violence? Prevention is crucial in this area. Will the Solicitor General commit herself to work with other Executive departments, such as the Education Department and the Health Department, to educate young men, in particular, and young women about their rights and the law in this area?

**The Solicitor General for Scotland:** I will answer the second part of the question first. We have worked closely with other Executive departments. There was a representative of the Justice Department on the advisory group. Clearly, this is a cross-cutting area that involves education and health as well as justice and prosecution issues. A consistent approach will be taken, especially to the provision of comprehensive guidance and advice to victims of these crimes.

Over the past three years, the prosecution service has done a significant amount of work in the area of domestic violence. We have issued a protocol and have carried out an extensive programme of training of prosecutors on issues of domestic violence. That incorporates the subsisting issue of domestic sexual violence, so there is a close nexus between the two issues, which has been taken into account in the review. I hope that when the member reads the report he will see that there is a clear synergy between the two areas and a recognition of the difficulties that exist. Many juries struggle with situations in which a wife has remained with the man who is alleged to have raped her over the years. She may have gone on holiday and shared Christmases with him. However, that is the reality of many of the cases that are before us. The expectation of many members of the public is that, in those circumstances, a woman would simply walk out and leave, but that is a very difficult task for many women. We need to understand that and to address such issues collectively with the public.

**Patrick Harvie (Glasgow) (Green):** I commend the Executive on demonstrating the importance of the issue by its strength of numbers in the chamber today. We all welcome that.

I want to ask the Solicitor General about the recommendation that the delivery of training should be complete within three years. Given that we have recognised that there may be legislative changes in the pipeline, not least to the meaning of rape and consent, is there not a risk that we will need to rewrite and reconstruct that training completely within the three-year period?

**The Solicitor General for Scotland:** Any changes in the law will be factored into the training that is provided. We do not want to sit and wait until the law is changed—indeed, that was a

consideration in 2004 when I thought about the timing of the review and whether it would be better to wait until the law had changed. The issue is too important for us to stand still when we wish to make progress.

There are many constant issues in the understanding of sexual offending—the psychological dynamics, the responses of victims and understanding the forensic evidence. The framework of the law is perhaps one of the more straightforward aspects for lawyers to absorb and learn about, as opposed to other more complex and challenging issues.

**Colin Fox (Lothians) (SSP):** I welcome the Solicitor General's statement and look forward to reading her 200-page report in due course.

Notwithstanding the clarification that she gave of the different definitions of what constitutes rape in Scotland—which are narrower than the definition in England and Wales—does the Solicitor General accept that the conviction rates and public confidence in both jurisdictions are nonetheless low?

Given the 90 per cent increase in rape allegations made to the police between 2000 and 2005, which indicates a welcome change in attitudes towards reporting assaults, is the Solicitor General able to estimate what proportion of actual rapes are reported to the police? Is not it likely that, even with the increase in the number of complaints made, only a minority of rapes are reported to the police?

**The Solicitor General for Scotland:** It is undoubtedly the case that rape remains underreported, as indeed is domestic violence. Irrespective of the improvements that we make in environment and our response to victims, it is still too difficult for many victims to bring themselves to report such cases.

It is apparent that even when that step is taken, many victims wish the prosecution to be discontinued because they cannot face the prospect of the proceedings or what they perceive to be the shame that is brought about through questions about their private lives and the intrusive nature of what takes place in court.

In the case of domestic rapes, mothers have indicated their concern about the label that will be attached to the father of their children and the subsequent damage to those children if they were to know that their father was a rapist. There is a toxic cocktail of difficult issues.

We know from Rape Crisis Scotland and the Glasgow violence against women partnership that a significant number of their clients do not report rape to the police. It is important that, even if no culprit has been identified or there is an

insufficiency of evidence, we do as much as possible to encourage victims in Scotland to come forward so that they benefit from someone listening to them, medical attention, counselling and practical support. In that way, they can be helped to move on with their lives or indeed bring closure to the issue. Although there is often no conviction, there is a very positive benefit in their reporting cases.

**Dennis Canavan (Falkirk West) (Ind):** Are there many cases in which an alleged rapist is not prosecuted because the procurator fiscal or the Crown Office has concluded that the victim is suicidal or so emotionally distressed that she is unable to give evidence in court?

Does the Solicitor General recall the Crown Office's mishandling of the infamous Glasgow rape case more than 20 years ago, which led to the resignation of one of her predecessors, the late Sir Nicholas Fairbairn? What safeguards are now in place to ensure that the Crown Office reaches the correct decision in such circumstances?

**The Solicitor General for Scotland:** I remember reading about that case as a school student in the 1970s. It was clearly a seminal case for the prosecution service and how it responded to rape at that time. However, the member will be pleased to hear that there have been considerable changes.

There is now a presumption that where there is sufficient, reliable and credible evidence, the case will continue and a lot of support will be given. When a victim indicates that they do not wish the case to go ahead or they threaten suicide, that ipse dixit will not be taken as read and will be explored with the victim. They will be assisted and referred to Rape Crisis or for other counselling to ensure that their decision is being made with a free will rather than under pressure or because of some other psychological or psychiatric difficulty from which they might be suffering.

However, in some cases, the victim might indicate that, if we continue with the prosecution, they will kill themselves—that they will run away or worse. In such cases, we carry out the fullest investigation into the circumstances, but we will not compel a rape victim to give evidence if they do not wish to do so. Although encouraging victims of other types of crime to give evidence might be in the wider public interest, compelling victims to give evidence when the matter is utterly outwith their control will only exacerbate the problem, rather than encourage women to report these cases. Rape is not a sexual crime in that respect; it is an abuse of power based on an invasion of and interference with a person's autonomy. We in the prosecution service do not wish to aggravate the situation by adding to the

individual's sense of helplessness in such circumstances.

**The Presiding Officer:** That concludes questions on the Solicitor General's statement. I apologise to the four members who were not called.

## Waverley Railway (Scotland) Bill: Final Stage

14:35

**The Presiding Officer (Mr George Reid):** The next item of business is final stage proceedings of the Waverley Railway (Scotland) Bill. In dealing with amendments, members should have bill SP8A, as amended at consideration stage; the marshalled list, which contains all the amendments that I have selected for debate; and the groupings that I have agreed. For the first division, the division bell will sound and proceedings will be suspended for five minutes. The period of voting for the first division will be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate and 30 seconds for all other divisions.

### Section 1—Authority to construct works

**The Presiding Officer:** Group 1 is on the requirement to construct the whole railway. Amendment 5, in the name of Bristow Muldoon, is the only amendment in the group.

**Bristow Muldoon (Livingston) (Lab):** Before I speak to amendment 5, I refer to my entry in the register of members' interests. I am a member of the Transport Salaried Staff Association, which, along with the Associated Society of Locomotive Engineers and Firemen, has a constituency agreement with Livingston constituency Labour Party. The National Union of Rail, Maritime and Transport Workers used to have such an agreement before it made the unwise decision to hitch up with another political party.

I point out to Parliament that I worked in the railway industry for 13 years and strongly support the Scottish Executive's aspiration to expand the rail network, including the bill's aim to re-establish the Waverley line.

The 2003 Labour manifesto for the Scottish Parliament elections, which I helped to develop, made it clear that we would give full consideration to the Borders railway line once the plans were fully developed. Moreover, in the current Labour policy consultation document—which, again, I helped to draft—we make clear our support of the project as part of a range of policies designed to improve the competitiveness and sustainability of Scotland's economy.

I highlight those points as they show that I am hardly someone who wishes to damage the prospects of re-establishing the Borders railway line. Indeed, the aim of amendment 5 is to make the completion of the line more rather than less likely.

I want a robust railway line that has been constructed with due consideration to value for money to the public purse and with a process that ensures good governance. At consideration stage, the Waverley Railway (Scotland) Bill Committee agreed to insert section 1(3) with the good intention of trying to ensure that the project was fully completed. However, good intentions are not always enough. I and many rail industry professionals feel that because section 1(3) sets out a legal requirement for the promoters to construct the whole railway as defined in schedule 1, including all the stations, it will reduce the prospects of the project being completed.

That concerns me, because it was not deemed necessary to include such a provision in the Stirling-Alloa-Kincardine Railway and Linked Improvements Act 2004, the legislation establishing the Edinburgh tramlines or any other private railways legislation. More important, it gives the promoter less flexibility to vary the project from schedule 1 to deal with any cost pressures that might emerge.

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** Quite right.

**Bristow Muldoon:** If, before construction started, the promoter found that it could not construct the project within the available budget, it would have only three options open to it. To Mr Rumbles, who just shouted out, "Quite right", I say that the first option is not to commence construction at all, which would be very damaging for the Borders. Under the second option, the promoter would have to raise additional resources from the partner councils either through council tax increases or through developer contributions above and beyond those that have already been identified. The third option is to seek further funding from the Scottish Executive. Amendment 5 would give the promoter a fourth option, and one that has been allowed to every other rail project approved by Parliament: the ability to vary the detail of the project.

**Mike Rumbles:** What Bristow Muldoon really means, of course, is that it would give the developer the flexibility not to build the Borders railway.

**Bristow Muldoon:** Mr Rumbles seems to doubt my intent in that regard, but surely it is not my intent that he doubts, but that of the Waverley railway partnership. The power that I would give is to the Waverley railway partnership, so what Mike Rumbles is saying is that he thinks it likely that Scottish Borders Council would want to withdraw from the building of the project. If that is not the case, there is no other mechanism by which the outcome that he predicts would happen.

Not to give the promoter that fourth option would be akin to the Royal and Ancient Golf Club of St Andrews telling Tiger Woods that, because it had such confidence in his ability to avoid bunkers for the whole of the tournament, it would not let him carry a sand iron. I know that Tiger did once win the open championship without going into a bunker all week, but he does not manage it every week, and neither does the Minister for Transport.

Varying the detail of the project does not mean, as some have claimed, that the project would not proceed beyond Gorebridge. Anybody who doubts my intentions, as I said to Mr Rumbles, doubts the intentions of the promoter of the bill. Given that the promoter has sincerely pursued the reopening of the Borders rail line for many years, I have no doubt at all that it will be determined to see the project completed to Tweedbank. The sort of flexibility that I would be giving the promoter would mean, for instance, that it could choose not to proceed with the proposed station at Stow. I will go into more detail about why that station would represent poor value for money, but the promoter itself recognises that.

If amendment 5 is opposed by the minister, as I understand it to be, I ask him to advise Parliament what contingency plans he or the promoter has if the cost of the project rises above its current budget. Would the risk lie with the Executive or with the promoter? Does he recognise that, if neither is prepared to bear the additional cost, there is a danger that the project could fail?

**Christine Grahame (South of Scotland) (SNP):** Without accepting the premise of his argument, I ask Bristow Muldoon to name a transport project that has not gone over budget. I am now involved in considering the Edinburgh airport rail link, whose cost is so far estimated at £650 million, well over what was projected.

**Bristow Muldoon:** The budgets for major transport projects in other parts of the Executive's portfolio are well developed and I believe that those projects will be deliverable within their budgets. Is the Scottish National Party pouring further scorn on the proposals to link Edinburgh airport and Glasgow airport to the railway network? Those are by far the most significant railway projects in Scotland and it would be extremely damaging to the Scottish economy for the Parliament not to agree that those projects can proceed.

I repeat that I want the minister to make it clear where the risk lies. The Executive's commitment to the project in policy terms is well known, but I ask the minister to clarify absolutely what the Executive's commitment is in cash terms and to say what, if any, legal exposure the Executive would have if there were any increase in the cost of the project. In addition to the value-for-money

issue, I am also concerned that, if the Executive contribution were to rise substantially, that could have an impact on many of the other projects upon which Christine Grahame has cast doubt, such as the Edinburgh airport rail link and the Bathgate to Airdrie rail line.

I ask the minister and the members who inserted section 1(3) to respond to the points that I have already made and to indicate whether they advocate that a similar section be added to every subsequent railway bill that comes before the Parliament. If their case is so strong, the principle underlying it would presumably translate to those projects too.

I want the project to succeed. I want the line to be constructed all the way to Tweedbank, but I want it to be based on value for money, a reliable railway and good governance.

I move amendment 5.

14:45

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** I cannot claim to have Bristow Muldoon's level of experience of the rail industry. I have a modest request: I just want to be a rail passenger from my home in Galashiels to Edinburgh.

Amendment 5 seeks to remove from the bill a commitment to build the whole railway from Edinburgh to Tweedbank. I do not dispute the sincerity of Bristow Muldoon's contribution to the debate, nor indeed his record of supporting transport infrastructure projects. He is right to point to the reference in the Labour manifesto, although the reference in my party's manifesto was considerably stronger. There was no reference in the SNP manifesto. If there is doubt about the promoter's view of his amendment, ask Bristow Muldoon whether the promoter supports it. It does not.

Bristow Muldoon referred to other transport schemes, such as Edinburgh tramline 2. I was the deputy convener of the Edinburgh Tram (Line Two) Bill Committee. Funding was not in place for tramline 2, which influenced the emphasis of our scrutiny of the bill. As a member of the Airdrie-Bathgate Railway and Linked Improvements Bill Committee, I will give the same level of scrutiny to that proposal. I am sure that Bristow Muldoon will be delighted to hear that, given that the line will affect his constituents.

When Sarah Boyack, then Minister for Transport and the Environment, committed funding to examine the Waverley line's feasibility and to bring a business case and a bill to the Parliament, she did so on the basis that it would be a Borders railway. I am the MSP for half of the Borders and a

quarter of Midlothian. This is the scheme that Parliament was asked to consider and it is the scheme that Parliament supported unanimously. It is the scheme that Christine May said in committee

“must, as well as serving the Edinburgh conurbation, serve the Borders and ... therefore a station at Stow is required and the line should go to Tweedbank.” —[*Official Report, Waverley Railway (Scotland) Bill Committee*, 24 May 2006; c 934.]

I could not have put it better myself.

The argument that it would be easier to build the line without the requirement that the entire route be built is flawed. Anyone who knows what is happening in the Borders, and in Galashiels in particular, would know that the work on the inner relief road and commercial development in the town means that it would be easier for any contractor to put together tenders and commence construction in the Borders first, but as part of an overall route. That is better for the scheme and will be much cheaper than a staged process. A staged process would fundamentally undermine the business case that was presented to the Parliament and scrutinised by the committee. The approach that is outlined represents better government and more sensible procurement, especially as construction companies, some of which already work in the Borders, have made expressions of interest.

I want rail services in Midlothian and the Borders. It is not a case of either/or. There is a positive net present value for constructing all parts of the line. The whole emphasis in respect of the line has been on integrated transport. That is why there has never been any deviation on the part of the local councillors in Edinburgh, Midlothian and the Borders from promoting a whole line. Rhona Brankin and I, as the two Midlothian MSPs, have worked together to deliver a rail link to the county and beyond and to promote road improvements such as the Dalkeith bypass and the Sheriffhall roundabout, which is crying out for investment. An announcement has been made today on Leadburn junction in Midlothian.

I say to Bristow Muldoon that this is integrated transport planning. There is investment in rail, roads and bus development. For the entire route to be built is environmentally beneficial, economically sound and vital for connecting the Borders to all parts of Scotland by rail—including Edinburgh, with its airport rail link. I ask Bristow Muldoon to withdraw his amendment. I do not doubt his sincerity, but his arguments are fundamentally flawed.

**Christine Grahame:** As Jeremy Purvis reminded the Parliament, on 1 June 2000 the entire Parliament unanimously voted for reinstatement of the Borders railway line, not only

to Gorebridge, Galashiels or Tweedbank, but to Carlisle. It was remitted to four committees of the Parliament to examine the necessity for this transport link through the Borders to address economic issues, social inclusion and the other issues that arise in a much-deprived area. The area has the lowest wages in Scotland. People earn £150 per week less if they live in Galashiels than they do if they live in Edinburgh. The railway line is essential.

Bristow Muldoon's argument is ridiculous. This is the only line that has to pass every single test in the book. No other transport project—let alone the Scottish Parliament building project—has had to pass such tests: the project must come in exactly on budget and it must be done in a certain way. Why has this project gone through more hoops than any other? Because there is not the political will on the Labour benches for the line to proceed. Labour members are happy for it to go to Midlothian, which has a Labour MSP, but they will ditch their Liberal Democrat partners now as they are not happy with them. They will leave them swinging in the wind. They are making a political decision in advance of an election year.

**Bristow Muldoon:** I point out to the member that Gorebridge is not mentioned in my amendment nor have I mentioned it in any of the statements that I have made about my amendment. If Christine Grahame is so concerned about my amendment, does she know something that we do not? Does she know that the budget will be way over the current projection?

**Christine Grahame:** I said that I was not conceding that point. The Waverley project would be the only transport project to be put through the kind of test for which Bristow Muldoon argues. Of course his argument means having only a Midlothian line—dot the i's and cross the t's—it has always meant trying to get the project done as a staged process. If it was a staged process, not a single bit of track would be laid past Gorebridge into the Borders, which would be an insult to the 20,000 Borderers whose signatures brought the Waverley proposal from the streets of the Borders to the Parliament.

**Jeremy Purvis** *rose*—

**Christine Grahame:** Mr Purvis must sit down; he has had his bit.

Those Borderers brought the proposal to the Parliament on the basis of having a line to the Borders. How can it be a Borders line if it does not go to Gala, Tweedbank or Stow, but has four stops in Midlothian? In that case, it becomes a Midlothian line. The arguments of Bristow Muldoon and others point towards a single issue: the election next year. The Liberal Democrats have been making hay, saying that they are getting all

the good things for their people. The Labour Party is being left with all the bad things, so it has decided that it is time for the reckoning: ditch the Liberal Democrats on the Waverley proposal. That will ultimately sacrifice a Borders rail line that is worth more than the two Executive parties put together.

**Mr Ted Brocklebank (Mid Scotland and Fife) (Con):** Scottish Conservatives support the bill's aims and the committee's report in full. As a committee, we made it crystal clear that a Borders railway had to service the whole of the Borders, which includes having a station at Stow. Without a commitment to ensuring that that happens, the project is at risk of failing. If there is support only for a railway that goes to Gorebridge, a bill for that purpose should have been introduced—it was not.

One of the founding principles on which the Parliament is built is the sharing of power. The consultative steering group that produced the blueprint for how the Parliament and its committees should work was clear on the importance of the committees' role. They have been given the authority to scrutinise and investigate issues relating to bills brought to the Parliament and, on the basis of such scrutiny and investigation, to amend them as necessary.

That process is particularly relevant to private bills and the wide-ranging role that private bill committees have. Private bills do not normally raise issues of a party political nature. We as a committee maintained our position of considering and reporting on the basis of evidence being taken in a neutral and impartial way, as required. We at least have been true to those objectives.

On the basis of the 108 witnesses from whom we heard, the 4ft-high pile of written evidence and paperwork associated with the bill that we carefully considered, and the 29 committee meetings held, we collectively reported last month with informed and balanced reasons for amending the bill in the way that we have suggested. It is on that basis, and with that level of competence and knowledge that the committee brought the bill in its current shape to the chamber today.

That overall purpose has not changed. A phased approach to constructing the railway would be more expensive and would be against the will of the Parliament.

**Jackie Baillie (Dumbarton) (Lab):** Will the member give way?

**Mr Brocklebank:** I am just concluding.

It would also bring into question the function and purpose of the bill committee, which has spent nearly three years considering the project. I urge members to reject amendment 5.

**John Home Robertson (East Lothian) (Lab):** Our decision on amendment 5 will, I think, determine whether the Waverley railway will actually be built in order to provide better transport for people in the Borders and Midlothian, or whether the act will just sit on a shelf somewhere for the benefit of certain politicians who like that kind of thing.

I live in the Borders and I used to represent the former county of Berwickshire, which includes Earlston and Lauder, in the House of Commons. I understand the aspirations of people in the Borders and I am a keen supporter of good railway projects. I, too, used to be sponsored by a railway trade union.

The Waverley project is an ambitious one by any standards, so it is fraught with risks. It is absolutely inevitable that costs will escalate much further. The prospects for passenger numbers on the Borders section are questionable, given the long journey time, and there must be a real risk from growing resistance by the majority of Borders council tax payers who do not live near Galashiels. I urge members who represent that area to listen to what citizens are actually saying around the Borders.

**Jeremy Purvis:** I hope that the member is reassured that I am listening, but I am also listening to the private developers who are actually contributing to the Borders element; it is not council tax payers, which is one of the fundamental misunderstandings. Does Mr Home Robertson agree that, with regard to construction, the easier part is actually the Gala water part and not Midlothian?

**John Home Robertson:** Mr Purvis has had his speech. That was a cautionary note.

My point is that the Borders section of the project is a marginal and delicate proposition that needs to be nurtured. I believe that section 1(3) makes it extremely difficult for any part of the line to be constructed. As Bristow Muldoon said, the subsection is not necessary. It contributes nothing to the bill and yet imposes an all-or-nothing statutory obligation on the promoter that could sabotage the option for phased progress towards successful completion of the line. Without that subsection, the Waverley line can be built as an asset to Midlothian and the Borders and as a credit to the Scottish Parliament. However, most members know that its inclusion in the bill means that it is very likely that the resulting act will be a dead letter.

There are two kinds of politician in this world: those who want to achieve practical results for people and those who are more interested in political manoeuvres and media soundbites. The decision on amendment 5 is important; it has the



capacity to affect people's livelihoods. The choice is between making a political gesture or effecting the construction of a railway; it is between an unimplementable bill that can only ever be the basis for acrimony and disappointment and one that will achieve better transport provision and prospects for Midlothian and the Borders.

We all know what is going on: members in all parties are aware of each other's private views on the subject. I will not betray any confidences, but I know that Christine May is one of several committee members who have very serious concerns about the risk that the subsection poses to the project. I heard the minister on the radio this morning saying some wise words. He said that a good Government recognises when it makes mistakes. The same principle should apply to a good Parliament. Like the rest of us, the minister knows that the subsection is a potentially fatal flaw. If we are serious about the Waverley project, this wrecking subsection should be removed.

The consideration of the bill reminds me of the story of the king with the invisible suit: we all know that the subsection is nonsense, but Christine May alone has had the courage to say that until now. This Borderer intends to vote for amendment 5. That way, if the subsection is retained, and leads to the failure of the Waverley project, my conscience will be clear.

**Margaret Smith (Edinburgh West) (LD):** The Waverley Railway (Scotland) Bill was before the bill committee for nearly three years, during which time we took evidence from 108 witnesses and held 29 meetings in Edinburgh, Galashiels and Newtongrange. I hope that today we deliver what we have worked on for nearly three years, which is a Borders railway—not an Edinburgh commuter line or a Midlothian railway, but a Borders railway.

As the bill makes clear, what we should be about is

“the reconstruction of a railway from ... Newcraighall ... to Tweedbank in Scottish Borders”.

If there was support for only a Midlothian railway, that is what should have been brought forward, but that is not what happened. At the preliminary stage, the Parliament voted in favour of a Borders railway and a Midlothian railway—a railway that would run all the way through to the end of the line.

We have had six years in which to make the decision to build the line. In our preliminary stage report, we supported the building of the full line and signalled our support for the further station at Stow. At that point, Christine May produced a minority report, but it was rejected by the committee and the Parliament last September. That is why the committee lodged amendment 1 only three weeks ago, at the consideration stage;

that, and the fact that, behind the scenes, civil servants and others were continually telling us that they would never build the full line and that the station at Stow would remain a figment of our imagination.

The committee wants to make it clear that the unanimous will of the committee and the clear will of the Parliament should not be thwarted. I remind John Home Robertson and other members that, at our meeting of 24 May—only three weeks ago—Christine May, who is one of the co-sponsors of amendment 5 said:

“if the railway is to be put in place it must, as well as serving the Edinburgh conurbation, serve the Borders and ... therefore a station at Stow is required and the line should go to Tweedbank.”—[*Official Report, Waverley Railway (Scotland) Bill Committee*, 24 May 2006; c 934.]

She could not have made it any clearer.

**Christine May (Central Fife) (Lab):** Will the member give way?

**Margaret Smith:** No. Christine May will have her chance. John Home Robertson would not take an intervention from me on the point.

Having heard all the evidence, we decided unanimously that it was right after 40 years to reintroduce the Borders railway. It was clear to us that the project is about more than pure economics; it is about the socioeconomic benefits that the railway could bring to the only part of the Scottish mainland that is denied access to the national rail network. It was also clear to us that the project was about opening up the Borders in terms of social inclusion, employment, tourism, inward investment, increased spend and the retention of younger people who will choose to live in the Borders, many of them in the thousands of new homes that will be built, in part, because of the project.

**Jackie Baillie:** Will the member take an intervention?

**Margaret Smith:** No.

Furthermore, it was clear to us that the project is about encouraging those who live in the Borders and Midlothian, particularly those who commute to Edinburgh, to switch to public transport. That will benefit not only the Borders and Midlothian, but the capital.

To misrepresent this project as being simply about the financial case for or against the railway line is to some extent to miss the point of the whole project. We felt that to build a Borders railway but to have only two stations in the Borders or, if Bristow Muldoon and Christine May had their way, no stations at all, would be wrong and would represent a missed opportunity. To say that we could return to the project in a phased manner begs the question how much more it

would cost to build the line in future if we leave it undone now. The entire line has the support of the Executive, Network Rail, First ScotRail and all three promoters from the three local councils. There is only one reason why members should support amendment 5, which is if they want to wreck the bill. We have the chance to do something important today: to build a railway to reconnect the Borders of Scotland with the rest of our country. I urge members to seize the opportunity with both hands and to reject amendment 5.

15:00

**The Presiding Officer:** Three more speeches, each of three minutes please.

**Gordon Jackson (Glasgow Govan) (Lab):** Three minutes is more than enough. After three years on the bill, I had not intended to speak at all.

I wish to disagree with two things that have been said. I am sorry to disagree with my colleague John Home Robertson, but I do not for one minute believe that section 1(3) means that the railway will never be built. I do not accept that we have to remove section 1(3) to stop the project being put on the shelf. Having spent three years communicating with the promoter, I have no doubt that its commitment to build all of the railway will not for one moment be affected by having to build a station at Stow. I believe in the station at Stow; I voted for it in committee because I thought that it was the right thing to do. However, even if it is the wrong thing to do, I have no doubt that the railway will go ahead even if a station at Stow is required. That scaremongering is not helpful.

The other thing that really got me angry—well, almost angry—was Christine Grahame. I cannot remember the words that she used, but she implied in her outburst that there was an agenda to build the railway only in the Lothians. That is simply not true. Going right back to the Labour Party manifesto, there has never been that agenda. I sat on the Waverley Railway (Scotland) Bill Committee for three years and supported a railway right down through the Borders. Not once in that time was there pressure from any Labour minister, any Labour group or anyone in the Labour Party to wreck the bill or for the railway to go only into the Lothians.

**Christine Grahame** *rose*—

**Gordon Jackson:** No, I have heard the member. Many of us sat on the committee and operated in good faith. We are still operating in good faith.

**Christine Grahame** *rose*—

**Gordon Jackson:** There might be one or two individuals who do not agree. I have not changed

my position one bit, and I resent the accusation that the Labour group has an agenda to stop the railway being built. That has never been our position; it is not our position now. The railway will go ahead, and I for my part look forward to a station at Stow.

**Euan Robson (Roxburgh and Berwickshire) (LD):** I welcome the opportunity to make a few remarks. Christine Grahame's contribution was unhelpful. I respect the point of view that was eloquently expressed by Bristow Muldoon, but I prefer the point that Gordon Jackson made, which is that the bill committee has spent three years considering the bill. It has gone into it in infinite detail and, as has been adequately explained, it has engaged with the promoter.

My constituent John Home Robertson said that the inclusion of section 1(3) will, in effect, wreck the bill, but I do not accept that. It will not wreck the bill. It will serve as a confidence measure so that Borders people can understand that the railway line will be built in its entirety to Tweedbank. It is important that the railway line goes to Tweedbank for the simple reason that some of us believe that it should go beyond there to other parts of the Borders: to Kelso, Hawick and eventually, in years to come, to Carlisle. We will not do that immediately, but it is an aspiration that we still hold within the Borders and one that we will campaign for after the bill has been passed.

I urge the Parliament to remember that, on two previous occasions, it has voted unanimously that the project should proceed. The first was way back when the Parliament sat in Glasgow; it also occurred in October last year, when there was one abstention.

Section 1(3) is right and proper. It was inserted in the bill after due consideration by committee members, and I do not understand those who have changed their minds—perhaps we will hear from them. Section 1(3) is valid and important to the confidence of the people of the Borders that the line will be constructed to Tweedbank.

**Chris Ballance (South of Scotland) (Green):** I start by being the first to congratulate Madge Elliot—the instigator of the Borders railway campaigns—the Campaign for Borders Rail, the Waverley Route Trust and all the others, such as the Stow station supporters, who worked for decades before parliamentarians in the Scottish Parliament came to do their work.

Amendment 5 is a wrecking amendment that is designed to stop the railway at Gorebridge, regardless of what Mr Jackson said. Are the Labour members who support the amendment seriously suggesting that we should build the Tweedbank to Stow stage first, then build the bit to Gorebridge and then, if we get round it, connect

the railway up to Waverley and, if we do not, that we should leave ourselves with two unconnected railways? Of course they are not. They are suggesting that the railway should go to Gorebridge and stop there. That is the agenda behind amendment 5. If Labour members are trying hard to scupper a railway going into the Borders, will the Liberal Democrats—and the minister in particular—now try to scupper the Labour M74 extension, which is projected to cost several times as much as the Borders railway?

Amendment 5 is a wrecking amendment and the Scottish Green Party will not support it.

**The Minister for Transport (Tavish Scott):** I suspect that Bristow Muldoon and I share a passion not only for railways, but for golf. At times this afternoon, I would rather have been debating golf than railways. However, we are where we are.

I understand Mr Muldoon's intentions for amendment 5 and his commitment to the railway infrastructure throughout Scotland and the Waverley line in particular. He and I want the same outcome—that we build and operate a rail line between Edinburgh and Tweedbank—but the Executive does not support amendment 5 and I hope that I can provide sufficient reassurance to avoid division.

The partnership agreement commitment is to support the building of the whole of the Borders railway. We have committed £115 million in 2002 prices—that is, an anticipated cost outturn of £155 million—to the project as a whole, not in part. The budget for the Borders rail project has been set and our contribution will remain capped, but colleagues want to know about the contributions from other project sponsors. They amount to £19 million at 2002 prices. Scottish Borders Council, Midlothian Council and the City of Edinburgh Council are contributing £11.3 million, while developer contributions from Scottish Enterprise Borders, Shawfair Developments Ltd and the Currie Road developments amount to £7.6 million.

We will work with the project sponsors to manage the project effectively and procure the entire project in a way that ensures value for money and secures maximum benefit and a successful project. I agree with the committee's conclusion that the whole railway is justified, not solely on economic benefit grounds but on the grounds of social inclusion—which is a key Scottish Executive policy objective—and improving accessibility to the Borders.

The Parliament has asked, fairly, that the business case be robust. I reiterate an often-made point: for Government funds to be released, the business case must continue to be robust, be positive and represent value for money. Transport Scotland will continue to test that business case

and the assumptions that underpin it. As part of its broader, Scotland-wide rail responsibilities, Transport Scotland will also ensure that the assumptions about performance and the timetabling of services take account of the need to integrate successfully with the overall rail network.

It is a matter of how we manage the process and the delivery of the whole railway on time, within budget and for the benefit of the Borders, Midlothian and Edinburgh. We will work with the promoter to manage the project effectively and to procure it in a way that ensures value for money and secures benefits that will deliver a railway that works.

Turning specifically to amendment 5, I wish once again to state the importance of the project passing the four key tests that the Government agreed in supporting the Waverley line. The most important of those tests is that the assumptions underlying the business case must hold, including those on the achievement of patronage levels, the containment of costs, the active management of risks and the housing growth projections that are achievable and based on identified market demand.

We must be satisfied on all those counts. The development of the business case and the assumptions underlying the scheme are critical. If the business case is not robust, we will not release funds. Given those checks and balances and the consistent financial scrutiny that is in place, I ask Bristow Muldoon to withdraw amendment 5.

**Tricia Marwick (Mid Scotland and Fife) (SNP):** The remit that the Parliament established for the Waverley Railway (Scotland) Bill Committee was:

“to consider and report to the Parliament on the Waverley Railway (Scotland) Bill”.

That the committee has done, fully and thoroughly, producing two reports that set out its conclusions and recommendations on what it viewed to be the main issues. The process has taken three years. Ted Brocklebank mentioned the 108 witnesses and the 4ft-high pile of written evidence and associated paperwork, which we considered carefully. On the basis of that lengthy, detailed scrutiny of the issues, the committee concluded unanimously that the railway, if constructed, must go all the way to Tweedbank and serve the Borders community.

Now, an amendment has been lodged by a Labour back bench. He made no representations to the committee at any stage. He does not represent any of the areas that are affected. He did not even speak in the preliminary stage debate, when it was made clear by the Waverley Railway (Scotland) Bill Committee, and agreed by the Parliament, that we expected the line to be built in its entirety. Being the convener of

the Local Government and Transport Committee does not convey any authority on transport matters; it is a position that is given by the Labour Party.

**Bristow Muldoon:** I made it absolutely clear in my speech that I support the completion of the line all the way to Tweedbank. My contention is that Tricia Marwick's proposed approach would put that at greater risk.

**Tricia Marwick:** My contention is that Bristow Muldoon has got that completely wrong. His amendment 5 is supported by Christine May, the deputy convener of the Waverley Railway (Scotland) Bill Committee. Others have said this, but it is worth saying again. Just a few short weeks ago, Christine May said:

"Amendment 1 is extremely important and reflects the committee's view in our final discussion and our report that if the railway is to be put in place it must, as well as serving the Edinburgh conurbation, serve the Borders and that therefore a station at Stow is required and the line should go to Tweedbank."—[*Official Report, Waverley Railway (Scotland) Bill Committee*, 24 May 2006; c 934.]

The bill is too important to the people of the Borders for the debate to degenerate at this stage into an infantile squabble by Labour and the Liberal Democrats about who holds more sway in the coalition. They are supposed to be the Government of Scotland. On the basis of our detailed scrutiny of the issues behind the case for the Borders railway, we concluded that it must go all the way to Tweedbank.

To cite the long title of the bill as introduced, its purpose is

"to authorise the reconstruction of a railway from ... Newcraighall ... to Tweedbank".

Parliament supported that aim when it agreed to the general principles of the bill, which no member voted against.

A phased approach to constructing the railway, as Bristow Muldoon proposes, would be more expensive; it would also be against the will of the Parliament. It would call into question the function and purpose of a committee that spent nearly three years considering and reporting on the issues.

**Jackie Baillie:** Will the member take an intervention?

**Tricia Marwick:** No, I will not.

The committee, like successive ministers and the promoter, has repeatedly stressed the point about the costs being robust, and we have repeatedly been assured that they are.

Bristow Muldoon argues that amendment 5 brings flexibility to the project so that it can be built in stages. It does not. It brings uncertainty. Bristow

Muldoon's proposal would wreck the project and would allow for a railway to be built no further than Gorebridge. That is what the member wants, and he should have the honesty to say so in the chamber instead of pretending that he is helping the bill to progress.

I have no doubt that a railway—[*Interruption.*] Please excuse me while I clear my throat.

**Jackie Baillie:** Will the member take an intervention now?

**Tricia Marwick indicated agreement.**

**Jackie Baillie:** That was divine intervention on my behalf.

There is an issue of parliamentary consistency. The SNP voted for the Edinburgh Tram (Line One) Bill scheme to be built in phases; there was no requirement for a compulsion section in that bill. Is the Edinburgh Tram (Line One) Bill of less importance?

15:15

**Tricia Marwick:** I do not think so, but it was up to the Edinburgh Tram (Line One) Bill Committee to make its own decisions on that. It was open to that committee to insert in the bill a requirement that the line would not be built in phases, as the Waverley Railway (Scotland) Bill Committee has done.

I have no doubt that a railway from Gorebridge to Edinburgh is desirable, but the Waverley Railway (Scotland) Bill is not a bill to construct such a railway; it is a bill to construct a railway to and from the Borders. It should not be converted by one member's amendments into a bill that excludes the Borders.

The bill at it stands, as amended by the committee, provides clarity and purpose to all parties, particularly people who will lose their land or property to make way for the railway. I urge members to listen to some of those people, who have been blighted by the prospect of a railway. They cannot be left for another five, 10 or 15 years with the uncertainty that the line might or might not go from Gorebridge to the Borders. They need to know whether they have a future, according to what we do. We have waited far too long to give those people the reassurance that they want. It is time to make the decision. I urge the Parliament to reject amendment 5 in the name of Bristow Muldoon.

**Bristow Muldoon:** The debate has been illuminating. Some members have taken part in a constructive and reasoned way, among whom I draw attention to Euan Robson and Tavish Scott. Others have made up what my amendment aims to achieve and ignored completely my record of support for the project.

For the information of Ms Marwick and her SNP colleagues, for the past five years I have been chair of Labour's Scottish policy forum, which included the Borders railway line in our manifesto in 2003. The economy document on which we are consulting, which I largely drafted, included an on-going commitment to the line. That shows Labour's commitment to the project.

I have had my good intentions doubted, but I have been fair enough to say that, although I think that the Waverley Railway (Scotland) Bill Committee has got it wrong, I also think that it has the best of intentions. I believe that the committee wants to see the project delivered and work. I regret that members such as Tricia Marwick and Christine Grahame doubt the good intentions of others.

As I said, Euan Robson made a fair contribution. We do not agree on the detail of amendment 5, but I acknowledge that he wants to see the bill proceed, as I do.

The minister made a balanced contribution. I acknowledge that we want to see the same outcome—an efficient railway line delivered within budget along the whole route from Edinburgh to Tweedbank. I welcome the information that the minister gave us that the Executive stands by its position on the various tests that the project needs to meet in relation to the continuing robustness of the business case; the achievement of patronage levels; the containment of costs; the active management of risk; and housing growth projections.

Jackie Baillie pointed out effectively the inconsistency of the SNP in relation to section 1(3). I note that no member addressed my challenge on whether we would have to have a similar section in every future railway bill.

However, given the constructive nature of the minister's contribution and his assurances, I am prepared not to press amendment 5. I seek permission to withdraw the amendment.

**The Deputy Presiding Officer (Murray Tosh):** The member has sought permission to withdraw amendment 5. Is that agreed?

**Members:** No.

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

**Members:** No.

**The Deputy Presiding Officer:** There will be a division. In accordance with the standing orders that govern these proceedings, the division bell will now sound in the chamber—sorry, in the building other than the chamber—and the Parliament will be suspended for five minutes.

15:19

*Meeting suspended.*

15:24

*On resuming—*

**The Deputy Presiding Officer:** We will now proceed with the division.

**FOR**

Home Robertson, John (East Lothian) (Lab)  
Monteith, Mr Brian (Mid Scotland and Fife) (Ind)

**AGAINST**

Adam, Brian (Aberdeen North) (SNP)  
Aitken, Bill (Glasgow) (Con)  
Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
Baillie, Jackie (Dumbarton) (Lab)  
Baird, Shiona (North East Scotland) (Green)  
Baker, Richard (North East Scotland) (Lab)  
Ballance, Chris (South of Scotland) (Green)  
Ballard, Mark (Lothians) (Green)  
Barrie, Scott (Dunfermline West) (Lab)  
Boyack, Sarah (Edinburgh Central) (Lab)  
Brankin, Rhona (Midlothian) (Lab)  
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
Brown, Robert (Glasgow) (LD)  
Brownlee, Derek (South of Scotland) (Con)  
Butler, Bill (Glasgow Anniesland) (Lab)  
Byrne, Ms Rosemary (South of Scotland) (SSP)  
Canavan, Dennis (Falkirk West) (Ind)  
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
Crawford, Bruce (Mid Scotland and Fife) (SNP)  
Cunningham, Roseanna (Perth) (SNP)  
Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
Davidson, Mr David (North East Scotland) (Con)  
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
Douglas-Hamilton, Lord James (Lothians) (Con)  
Eadie, Helen (Dunfermline East) (Lab)  
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
Fabiani, Linda (Central Scotland) (SNP)  
Ferguson, Patricia (Glasgow Maryhill) (Lab)  
Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
Fox, Colin (Lothians) (SSP)  
Fraser, Murdo (Mid Scotland and Fife) (Con)  
Gallie, Phil (South of Scotland) (Con)  
Gibson, Rob (Highlands and Islands) (SNP)  
Gillon, Karen (Clydesdale) (Lab)  
Glen, Marlyn (North East Scotland) (Lab)  
Godman, Trish (West Renfrewshire) (Lab)  
Goldie, Miss Annabel (West of Scotland) (Con)  
Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
Gorrie, Donald (Central Scotland) (LD)  
Grahame, Christine (South of Scotland) (SNP)  
Harper, Robin (Lothians) (Green)  
Harvie, Patrick (Glasgow) (Green)  
Henry, Hugh (Paisley South) (Lab)  
Hughes, Janis (Glasgow Rutherglen) (Lab)  
Hyslop, Fiona (Lothians) (SNP)  
Ingram, Mr Adam (South of Scotland) (SNP)  
Jackson, Dr Sylvia (Stirling) (Lab)  
Jackson, Gordon (Glasgow Govan) (Lab)  
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
Johnstone, Alex (North East Scotland) (Con)  
Kane, Rosie (Glasgow) (SSP)  
Kerr, Mr Andy (East Kilbride) (Lab)  
Lamont, Johann (Glasgow Pollok) (Lab)

Leckie, Carolyn (Central Scotland) (SSP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Campbell (West of Scotland) (Ind)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Petrie, Dave (Highlands and Islands) (Con)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watt, Ms Maureen (North East Scotland) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### ABSTENTIONS

Muldoon, Bristow (Livingston) (Lab)

**The Deputy Presiding Officer:** After all that excitement, the result of the division is: For 2, Against 114, Abstentions 1.

*Amendment 5 disagreed to.*

#### Section 13—Authority to acquire land

**The Deputy Presiding Officer:** Group 2 is on Stow station. Amendment 19, in the name of Bristow Muldoon, is grouped with amendments 20, 21, 6 to 11, 22, 13, 14, 14A, 15 and 18. I point out that if amendment 22 is agreed to, amendment 13 will be pre-empted.

**Bristow Muldoon:** In speaking to amendment 19 and the other amendments in my name on Stow station, all of which must be considered together, I wish to explain the effect of the amendments and then the reasoning that supports them.

The amendments would remove the authority for the promoter to construct a railway station at Stow and return the bill to the proposals that were initially made by the Waverley railway partnership. I make it clear that the amendments in my name in group 2 are linked. If the Parliament supports amendment 19, it will be necessary to pass all the consequential amendments as well so that the bill is consistent. If the Parliament does not support amendment 19, I will not move the subsequent amendments.

I propose that we remove the authority for the promoter to construct a station at Stow for a number of reasons—value for money, operational effectiveness, the impact on the overall journey time and the impact on the business case for the project. The promoter itself dropped the idea of a station at Stow because it did not believe that the idea represented value for money. That was recognised by the Waverley Railway (Scotland) Bill Committee in its preliminary stage report, paragraph 131 of which states:

“The promoter’s forecasting, which it claims is based on a ‘detailed, econometric stated preference interview survey using industry best techniques’ was that only 10 passengers a day would use the station, rising to 48 in 30 years time, causing a negative economic impact of £718,000 over this period. It firmly concluded that no business case existed for a station at Stow and that a station there ‘would represent very poor value for money for the public purse’.”

I acknowledge that some groups dispute the promoter’s analysis but, given that the prime advocate of the project, after carrying out a thorough assessment of the case for a station at Stow, believes that it would represent

“very poor value for money”,

it is unfortunate that the committee chose to disregard the promoter’s view and insert into the proposals a station at Stow. At best, that would seem to be gold plating. At worst, it could damage the whole project.

The population of Stow is about 600. Although some stations on the network are situated at places that have populations that are smaller than

that, the railway industry would not advocate building a new station to serve such a small population. Also, Stow is only about 7 miles from Galashiels.

**Fiona Hyslop (Lothians) (SNP):** The member seeks to take the bill back to its original form, as put forward by the promoter. Should I warn my constituents in West Lothian who are campaigning for a halt at Blackridge on the Bathgate to Airdrie line that there is a member who wants to take railway bills back to their promoter's original proposals? Should I warn them that he has done that once and that he might do it again?

**Bristow Muldoon:** First, the communities in West Lothian and Lanarkshire that are campaigning for additional stations are many times bigger than Stow. Secondly, it is not for me to make that case. I am not the constituency member for either of the areas that were mentioned. The constituency members are my colleagues Karen Whitefield and Mary Mulligan and I am sure that they will make an active case in support of their constituents.

The committee justified its support for a station at Stow partly by referring to

"A large catchment area ... in the town of Lauder, some six miles east of Stow".

However, the population of Lauder is only 1,000. It does not seem to me that it is a large community.

15:30

**Tricia Marwick:** Will the member give way?

**Bristow Muldoon:** I wish to make progress. I am sure that Tricia Marwick will have the opportunity to speak later.

The cost of the station, which will serve 10 people a day, will be £1 million. That is not good value for money for the public purse.

I am advised by contacts in the railway industry, and I understand that the committee was told by Transport Scotland, that having a stop at Stow would add three to four minutes to the end-to-end journey time. Given that many people, including many strong supporters of the project, believe that the original end-to-end journey time is too long to be attractive to many car users, it is wrong that Parliament should add a requirement that would increase the time.

In operational terms, the additional stop could add to the frequency with which trains are terminated short of their destination—Tweedbank—to allow the service to be returned to schedule when it runs late. That is not a theoretical danger, as Mary Mulligan's constituents could testify from the frequency with which Bathgate services terminate at Livingston North because of the timetable's inflexibility.

As I said, Damian Sharp of Transport Scotland warned the committee of that danger. He said to the committee:

"The likely consequence is that late-running trains would have to be terminated at Galashiels and would not get to Tweedbank, which would have a very bad impact on the perception of the railway."—[*Official Report, Waverley Railway (Scotland) Bill Committee*, 27 March 2006; c 896.]

Alternatively, if such action did not return the service to schedule, that would have consequences for the east of Scotland rail network in and around Edinburgh Waverley station. Not having a station at Stow would leave more operational flexibility to deal with such eventualities.

As recently as 27 March, the Minister for Transport, Tavish Scott, shared my concerns about the proposal. He advised the committee that his

"biggest concern about having a stop at Stow is that it will impact not just on the Borders line, but on the rest of the network ... it is crucial that the service that has come north from the Borders and through Midlothian hits the east coast line, and gets into Waverley, at the right time."—[*Official Report, Waverley Railway (Scotland) Bill Committee*, 27 March 2006; c 895.]

My final reason for removing authority for a station at Stow from the bill is that building a station at Stow would have an impact on the business case as a result of the factors that I have mentioned.

**Jeremy Purvis:** I am sure that the member has read the promoter's explanatory memorandum on Stow, which says that, even with a station at Stow, the turnaround time at Tweedbank would still be within what is allowable. That scotches one of the myths that have been put out about an impact on the east coast main line.

**Bristow Muldoon:** Jeremy Purvis misunderstands my position. With a station at Stow, the risk of terminating the service short of Tweedbank on occasions of late running would be higher, because the turnaround time that Mr Sharp advised the committee was likely to be programmed into the timetable was only five minutes. My final reason for not having a station at Stow is that having a station would have an impact on the business case.

A station at Stow would represent poor value for money, would lengthen the journey time, would be detrimental to the rail network's operational integrity and could undermine the business case for the project. To protect the project's integrity, I urge members to support the amendments in the group that are in my name.

I move amendment 19.

**The Deputy Presiding Officer:** I ask for speeches of three minutes. I will call as many speakers as I can.

**Tricia Marwick:** Amendments 6 to 8 and 13 to 15, which are in my name, are technical. They will correct land referencing and plot references in the bill and provide an interpretation to the Stow station maps, plans and sections, which form one of the bill's accompanying documents. The Stow maps, plans and sections identify land plots that have been revised as a result of new Ordnance Survey mapping of the area and provide an update of the details that are shown in the maps, plans and sections for the entire scheme that were lodged with the bill on introduction. I urge members to support my amendments.

I oppose the amendments that Bristow Muldoon lodged. He seeks to overturn the amendment that the committee unanimously agreed—that there should be a station at Stow. The committee made it clear at the preliminary and consideration stages that there should be a station at Stow. Of course, Mr Muldoon made no representations on that matter or any other in the preliminary stage debate in Parliament or to the committee. He should have made much of the case that he has made today at the preliminary stage, but he chose not to.

The promoter gave evidence that it had taken a hard-hearted economic business view of Stow. My committee looked beyond the business case and focused on maximising the social benefits that the railway can bring to the wider Borders community. If those benefits are to be maximised, the railway must serve a wider catchment area than just that around Galashiels. The railway cannot be called a Borders railway if it has only two stations at the bottom end of the line and then 20-plus miles of track until it reaches Midlothian, which will have five stations.

I hope that the Local Government and Transport Committee, which Bristow Muldoon convenes, does not make all its decisions based purely on the financial case. If we do that, we might as well close every railway in Scotland and not build another. As I recall, the evidence from the Strategic Rail Authority remarked on the difficulty of finding viable railways in Britain. Broadly speaking, railways are not profitable in London or Glasgow and are unlikely to be profitable in the Borders or, dare I say it, between Airdrie and Bathgate.

The creation of a station at Stow will provide scope to draw additional passengers to the railway from commuters and travellers from towns such as Lauder and Clovenfords. Widening the social and economic opportunities and improving the area's accessibility to the capital are the prime reasons why the committee amended the bill to provide for an additional stop at Stow.

Bristow Muldoon suggested that timetabling would be a difficulty for the proposed station. However, I can assure him that the committee was

told that time had been saved on the line. As a committee, we reckoned that the time that had been saved was more than adequate to serve the station at Stow.

In its evidence the promoter, which did not support a station at Stow on purely economic grounds, suggested that such a station could be added at a later stage. The committee's decision to include provision in the bill at consideration stage for a station at Stow was not inconsistent with that position. The bill as it stands does not require a station at Stow—although that is what we want—but enables the creation of such a station by providing for all the powers and permissions that would be necessary for such a station to be built. The amendments in the name of Bristow Muldoon would remove those powers and permissions. It is clear that he has no intention of ever providing a station at Stow.

The opportunity to build a railway comes very rarely. If the railway is to be built without a station at Stow, does anyone seriously believe that the station will be built at some time in the future? I do not, and I doubt that many other members believe that. That is why the Parliament should oppose the amendments in the name of Bristow Muldoon.

**Jeremy Purvis:** I have discussed the issue of whether there should be a station at Stow with many constituents over the many years in which I have lived in the community. There are strong voices in favour of the station and there are strong voices opposed to it. One concern among others is the proposed station's proximity to the school. However, on balance, it is absolutely right that we should have a station at Stow. I say that as one who has sat in the living-rooms of constituents whose houses would be bulldozed under the scheme, which has been hanging over them for a long time. I understand the concerns, but I also appreciate the benefits.

Bristow Muldoon's concern is seriously flawed. I believe that there is a business case for Stow. I agree with the committee and, in particular, Christine May, who said:

"a station at Stow is required."—[*Official Report, Waverley Railway (Scotland) Bill Committee, 24 May 2006; c 934.*]

The principal objections to the station are that it lacks a robust patronage forecast, its capital costs are too high and it would have a negative impact on timetabling for the line and the rest of the network. In all the evidence that the committee heard, it was clear that the capital costs for any change in plan after the construction of the rail line would be considerably higher than those for the construction of a station at Stow from the start.

In my view, the patronage forecasts are too pessimistic. In addition, they do not take into



account the positive economic impact on Stow and its surrounding communities. I know that the committee visited the area, but I suspect that other members who have referred to Stow have not done so. The Gala water, which is a beautiful part of Scotland, will be 35 minutes from Edinburgh for recreation and outdoor sports. Stow struggles to sustain its existing economic activity. The Waverley project, with a station at Stow, will have a major economic impact.

As we heard from the minister, the Executive's commitment is to provide funding uprated with inflation. If the promoter and the Executive can work together to accelerate the next stage by moving towards procurement and if, with the necessary geological and topographical work, the project can be delivered early, the savings in construction industry inflation will mean that the station could be incorporated within the existing funding package. That would be extremely positive.

Scotland has 340 passenger stations, of which 59 are in Glasgow and 58 are in the Highlands. That situation has evolved. Accepting that rural areas have the same need to be connected as urban areas have, we would all be surprised if MSPs from urban areas made moves to close Highland stations.

The promoter's evidence from 9 January scotches many of the myths that we have heard about value for money and engineering. New modelling was carried out in 2005 to improve the timetabling and journey times that were suggested in September 2003. The committee was right in its judgment on Stow, and the Parliament will be right to adopt the committee's recommendations.

**Christine Grahame:** I welcome the Liberal Democrats' support for a station at Stow. They did not always support it. Mr Purvis's predecessor, Ian Jenkins, did not, on the basis that it would prejudice the building of the line. I know that he is sitting in the public gallery, so I thought that I would mention him.

I want to deal with Bristow Muldoon's claim that the station would serve only 10 passengers a day.

**Jeremy Purvis:** Will the member give way?

**Christine Grahame:** No—I want to address some pertinent points.

It is a bizarre notion that only 10 passengers a day would use the station. I understand that the promoter got that information by selecting an inconvenient station site three quarters of a mile south of Stow—in the wrong direction—on a narrow back road. That was never divulged and came to light only last year. When challenged by the Waverley Route Trust, Scottish Borders Council did not respond. The figure of 10

passengers provides a misleading indication of usage from Stow.

I will give an example from East Lothian. Drem, on the North Berwick line, with an immediate population one fifth of that of Stow, is used by more than 200 passengers a day. That illustrates the danger of applying a rigid population-based formula. I ask members to take on board the point that my colleague made about uplift in Clovenfords and Lauder.

**John Home Robertson:** Does the member appreciate that the station at Drem serves Haddington, which is a substantial town?

**Christine Grahame:** I understand that. I am simply making the point that estimates should not be based simply on the population of an area. The day and place that were selected to arrive at the figure for usage must also be taken into account.

We all know about the problem of journey times, which has been compounded by introducing four stops in Midlothian. I have nothing against trains going to Midlothian, but we are trying to build a railway line to serve two maisters. We want an express line from the Borders to Edinburgh and from Edinburgh to the Borders that will be fast and convenient, and we want a commuter line in Midlothian. The solution is to twin-track the line to Midlothian, to allow an express train to come through from the Borders. That would deal with the impact on the turnaround time of stopping at Stow. The line as envisaged at the moment will serve neither purpose well.

I understand that postponing the construction of the station and building it next to a live line would multiply costs 10 times, although I think that that would never be done.

**Chris Ballance:** Christine Grahame is right to say that the projection of 10 passengers a day at Stow came from the promoter's flawed decision to site the station to the south. That decision has been rectified, but the promoter has provided no new figure for usage. It is clear that a station at Stow would take passengers from the surrounding area. It would also take passengers from north Galashiels. No car park is envisaged at the new Galashiels station, which means that motorists in north Galashiels, Clovenfords and Lauder are most likely to drive to Stow to use the station as a park and ride. They could also walk or cycle in from Stow.

Apart from the local market, there is the possibility of exploiting the leisure market from Edinburgh, to encourage tourist use of the line. The station has a strategic importance way beyond the size of Stow. There is an immense outdoor leisure market from Edinburgh to be tapped. At present, the nearest station to Edinburgh where people can get off the train and

start walking immediately in the hills and countryside is Dunkeld, which is one hour and 40 minutes from Edinburgh. Stow would be 45 minutes from Edinburgh, even according to the promoter's current rather slow train timetable.

The case for Stow has been well made by the campaigners. The committee spent a great deal of time deliberating on the issue, listened hard to the case that was made and found in favour of a station at Stow. I suggest that we support the amendments in Tricia Marwick's name, on behalf of the committee, to instate a station at Stow.

15:45

**Margaret Smith:** The committee signalled in its preliminary stage report that in principle it supported having a station at Stow mainly on social grounds, as well as for a number of other reasons. We felt that a Borders railway should have more than two stations in the Borders. We saw the extra station as an opportunity to open up the central Borders, particularly to tourism, as others have mentioned. We did not think it realistic that people living in the central Borders around Lauder, Stow, Fountainhall and Clovenfords would drive south to Galashiels or Tweedbank to get on the train and go back the way they had just come. We felt that the case had been made for a station at Stow by such social inclusion, economic and environmental arguments.

The committee believed that the capital cost of just under £1 million and running costs of £32,000 a year were justified and much cheaper than if a station were built on a live line later on, as Christine Grahame and others mentioned.

**Mr Brian Monteith (Mid Scotland and Fife) (Ind):** I heard the member's argument that it would be good to have a further station in the Borders. Why then not a station at Hawick, from where more people could access the railway?

**Margaret Smith:** I am not going to stand here and argue against a station at Hawick, but that is not the proposal in front of us; we are investigating the possibility of putting another station on the line.

We rejected the promoter's patronage figures, which said that 10 people a day would use the station. A consultation undertaken in 2002 by the Transport, Research and Information Network concluded that there was substantial demand for a station in Stow and the surrounding area and quantified it at around 100 passengers a day.

Following our report, we invited the promoter, along with residents and representatives of the local community council and local groups, such as the Waverley Route Trust, to enter into early dialogue about the provision of a station, land take, car parking location and so on. Further

consultation was entered into with residents of neighbouring areas as well as Stow, who were asked whether they would use the proposed station. Some 81 per cent of respondents supported the idea of having a station at Stow and 68 per cent said that they would use the station at least once or twice a week to reach work or education.

The new work to include the extra station brought some changes: capital costs were reduced slightly; overall return journey times have pretty much stayed the same because timing improvements have been made elsewhere on the line, about which the promoter told us in January; the station location has been moved from the edge of the village to the centre; and extra car parking has been found to make the station much more attractive to passengers from surrounding areas.

Critics are concerned about extra costs and question the financial viability of the station. Having spoken to the promoter, I believe that it is content to absorb those costs. The Executive is not the only source of funding. As others said, if we were talking only about the simple economics of rail projects, we would be ripping up track and the Parliament and the Executive would not be supporting the expansion of the rail network in Scotland.

I urge members to maximise the patronage of the railway and help this area of the Borders to share the benefits that the reopening of the line will bring by voting against the amendments to remove from the bill the proposed station at Stow.

**Tavish Scott:** I thought that Christine Grahame made a bit of a cheap shot by attacking someone who is sitting in the public gallery and therefore cannot answer back. She was also factually wrong on that point. Ian Jenkins is a good friend of mine. Christine Grahame, you're no Ian Jenkins.

The intention behind Tricia Marwick's group 2 amendments is to tidy the bill as amended at committee stage and they can be considered as technical amendments. As they will make the bill work, we very much support them.

We do not support the amendments in the name of Bristow Muldoon, about which I have two comments. After its earlier consideration of the bill, the committee wanted to ensure that a station be instated at Stow on social inclusion grounds. The committee concluded that the whole railway was justified not solely by the potential economic benefits but for reasons of social inclusion, which is a key Scottish Executive policy objective.

I appreciate Bristow Muldoon's point and I remain concerned about the business case implications of a station at Stow. Those implications will therefore be properly and thoroughly tested by Transport Scotland so that a

railway that works and presents value for money will be delivered.

I have stated consistently that funding for any additional station on the railway would have to be found from the allocated budget or separately by the promoter. That remains the case and, as I said earlier, the Executive's contribution will be capped at £115 million at 2002 prices. On that basis, I ask Bristow Muldoon to withdraw amendment 19.

**Bristow Muldoon:** First, I must respond to Tricia Marwick's comments. She criticised me for not opposing the Stow station proposal when the committee was debating amendments to the bill. I have to say that, given the minister's adequate statement of his opposition to the proposal on 27 March, I did not think that I had to.

**Tricia Marwick:** Will the member give way?

**Bristow Muldoon:** No, I want to continue. At that time, the minister was ably supported by his official from Transport Scotland, Damian Sharp. I fully expected the minister to maintain his opposition to the station at the final stage. Disappointingly, he has not done so, which is why I have lodged amendment 19.

My concerns are not simply about costs. I listed a number of reasons why the proposal would be damaging—in fact, my biggest concern is the impact that it will have on the east coast main line, the rail network around Edinburgh Waverley and the network in general. I have not dreamed up those concerns myself: Mr Sharp of Transport Scotland brought them to the attention of the committee, which chose to ignore them. When he gave evidence to the committee, Tavish Scott acknowledged that he had to take into account the impact on the broader rail network, and I wish that the Executive had maintained its opposition to Stow station on those very grounds.

Jeremy Purvis described my proposals as seriously flawed. However, they are precisely the same proposals that his Liberal colleague and Minister for Transport, Tavish Scott, advocated on 27 March. As a result, I am in good company.

In his intervention on Christine Grahame, Mr Home Robertson was right to point out that it was not very useful to compare Stow station with the station at Drem. After all, Drem is close to Haddington, whose population runs into the many thousands.

**Christine Grahame:** Does the member not accept the finding that 100 passengers a day would use Stow station, not the 10 that he quoted from the committee report?

**Bristow Muldoon:** Neither the member's colleague Ms Marwick nor the rest of the committee believed that 100 passengers a day would use Stow station. If they do not, why should I?

Everyone is putting their faith in the promoter to deliver the project, but Mr Ballance himself said that the promoter's decision on the station at Stow was flawed. I predict that if Stow station is built, the rail company will manage the risk to the rest of the network by allowing very few trains to stop there. That will not be a victory for the people of Stow or for the MSPs who are promoting the proposal, and I believe that it will bring the decision into disrepute.

I have warned the Parliament against the proposal. However, given that the majority of members support it, I seek leave to withdraw amendment 19.

*Amendment 19, by agreement, withdrawn.*

*Amendments 20 and 21 not moved.*

## **Section 26—Period for compulsory acquisition of land**

**The Deputy Presiding Officer:** Group 3 is on time limits. Amendment 1, in the name of Tricia Marwick, is grouped with amendments 2 and 3.

**Tricia Marwick:** Amendment 1, which seeks to reduce the time period set out in section 26(2) from seven to five years, is consequential to and in line with the amendment that was made to section 26(1) at consideration stage.

I oppose amendments 2 and 3, in the name of the minister, which seek to overturn amendments to sections 26 and 35 that were agreed by the committee at consideration stage. It might assist the chamber if I clarify the purpose of those two sections and why we amended them.

Section 26 confers a power on the authorised undertaker—initially Scottish Borders Council—to acquire land compulsorily. On receipt of that power, it shall kick-start the compulsory acquisition process by serving notices to treat or general vesting declarations on affected landowners stating precisely what land is required.

The consideration stage amendment made by the committee reduced from seven to five years the time period during which those notices must be served. That means not that the land must be acquired within five years—desirable though that might be—but that the process of acquisition must begin within five years. In our view, there will be a question mark over the competent management of the project if within five years the authorised undertaker is not able to firm up precisely the railway's design, identify exactly what land it requires and secure the necessary funding to pay for it.

Members will be well aware of the history of errors made in identifying land and landowners who might be affected by the railway and in failing to notify them. Those errors prolonged the

passage of the bill, and such delay cannot go on. Surely, after everything that has happened, the promoter now has all the necessary arrangements in hand to move forward quickly to firm up the identification of land and to negotiate its purchase to allow construction to commence.

Amendment 2, in the name of the minister, would allow the Scottish ministers to extend by order the period for the compulsory acquisition of land from five years to a period not in excess of 10 years. The minister is seeking to insert a provision into the bill that will confer delegated powers on ministers—a provision that will not be scrutinised by the Parliament's Subordinate Legislation Committee within the time available. I note that the minister has chosen not to use the affirmative resolution procedure, which would have required any order to be approved by the Parliament. Where is the evidence for that approach? Why has the minister never made representations to us about those matters? He had nearly three years to do so.

The committee reduced the time period from seven years to five with no scope for extension, but now the minister wants to take it perhaps to 10 years. Why? Had the committee not reduced it to five, would the seven years still have been sufficient? Would the minister have sought to amend the seven years? Why is a period of 10 years needed, how did the Executive reach that figure, and why did it not do so at the outset, when it expected the railway to be built two years earlier than it does now?

I turn to amendment 3. Section 35 confers permitted development powers on the authorised undertaker. It grants planning permission for works subject to the condition that development must be begun—not completed, but begun—within eight years of royal assent. That means that digging excavation trenches might be all the authorised undertaker need do.

Desirable as it is for all concerned that the project is completed by 2011, development is taken to be initiated when operations are begun. The amendment made by the committee at consideration stage gives the authorised undertaker until 2014 to exercise those powers—eight years from now, and three years beyond when the authorised undertaker and the Executive have repeatedly stated that the railway should be constructed and operational. Members may draw comparisons with the time limits provided for in other railway or tram bills, but those are different schemes, with different bills promoted by different promoters, scrutinised by different committees and with different histories and backgrounds.

I reiterate that people need clarity about the project. The minister's amendments do not provide clarity, but extend the suffering and uncertainty. I

urge members to support amendment 1 and to reject amendments 2 and 3.

I move amendment 1.

**Tavish Scott:** Some of Tricia Marwick's arguments are inherently reasonable, and I shall try to provide her with the explanation for which she asks. The committee amended the bill at consideration stage to reduce the time limit for the power to compulsorily acquire land required for the scheme. The time limit for the exercise of compulsory purchase powers was reduced from seven years to five years after the date of royal assent, as she indicated. The committee also made a consequential amendment to limit the authority to develop land that is given by the bill to development begun within eight years of royal assent. The committee was of the view that five years should be sufficient time to finalise the required land take and to make the necessary arrangements for acquisition, with eight years being sufficient time to begin development. I absolutely agree in principle, but experience shows us that, in practice, those time limits could be too inflexible, because we must take into account the wider implications for the rail industry.

Our priority is to deliver all of our major rail projects on time and within budget, and the Waverley project is no different. Amendment 2 has been lodged to ensure that, for good governance reasons, the time in which to acquire land can be extended by up to five years, although an extension could be much less than that. Amendment 3, in consequence, provides that the authority to develop land that is given by the bill is for 10 years.

**Chris Ballance:** Will the minister take an intervention?

16:00

**Tavish Scott:** I would like to finish this point and to answer Tricia Marwick's central question.

There are factors outwith the scope of individual projects that can delay them and affect the whole of the rail industry. For example, the start of the construction of the Larkhall to Milngavie line came within six weeks of the 10-year period expiring. That happened because of a number of factors that were outwith the direct responsibility of the scheme's promoters, including the restructuring of the rail industry and revised safety standards following the Hatfield train derailment. The second fundamental reason was that a new regime introduced by the rail regulator meant that more time was needed to resolve some issues related to the scheme. The issue is not so much a delay in the context of a particular project but the need to deal with wider rail issues that might have implications for such a project.

**Karen Gillon (Clydesdale) (Lab):** Does the minister accept that there has been a fundamental change in policy to drive forward rail projects? That drive did not exist at the beginning of the 10-year period for the Larkhall to Milngavie railway.

**Tavish Scott:** I accept that, as Karen Gillon says, aspects of overall rail policy have changed.

We want to take a reasonable step to avoid the potential for the scheme to be at risk over its lifetime because of circumstances that arise that have a direct impact on the project and that could result in time for compulsory purchase and development expiring. We recognise the arguments put forward by the committee; our amendment is a reasonable and practical compromise. Scottish ministers will only extend the time available if it is the right thing to do for a particular project.

**Chris Ballance:** Will the minister give way?

**Tavish Scott:** No.

I will conclude on this point. The period of extension can be much less than five years. There is a precedent for this solution, as it has already been used in the Edinburgh tram bills. The possibility of an extension of up to five years means that amendment 3 is required to increase the time to develop the land to 10 years to ensure that the bill remains technically correct.

The Executive's amendments 2 and 3 balance the needs of those affected by the railway with the recognition that large-scale construction projects can be subject to delay. In the rail industry in particular, that can be due to factors that are external to the project.

**Jeremy Purvis:** The line will have considerable net benefits for my constituency, but it will also make some people's lives a misery—it has already done so for a number of years.

The amendments are about the length of time between the act coming into force and the compulsory purchase powers and land-take powers ending. Like the bill committee, I have met my constituents who will be subject to the provisions in the bill and I have discussed the matter at length. They have had the scheme hanging over them for six years and it is time that their position was clarified. Discussions and negotiations have begun with the promoter; I hope that they are resolved speedily.

I have been vocal in supporting a resolution for my constituents, especially those who want to enter into a voluntary purchase scheme in advance of the compulsory purchase powers being granted. The process has been too slow; I want the matter to be resolved quickly. The Executive and the promoter must ensure that my constituents' rights are upheld.

A judgment must then be made about the correct timeframe when agreements have not been reached. How long can the matter hang over constituents' lives? The committee wanted a short period. I appreciate its reasons for taking that view, but there is a second aspect: we must also protect the project against people who may seek to delay it and prevaricate. If people who are negotiating with the promoter know that there is a short deadline, having the option to extend the period—only with the consent of Parliament—is a sensible approach. Amendment 2 is preferable to amendment 1.

It is understandable that there should be consistency across schemes when it comes to negotiating with potential tenderers for large-scale construction projects. However, it is irresponsible to say—as some people who have an interest only in raising more concerns among my constituents who have waited for a number of years have said this week—that there should not be clarity for people who want finality in respect of their homes.

Amendment 3 is a technical amendment that extends by two years the maximum time within which the promoter needs to construct the line. To state that that represents an overall delay in the project of up to 10 years is irresponsible. It sends the wrong message from this Parliament and it does not provide clarity and finality—which is exactly what they want and deserve—for my constituents who will be affected.

**Christine Grahame:** The delay is, of course, of the Liberal-Labour coalition's own making. I endorse the comments that have been made about the uncertainty hanging over people's lives in relation to whether their house is to be demolished and so on. However, let us consider the matter. The line was at first to be constructed by 2008, but that has now slipped to 2012. The minister's amendment 3 would mean that it would not be constructed until 10 years after the bill received royal assent, which would be 2016. We have had seven years of a Liberal-Labour Government and we have a Liberal Minister for Transport. It does not seem to me that there is any political will to accelerate construction of the Waverley line, but there has certainly been a political deal.

As for the minister's amendments—I am not surprised that Bristow Muldoon did not move his amendments—I smell a compromise agreement, following the minister's long meeting with his colleagues in the Labour group, so that we can kick the Waverley project into the long grass past the coming election and perhaps the next election. However, they will not be in power then. It is long-distance sabotage of the Waverley line. If that is not so, why were the minister's suggestions not made earlier? Why did he leave them so late?

I hear what the minister says about bringing in the project on time and on budget, but he proposes to extend the project to 2018. As for on budget, what are the prospects of railway costs 10 years down the line not being far in excess of what they are now? That gives plenty of scope to the Bristow Muldoons of this world to say, "It doesn't wash its face." I do not think that what the minister suggests is in the interests of the Borders people, but it might be in the interests of the Liberal Democrats saving face again.

**Chris Ballance:** I am disappointed that the minister did not take my earlier intervention, because I wanted to make a brief point and have a reply to it. It is the case that the cost of land in the area covered by the railway has gone up by a much greater rate than inflation and that it continues to go up. That in itself puts extra pressure on the business case, which provides good cause for the Parliament to give legislative encouragement to the promoter to go through the process as quickly as it can without further delay. The project has been delayed too much already and we need it to happen as quickly as possible, so I will oppose the minister's amendments 2 and 3 and support the committee's amendment 1.

**Mr Brocklebank:** The Waverley proposal has been nearly six years in the planning, development, refinement and implementation. Importantly, for those six years people have had the possible acquisition of their land or home hanging over them. Under the minister's proposed amendment, it could be at least another 10 years before work on the Waverley project even starts.

The promoter's notification errors along with delays by the Executive in making decisions on the advance and voluntary purchase schemes have created enormous uncertainty and great anxiety among people along the proposed railway route. Put simply, people are asking, "Am I going to lose my home and, if so, when?" The distress that that is causing such people is clear. The committee heard about and saw at first hand the emotion that has been stirred up. People are trapped; they cannot sell up and move even if they want to. That situation is made considerably worse by the Executive dragging its heels on the voluntary and advance purchase schemes.

After what we on the bill committee have read, heard and seen, we believe that it is time for clear decisions on the project's future timetable. Parliament has the opportunity to support the committee in that and in doing what is right for the people affected. Frankly, they have suffered enough. The Executive believes that the project is being competently managed and that suitable risk management strategies have been developed and put in place to monitor what happens and when. That is to ensure that the project comes in on time

and on budget. If all that is as robust as the Executive has led us to believe, why does the promoter require compulsory purchase powers that go beyond 2011, by which time the railway should be operating?

Our consideration stage amendments struck an appropriate balance in seeking to alleviate uncertainty and delay while not imposing too great a burden on the promoter. If the timescales that we set cannot be met, it suggests that the papers that the promoter provided us with were incorrect and that the project is not being competently managed. That being the case, the granting of any statutory powers would be premature at this time.

**Tavish Scott:** It is unfortunate that Christine Grahame, Ted Brocklebank and Chris Ballance did not listen to the argument, which is that my proposals are about the external factors that can influence any rail scheme in any part of Scotland. This is not just about the Waverley project; it is about the external factors that can influence any such project, whether that is a Hatfield-style situation or a change in a regulatory aspect that affects the whole rail industry. I ask the members to whom I referred to bear that in mind. I seek to achieve consistency in how we move forward all of our capital rail projects and ensure that the measures that I seek are in place.

My only other point is that I seem to remember that Christine Grahame moved an amendment at consideration stage to get rid of the promoter, so it is a bit much to get a lecture from her about delay.

**Tricia Marwick:** The bill has taken almost three years to go through the scrutiny process, but that was not the fault of the committee. Before that, the Scottish Borders railway feasibility study, which was commissioned by the former Scottish Office, was published in October 2000. The Executive then allocated funding for a further study into the resurrection of the Borders railway. We are talking about a period of almost six years.

Ted Brocklebank referred to the objectors who came before the committee, some of whom were in great distress. For almost six years, they have been wondering whether the railway will affect their homes.

**Sarah Boyack (Edinburgh Central) (Lab):** Does the member not accept that, from genesis to construction, building a railway project is hugely complex? If the project is going to be the right project, it has to be done properly. Can the member name one railway project since the Parliament was set up that has come in on time and exactly as it was initially envisaged?

**Tricia Marwick:** I accept what the member says; these things are hugely complex. However, in fairness to the objectors, we have to give them some sort of timescale. They need clarity on the

timescale within which they will know whether or not their properties will be bought. That is the least that we can do for them. Many people who will suffer personally because of the project also support a Borders railway; they know that it is needed.

The committee heard about the state that some of these people are in. In our consideration stage amendments, we struck the appropriate balance between the needs of the objector and the promoter. On behalf of the people who will be directly affected by the railway, I ask the Parliament to reject amendments 2 and 3 in the name of the minister. I ask the Parliament to support amendment 1 in my name, which will allow some clarity to be brought into the process.

*Amendment 1 agreed to.*

### After section 26

*Amendment 2 moved—[Tavish Scott].*

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

**Members:** No.

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

### FOR

Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baker, Richard (North East Scotland) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fox, Colin (Lothians) (SSP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marilyn (North East Scotland) (Lab)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)

McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Wallace, Mr Jim (Orkney) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

### AGAINST

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Baird, Shiona (North East Scotland) (Green)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brownlee, Derek (South of Scotland) (Con)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Martin, Campbell (West of Scotland) (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)  
 McGregor, Mr Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Petrie, Dave (Highlands and Islands) (Con)  
 Pringle, Mike (Edinburgh South) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)

Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Tosh, Murray (West of Scotland) (Con)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Watt, Ms Maureen (North East Scotland) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 61, Against 51, Abstentions 0.

*Amendment 2 agreed to.*

### **Section 35—Saving for town and country planning**

*Amendment 3 moved—[Tavish Scott].*

**The Deputy Presiding Officer:** I understand from the clerks that we have a problem with the electronic voting system. I suspend the meeting until the problem is resolved.

16:14

*Meeting suspended.*

16:16

*On resuming—*

**The Deputy Presiding Officer:** The question is, that amendment 3 be agreed to. Are we agreed?

**Members:** No.

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

#### **FOR**

Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baker, Richard (North East Scotland) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fox, Colin (Lothians) (SSP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)

Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 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)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Wallace, Mr Jim (Orkney) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### **AGAINST**

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Baird, Shiona (North East Scotland) (Green)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brownlee, Derek (South of Scotland) (Con)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Martin, Campbell (West of Scotland) (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)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)



Petrie, Dave (Highlands and Islands) (Con)  
 Robison, Shona (Dundee East) (SNP)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Tosh, Murray (West of Scotland) (Con)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Watt, Ms Maureen (North East Scotland) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)

*Amendment 4 moved—[Tricia Marwick]—and agreed to.*

### Long Title

*Amendment 18 not moved.*

**The Deputy Presiding Officer:** The result of the division is: For 61, Against 51, Abstentions 0.

*Amendment 3 agreed to.*

### Section 43—Interpretation

*Amendments 6 to 8 moved—[Tricia Marwick]—and agreed to.*

### Schedule 1

RAILWAY WORKS

*Amendments 9 to 11 not moved.*

### Schedule 6

ACQUISITION OF LAND, ETC OUTSIDE LIMITS OF DEVIATION

*Amendment 22 not moved.*

*Amendment 13 moved—[Tricia Marwick]—and agreed to.*

### Schedule 7

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

*Amendment 14 moved—[Tricia Marwick].*

*Amendment 14A not moved.*

*Amendment 14 agreed to.*

*Amendment 15 moved—[Tricia Marwick]—and agreed to.*

### Schedule 9

LISTED BUILDINGS AND CONSERVATION AREAS

**The Deputy Presiding Officer:** Group 4 is on buildings authorised to be demolished. Amendment 4, in the name of Tricia Marwick, is the only amendment in the group.

**Tricia Marwick:** I will be brief. Amendment 4 is a technical amendment that removes from the bill a power for the authorised undertaker to demolish the listed footbridge at the former Eskbank and Dalkeith station without obtaining listed building consent. Following representations by Historic Scotland that the listed structure ought to be retained, the promoter has satisfied itself that the demolition is not necessary for the purposes of the construction of the railway.

## Waverley Railway (Scotland) Bill: River Tweed Special Area of Conservation

16:20

**The Deputy Presiding Officer (Trish Godman):** The next item of business is consideration of motion S2M-4450, in the name of Tricia Marwick, on behalf of the Waverley Railway (Scotland) Bill Committee, on the appropriate assessment on the River Tweed special area of conservation.

*Motion moved,*

That the Parliament notes the 1st Report, 2006 (Session 2) of the Waverley Railway (Scotland) Bill Committee, *Appropriate Assessment on the River Tweed Special Area of Conservation* (SP Paper 553), and agrees that the works proposed in the bill will not adversely affect the integrity of the River Tweed Special Area of Conservation.—[*Tricia Marwick.*]

## Waverley Railway (Scotland) Bill

**The Deputy Presiding Officer (Trish Godman):** The next item of business is a debate on motion S2M-4451, in the name of Tricia Marwick, on behalf of the Waverley Railway (Scotland) Bill Committee, that the Parliament agrees that the Waverley Railway (Scotland) Bill be passed.

16:21

**Tricia Marwick (Mid Scotland and Fife) (SNP):** It is an enormous pleasure to speak to and move the motion on behalf of the Waverley Railway (Scotland) Bill Committee.

I draw members' attention to a book that was handed to me today, "The Borders' Last Days of Steam". It was written a few years ago and says:

"The run down of the system"—

that is, the railways in our Borders—

"intensified during the Beeching era, culminating in the devastating closure of the Waverley Route on 6 January, 1969. This closure showed only too well the indifference of government, any government, to the future of the country's railways, closure procedures having been initiated by a Conservative administration and implemented by a Labour administration.

Today, politicians promise a railway renaissance and there is even talk of restoring a service between Edinburgh and Galashiels, but the current railway fiasco, along with a lack of any meaningful financing for what remains of our railway network, does little to inspire confidence in the future."

Today, we have a wonderful opportunity to right the wrongs of years ago and to inspire confidence in the writer and others in the Borders that the Parliament will deliver the Waverley line.

The bill has taken 33 months to get to this stage, and I believe that no other bill has taken as long to go through the Parliament. I am not particularly pleased about that record. However, I thank most sincerely all the committee clerks, including Fergus Cochrane, who has been a star throughout the process. The committee travelled to Galashiels and Newtongrange on cold, windy and wet Mondays in February and sat together through evidence-taking meetings. We now know more about noise decibel levels than we perhaps ever wanted to know.

I will speak about some of the main issues that arise from our consideration stage report. We have debated Stow station and the railway's proceeding all the way to Tweedbank, so I will focus on other issues. In his closing speech, Ted Brocklebank will speak about appropriate assessment and respond to points that were raised during the debate.

I pay tribute to the objectors who engaged with us during our consideration of their objections. We sought to create a process and an atmosphere that allowed them to engage and openly question the railway's impact on them. The clarity and professionalism of their written and oral evidence were a credit to them. We realise that some of them, particularly those on whom land take will have an impact, will be disappointed at the conclusions that we reached in our report, but we had to make difficult decisions. I hope that everyone recognises the care and time that we took and the substantial improvements and safeguards that we introduced to the bill, many of which emerged from objectors' concerns. We had to balance the promoter's desire for the scheme and its preferred route against the impact on individuals. Our overall conclusion is that an appropriate balance has been struck between the rights of those individuals who will be adversely affected by the railway and the project's wider community benefits.

In addressing some of the objectors' most common concerns, we secured an assurance from the promoter that minimal land will be acquired—it will be restricted to the land that is required for the purposes of the railway. We have amended the bill to remove land plots that are no longer required.

We have further amended the bill to ensure that the environmental impact of the railway is no worse than the residual impacts that were identified in the various environmental documents and to ensure that pledges that the promoter made on the provision of environmental mitigation are delivered—for example, the promoter undertook to install a noise barrier at a property.

We have also amended the bill to ensure that the code of construction practice, which sets out how contractors will mitigate impacts during the construction phase of the railway, and the noise and vibration policy, which sets the threshold levels above which noise and vibration mitigation will be provided during the railway's operation, are legally enforced. If the promoter breaches the requirements of those documents, the local planning authority will have the power to enforce compliance to the extent that it could stop the project.

In our report, we were critical of the Scottish Executive over its lack of a decision on whether a voluntary purchase scheme would be supported and over the unacceptable time that it took to make a decision on whether it would support an advance purchase scheme. Objectors contacted the committee to describe the impact that the delay was having on them, yet that appears to have had little effect on the Executive in progressing the matter with due urgency. However, a positive decision has now been made

on an APS, and I understand that discussions are now under way with affected property owners, albeit very late in the day. I look forward to hearing what the Minister for Transport has to say to those people—some of whom are in the gallery—in his speech.

On voluntary purchase, in our view, the Executive has paid little regard to people whose property could be bought because of the severe adverse impact of the railway on them. I wrote to the minister on 5 June, asking for a decision. I have received no reply whatever to that letter. I will give way to the Minister for Transport now if he is willing to give a straight yes or no answer on whether there will be a voluntary purchase scheme.

**The Minister for Transport (Tavish Scott):** I am happy to take this opportunity to say that there will be a voluntary purchase scheme. We have to sort out the details, but I will deal with that in my speech.

**Tricia Marwick:** I am grateful to the minister for his assurance. I ask him to move the matter on as quickly as possible.

Before it takes a decision on whether to pass the bill, I should inform the Parliament that, in accordance with the habitats directive, the Parliament must satisfy itself that the works proposed in the bill will not adversely affect the integrity of the River Tweed special area of conservation. Ted Brocklebank will elaborate on the background to that in his speech, but I advise the Parliament that the committee has explored the matter in some detail and has reported to the Parliament accordingly. On the basis of the evidence provided and, in particular, of the recommendations of Scottish Natural Heritage, our conclusion is that sufficient measures are in place to deliver the mitigation required, thereby ensuring that the works that the bill proposes will not adversely affect the integrity of the River Tweed SAC.

This is an historic day. The Waverley line, which was butchered by the Beeching cuts, will at least be partly restored. This is a good day for the Parliament and a good day for the Borders. Let us make the vote at 5 o'clock today unanimous.

I move,

That the Parliament agrees that the Waverley Railway (Scotland) Bill be passed.

16:28

**The Minister for Transport (Tavish Scott):** We are indebted to the Waverley Railway (Scotland) Bill Committee—to Tricia Marwick, its convener, and to Christine May, Gordon Jackson, Margaret Smith and Ted Brocklebank—for going through

what I think Ted Brocklebank said was a 4ft-high pile of evidence, procedural information and proceedings. I pay tribute to all the committee's members for their work, to those people who supported them in carrying it out and to the promoter, advisers and everyone else who was associated with the delivery of this part of the project. It is only the first stage in ensuring that we, the Parliament, deliver the Borders railway project.

Our commitment to the project is £115 million at 2002 prices, and the railway will be delivered by the end of 2011. The Parliament is aware of the importance that I attach to all transport projects being delivered on time, on budget and in a way that represents value for money. The rail link to the Borders is no different in that respect.

In March 2005, we set out four criteria to be attached to the release of Government funding for the project. The first was approval of the bill by the committee and, in due course, by the Parliament. Secondly, the assumptions underlying the business case must hold, which includes the achievement of patronage levels, the containment of costs, the active management of risks and the achievement of the housing growth projections that are achievable and are based on identified market demand. Thirdly, a clear, comprehensive risk management strategy must be delivered. Fourthly, the railway must be integrated with local bus services to maximise its impact in the Borders and Midlothian.

Those criteria have not changed. We must be satisfied on all counts, and the development of the business case and the assumptions underlying the scheme are critical. If the business case is not robust, we will not release our funds—it is that simple.

An appropriate review mechanism has been put in place for all the major projects, including the Borders railway. A quarterly review of projects has been established; each project is subject to a Scottish Executive gateway review, which examines projects at critical stages in their lifecycle to provide independent assurance that they can progress successfully to their next stage; and the business case for each project is re-examined each time there is a need for a commitment to significant expenditure. Parliament can be confident that public investment will be safeguarded by close monitoring of the project to ensure that value for money is maintained.

I take the committee's point about voluntary purchase, but I am sure that it appreciates that we had to consider the wider implications on our capital rail investment programme. Many people are content to live close to railways and major infrastructure is constructed successfully without voluntary purchase schemes. However, I agree in principle that voluntary purchase should be

available, because it offers a fair way of addressing exceptional situations in which properties are affected by the construction or operation of railways.

Following our investigations into the issues involved, we have found that funding voluntary purchase schemes for railway infrastructure requires legislative change. In our proposed public transport and works bill, which we will introduce to Parliament shortly, we intend to make provision that will enable Transport Scotland to fund voluntary purchase schemes for major rail infrastructure projects, should that be required.

We must keep the aims of the bill in our sights.

**Margaret Smith (Edinburgh West) (LD):** I welcome what the minister said about the voluntary purchase scheme, but will it apply retrospectively to the individuals who are affected by the Waverley Railway (Scotland) Bill?

**Tavish Scott:** I am happy to get back to the committee on any points to do with retrospection. It is certainly the intention to ensure that any live situation in relation to the scheme is dealt with actively.

The future prosperity and growth of the Midlothian and Borders economies are closely tied with those of Edinburgh. We can choose to strengthen those links through this bill. The railway will provide for greater opportunities and access by increasing the travel choices available. It will offer a sustainable and genuine alternative to car travel for commuters from both Midlothian and the Borders. It will bring faster journeys to and from the capital, by bypassing the difficulty of travelling the A7 and the congestion and parking problems in Edinburgh.

The bill will make a real difference to the people of Edinburgh, Midlothian and the Borders. It is now time to get going with building one of our key transport commitments. I ask the Parliament to support the motion.

16:32

**Christine Grahame (South of Scotland) (SNP):** I share the minister's view: I am keen to get going and I hope that we do so. I pay tribute to all those who have campaigned since the closure of the line almost 40 years ago and who have never given up hope that they will have their railway link restored. I mention in particular Madge Elliot, who I know will keep campaigning because she wants the line to go to Hawick and beyond. She is a feisty woman who is not to be trifled with.

We got here because of people; because 20,000 petitioners came to the Parliament in 1999 and because the Public Petitions Committee went to Galashiels and had 250 people at the meeting

make the case to include them in rail links throughout Scotland. From there, because the petition was seen to be all-embracing, it went to four committees of the Parliament—the Enterprise and Lifelong Learning Committee; the Social Inclusion, Housing and Voluntary Sector Committee; the Transport and the Environment Committee; and the Rural Affairs Committee. The Rural Affairs Committee lodged the motion that we debated when the Parliament sat in Glasgow on 1 June 2000, when we voted unanimously for restoration of the line all the way from Edinburgh to Carlisle, which I hope will be realised one day.

The journey has been arduous and not always easy. The battle for a station at Stow kept having to be won, mainly by the people of Stow. At pretty well the last minute, they convinced the committee of the importance of including a station.

There has been a long battle to have the tourism aspects of the railway considered. Parliamentary questions going back to 2000 asked for an extension of the Scott Wilson report to consider tourism aspects. The transport minister at that time, Sarah Boyack, said that the issue was addressed fully in the feasibility study and that the Executive was not interested in doing more. That changed, but it took time. I asked 32 parliamentary questions to push for the railway line. The Scottish National Party has shown firm commitment to the line. I set up the cross-party group on Borders rail, because the first thing that I realised down in the Borders in 1992 was how essential the line was for the economy and social inclusion of the Borderers.

The Borders has been left by the wayside. A witness told the committee:

"We are in great danger of being seen as stuck down at the bottom of Scotland, and we want to be part of a whole Scotland. We have a new Parliament and we want to be part of the new Scotland, but unless we have proper transport links, we cannot be."—[*Official Report, Waverley Railway (Scotland) Bill Committee*, 28 February 2005; c 92.]

When the line was closed, the Borders area was promised better roadways. However, except for a few improvements on the A68 and even fewer on the A7, that did not happen. Anyone who drives on those roads regularly knows the disadvantages that have been caused to the economy and to simple social movement in the Borders. With the possibility of an Edinburgh airport rail link, it is even more important that the Borders be connected to Edinburgh by rail.

Over the years, the 2,000 jobs that have been lost in textile manufacturing have not been replaced and the Borders has been left with the lowest weekly income in Scotland. That should change with the coming of the railway line.

I want the minister to start building the line as soon as possible—that is, if the minister is still in

the job at that point; if he is not, we will be quite happy to do it and, to show our commitment, we will start the track at Tweedbank.

Now that the battle dust has settled, I would be delighted to share a glass of wine with the minister to cheer the bill on its way.

16:36

**Derek Brownlee (South of Scotland) (Con):** I thank the committee for all the work that it has done on this piece of legislation, which concerns a major proposal that is important to the people of the Borders. It is worth reiterating that the fact that the committee has ensured that the line will continue to Tweedbank rather than stopping at Gorebrige has reassured some of the sceptics in the Borders who feared that we were being set up for a Midlothian railway. It is also pleasing to see the progress that has been made on Stow station.

It is worth reminding ourselves about the broader benefits of the project. All members will have noticed the increasing vocality—if that is the right word to use—of the opponents of the project. We should remind ourselves of the importance of joining up the Borders to the Edinburgh economy. Prosperity levels have risen greatly in that city and there is potential for prosperity levels in the Borders to rise as well. We should also remind ourselves of what this railway can do in delivering to people in the Borders opportunities that have been denied to them for years.

The objectors make a number of points. All members will have received briefings containing some of them. One of the primary criticisms is that the railway will transform the Borders by covering the area with housing. However, looking across the area that the railway is likely to serve and the wider Borders area, I have to say that that housing is coming anyway; it is part of a change that will continue regardless of the progress of the railway. The council's figure of about 1,100 additional houses that depend on the railway shows starkly the true extent to which the railway as opposed to broader factors is driving housing. It is a well-accepted fact that, these days, people are more willing to commute further than people a generation ago would have been.

Christine Grahame talked about the wage levels in the Borders. For somewhere that is close to Edinburgh, which is an area of great prosperity, it is ridiculous that the wage levels in the Borders are as low as they are. To the extent that this project can help to redress that balance, it is to be welcomed.

I note the comments that the minister made about other projects and I was glad that he talked about the need to have a degree of consistency between projects, as that is important. It would be

easy to sideline this line by treating it as a local project. However, it is a national project that is important to the Scottish rail infrastructure. I think that the cost of the Stirling-Alloa-Kincardine line project increased by about four times—the minister will correct me if I am wrong but I believe that the initial figure was about £14 million and it seems to have gone up to about £60 million. The fear must be that the line will not be built if the costs increase, despite the fact that the bill will be passed today. It is important that we are consistent with what has happened before. If the costs increase—it would be good if they did not—it is incumbent on the Executive, regardless of the party that is in power, to consider carefully the possibility of giving the line additional support. It would be unacceptable if the Parliament passed the bill in good faith only to see the project die due to a lack of funding.

The bill is important for the people of the Borders. It will not address all the problems with communications in the area and it will not give endless opportunities to the people there, but it is important and it has a major part to play. I sincerely hope that it will receive the support of all members and all parties.

16:40

**Christine May (Central Fife) (Lab):** As others have done during the proceedings, I assure the Parliament that I have no wish to wreck the bill. Rail travel is to be encouraged and the Waverley rail link will allow many people to move between Edinburgh and Midlothian—which will please my colleague Rhona Brankin—and the Borders by train. Jeremy Purvis mentioned my support for the whole line and for a station at Stow and I am happy to reconfirm that support. I will vote for the bill at decision time this afternoon. The line was a manifesto commitment of a number of parties and, given what has been said, I imagine that it will be in the Scottish National Party's manifesto next year.

I have also invested some three years of my parliamentary life in the project. I want to see it finished and I am grateful to the clerks, my fellow committee members and those who gave evidence to us.

It is always difficult to admit to doubts about the validity of a view that one voted for just a few weeks ago, particularly in politics where, in some sectors, the admission that one might have been wrong is regarded as a sign of weakness. However, I have to say that I would prefer to face that accusation than to be asked at a later date why I did not raise doubts. When I and my committee colleagues supported the amendment to compel the promoter to build the whole project, we were convinced that that would strengthen the

case for its completion. However, doubts began to be raised with me about whether the provision could wreck the railway rather than ensure that it is completed in its entirety, with the line running all the way to Tweedbank and a station at Stow. I felt that it was right to raise concerns that the committee might have put the project in danger. I believed that there was a 50:50 chance that the provision could wreck the project.

In the interest of exploring the extent to which those fears were founded and the extent to which other members and ministers thought that that was or was not the case, and most of all in the interest of having the Parliament pass legislation after a full debate on all the issues, even the last minute ones, I believe that it was right to debate the amendment to remove the compulsion to build the whole project. I am pleased that the minister was able to give reassurances. The matter has not been easy and it has probably made me the least popular person in the Parliament this week, not least with my committee colleagues. I know that many people, including the minister, did not share my concerns. Nevertheless, I am glad that I raised them, glad that we had the debate and glad that, when the Parliament passes the bill, as I know it will, it will do so having discussed all the concerns.

I welcome the minister's assurance that we are not signing a blank cheque. I was pleased to hear what he said because it is important that we are financially responsible when we pass legislation. Yes, the Parliament is about social regeneration and about people, but it is also about responsible government. I hope that the promoter will get on with the job as soon as it gets permission to do so. I hope that it will build the whole project, including a station at Stow; that it will put in place the improved planning processes that it assured us it would introduce to deliver the housing that is required to support both the patronage and the costs; and that it will begin to build bridges with those individuals who came to see us in a state of nervous exhaustion because of the stress.

I am happy to support the bill. I hope to travel on the first train to go all the way from Edinburgh to Tweedbank.

**The Deputy Presiding Officer:** We move to the open debate. Because Alasdair Morgan has kindly said that he will forgo winding up, I can call two back benchers. Rosemary Byrne, followed by Jeremy Purvis, will have a tight two minutes each.

16:45

**Ms Rosemary Byrne (South of Scotland) (SSP):** I thank the committee and the campaigners for the work that they have done on the bill, which is welcome. There are several arguments for restoring the line. Taken as a whole, they provide

a compelling reason why the project must be fully supported.

The Waverley line will increase access to jobs throughout Edinburgh, Midlothian and the Borders. The cash injection into the three regions in the next 30 years could rise to as much as £300 million—that is based on the building of additional new housing as a direct consequence of the line. It is estimated that 550 sustainable full-time jobs should be generated within five years of completion of the line. A further 360 full-time jobs for up to five years have been linked to the construction of houses that are directly attributable to the new rail line.

The railway will encourage further economic development and increase business development opportunities, inward investment and public sector relocation. The new line will serve a population base of close to 200,000 people in Midlothian and the Borders who currently have no direct access to a railway line. It is ridiculous that those communities have been denied a rail link for so long.

The railway will reduce the reliance on cars, which will in turn help to reduce congestion and accidents on the A7 and the A68. At present, approximately 22,000 people commute to Edinburgh by car from Midlothian and the Borders. The railway will also help to reduce carbon emissions, so it is an excellent environmental move to decide to develop the line.

It is a pity that a freight line has not been offered, which could also help the environment. We hope that that might be considered in the future. That is a missed opportunity. A freight line would allow raw materials to be brought into and finished products to be taken out of the area; it would also reduce carbon emissions and take traffic off the roads, which would create safer environments for people to live in.

The environmental benefits are great. More than 750,000 car journeys will be cut per year.

**The Deputy Presiding Officer:** You should finish now, Ms Byrne.

**Ms Byrne:** I welcome the bill and I am sorry that I did not have more time to say more about it.

**The Deputy Presiding Officer:** I call Jeremy Purvis, who will have two minutes, to be followed by Chris Ballance, who will have about a minute.

16:47

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** When Isobel Brown worked as a young civil servant in Whitehall in the early 1960s, she sat in the strangers gallery of the House of Commons and listened to the Beeching

debates. By the end of that decade, hundreds of stations had closed, thousands of miles of track had been lifted and the Borders rail line had ended. Isobel is in the public gallery today to listen to our debate in our new Parliament, which will redress the error of 37 years ago. Since then, the Borders has experienced relative economic decline and depopulation.

This week's announcements about new retail in Galashiels coincide with the biggest changes to the town in a generation, which herald a change to the economy of the area that I represent. However, we still have low wages in some parts of the economy and the highest level of out-migration of young people to other parts of Scotland and the United Kingdom. We do not have the same level of transport connections as others in Scotland have, but we should have.

Many clarion calls have been made. People said that the railway would never happen. It was said that the Executive would never fund the feasibility study; it did. It was said that the business case could never be put together; it was. It was said that the bill would never be presented to Parliament; it was. It was said that the Executive would never commit its share of funding; it did. It was said that the bill would never go through the Parliament; this afternoon, it will.

Campaigners—I am one as a life member of the Campaign for Borders Rail—are here today, as are some objectors, my predecessor and committed public officials and servants such as David Parker, who is the leader of Scottish Borders Council, and Bruce Rutherford. They have worked hard to bring the bill about. Isobel Brown and others are seeing the Parliament do what it should do: pass good laws for all parts of Scotland. We will correct an error that the Westminster Parliament would never have corrected itself.

**The Deputy Presiding Officer:** I can give Chris Ballance a minute and a half as a result of Mr Purvis's speech.

16:49

**Chris Ballance (South of Scotland) (Green):** Thank you, Presiding Officer—I will try to make three points quickly. I support and welcome the bill. Scottish Borders is one of the biggest regions in western Europe with no access to rail. The South of Scotland, which I represent, has 10,000 square miles but just seven stations, whereas Highland region has 58 stations.

Secondly, I call on the promoter, Scottish Borders Council, to heed the committee's comments in paragraph 123 of its preliminary stage report and to engage properly and thoroughly with the Waverley Route Trust to

ensure that the railway is built to the best specifications and has flexible timetabling.

My third point in this very brief speech is that the line will be only a shadow of a real Borders railway. Such a railway would go to the central Borders and put Hawick on the map. Hawick is the largest town in the Scottish Borders, but its population has fallen since the closure of the railway. As the most excluded town in the Borders, Hawick has the highest unemployment and the lowest wages. It is almost 50 miles from the nearest rail station and is the largest town in Scotland to be so excluded from the rail network. That part of the Borders most needs the economic uplift that a railway would provide.

I will vote to support the bill, but the campaign for a Borders rail to Hawick and beyond starts at decision time tonight.

**The Deputy Presiding Officer:** We move to winding-up speeches.

**Mr Brian Monteith (Mid Scotland and Fife) (Ind):** On a point of order, Presiding Officer. Will the Presiding Officers consider the timing available for such final stage debates? I am probably the only member who will vote against the bill, but I have not been allowed to say why. I was also refused the chance to speak against a previous bill. Given that we have heard that the committee has had three years to consider the bill but we are now reduced to allowing back benchers only two minutes or one and a half minutes, this is a travesty of a debate. The public should expect better from us. We need more time for such debates in which matters of principle are at stake.

**The Deputy Presiding Officer:** That is a matter for the Parliamentary Bureau in the first instance and for the member's business manager. However, the matter is under review and we are discussing it.

16:51

**Mr David Davidson (North East Scotland) (Con):** As Tricia Marwick said at the start of her speech, today is about railway renaissance but it is also about ensuring that fairness is manifest across society in Scotland. We need to use the railways for growth now that people are obviously willing to travel on the railways again. That is a great movement, which is in part due to our previous Government in Westminster, but it is nice to see that the Executive hopes to follow on from there.

On the other points that have been made, I understand the minister's caution as it is right that there should be thorough scrutiny of major projects. However, as well as looking at the pounds, shillings and pence and carrying out the

necessary accountancy exercises, we need to look at the opportunities. Edinburgh and the Lothians need skilled people to travel into the area for work.

Others have mentioned migration from the Borders. Many years ago on my father's side, my family migrated from the Borders for the same reasons of lack of opportunity and lack of access.

The Conservatives very much support the principle of the railway. We supported it in our most recent manifesto and, as far as I am aware, we do not intend to withdraw that support. We will vote for the bill this evening. However, I was a little disappointed by some of the brinkmanship that was evident at the final stage. That detracted from the seriousness with which we should treat what is, as my colleague Derek Brownlee rightly said, a national project.

The line presents an opportunity for development, but such opportunities must be tempered with the needs of the individual. That issue was mentioned by the committee convener, who talked about the need to balance the community good against the interests of the individual.

I look forward to hearing the minister give further details, when the time comes, on the advance and voluntary schemes. When he does that, I hope that he will consider whether the compensation schemes for compulsory and voluntary purchase need to be balanced north and south of the border.

That said, we believe that the line has a good business case. We hope that the business case will be proved. We hope that the people of the Borders will benefit from this fabulous project.

**The Deputy Presiding Officer:** As Alasdair Morgan has kindly decided not to wind up, I can now call the minister to respond to the debate.

16:53

**Tavish Scott:** I have some sympathy with Brian Monteith—although, as he has now left the chamber, my sympathy is reduced a little bit—but my colleague Margaret Curran tells me that the matters to which he referred are under active consideration across all parties. I hope that we can reach an accommodation that will help those who wish to do so to speak against or for bills that deal with such projects.

As members have said, we want to build the entire line. The Executive absolutely agrees with that. We are committed to building the entire line. We are committed to the Borders railway project.

**Euan Robson (Roxburgh and Berwickshire) (LD):** Does the minister agree that this is indeed a



proud day when we will right a wrong that was done 37 years ago? Will he further congratulate the Campaign for Borders Rail and all those associated with bringing the project to the fore, including the committee? Does he agree that the line will not only contribute to providing Borderers with a sustainable and more environmentally friendly form of transport but reduce congestion in Edinburgh and, therefore, benefit the capital city as well?

**Tavish Scott:** I am happy to associate myself with Euan Robson's remarks concerning all those who have played a role in the project. He and a number of other members have made a significant point about the wider environmental benefits that will come from providing good public transport options and enabling people to leave their cars at stations, so that they can use the new rail line when it is constructed.

I will comment on a couple of points that were made in the debate. I assure David Davidson that I have no doubt the transport and works bill, when it comes before the Parliament, will make provision for adequate scrutiny of the issues that he has raised in relation to voluntary purchase. We have concluded that that is the best mechanism for advancing the matter.

I agree with a number of members that the Borders and Midlothian need to be connected not just to Edinburgh but to the entire Scottish rail network. A key component of the business case is to ensure that the system works and is successful and that there is interaction between the line and the rest of the network.

Derek Brownlee made the fair point that the growth in housing is happening now. I accept that, based only on my much more limited observations. I take Christine May's point about the robustness of the financial case and the need to ensure that we work constantly on that, using the mechanisms that are appropriate for all our capital transport projects.

I agree with a variety of members who made the point this afternoon that this is a national project that works and has seamless connections with the rail network. It is important for us to get on with the work and to deliver the project now. I will be happy to share a congratulatory glass of wine with members—including, of course, Christine Grahame—after the debate.

16:57

**Mr Ted Brocklebank (Mid Scotland and Fife) (Con):** After almost three years, I am sure that my colleagues on the committee will agree when I say that consideration of the bill has at times been an arduous task. Frankly, I will not miss it greatly, especially the 5 am starts on dreich January

Monday mornings in order to get from north-east Fife to places such as Galashiels and Newtongrange. I know where Bob Geldof was coming from when he wrote "I don't like Mondays".

I begin by thanking the committee convener, the clerks and all the team for their work and help over the period. As Tricia Marwick indicated, I would like to say something about appropriate assessment. In her opening speech on behalf of the committee, Tricia mentioned the improvements that the committee made to the code of construction practice, which we ensured was amended to reflect many of the concerns that were expressed to us by objectors about the daily impact on them of the railway's construction. It also reflects the necessary changes and enhancements that were suggested by Scottish Natural Heritage and which the committee required with respect to its recommendations on the appropriate assessment of the River Tweed special area of conservation. Those changes were fundamental to our being able to recommend that the Parliament today should agree that the construction of the railway will have no adverse impact on the integrity of the site.

The code is of particular interest to many people who will be directly affected by the railway's construction. For example, it sets out the measures that contractors will be required to take to mitigate the impact of construction noise, vibration and pollution and to ensure access to and from properties. A number of objectors were somewhat cynical about promises given by the promoter in its code of construction practice and noise and vibration policy. In line with our commitments in our consideration stage report, we amended the bill to give the codes enforceability. That means that, where there is a failure to comply with the documents, the local authority will be able to enforce compliance, just as it can enforce any planning condition. The report by Scottish Natural Heritage on the matter was clear: it is likely that the construction of the railway as originally set out in the bill would have adversely affected the integrity of the River Tweed SAC. However, as a result of our amendments to the bill and the code of construction practice, Parliament can conclude when it decides whether to agree to the motion that construction will not adversely affect the SAC's integrity.

I would like to say a few words about communication. The committee again emphasises that, in taking forward the project, the promoter must display greater care and sensitivity in its dealings with people who are affected by the railway, especially those who are faced with the compulsory acquisition of their land or home. The promoter has a lot of work to do to take local communities with it as the project progresses towards a successful outcome. Only by doing that

will it maximise the railway's benefits to all. Disfranchising local people will damage the railway's short and long-term prospects.

The process has been a learning curve for me and other committee members. We delved into many interesting issues, such as the effect of planting on reducing noise levels, the provision of translucent noise barriers and the maximum height of earth bunds. Literally, we dealt with bricks-and-mortar issues. The committee has considered the issues thoroughly and produced a robust and much-improved bill, which, I hope, now gives a clear picture of the way forward.

I support the motions in Tricia Marwick's name. I also back Christine May's suggestion that, as some kind of a reward, those who sat on the committee, at least those who are still extant at the time, might be invited on the first journey on the railway.

## Business Motions

17:00

**The Presiding Officer (Mr George Reid):** The next item of business is consideration of business motion S2M-4541, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a business programme.

*Motion moved,*

That the Parliament agrees—

(a) the following programme of business—

Wednesday 21 June 2006

2.30 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Preliminary Stage Debate: Glasgow Airport Rail Link Bill

*followed by* Financial Resolution: Glasgow Airport Rail Link Bill

*followed by* Business Motion

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Thursday 22 June 2006

9.15 am Parliamentary Bureau Motions

*followed by* Stage 3 Proceedings: Local Electoral Administration and Registration Services (Scotland) Bill

11.40 am General Question Time

12 noon First Minister's Question Time

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

2.55 pm Continuation of Stage 3 Proceedings: Local Electoral Administration and Registration Services (Scotland) Bill

*followed by* Ministerial Statement: Legislative Programme

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Wednesday 28 June 2006

2.30 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Executive Business

*followed by* Business Motion

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Thursday 29 June 2006

9.15 am Parliamentary Bureau Motions

*followed by* Executive Business

11.40 am General Question Time

12 noon First Minister's Question Time

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

2.55 pm Executive Business

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

and (b) that the period for members to submit their names for selection for Question Times on 7 September 2006 ends at 12.00 noon on Wednesday 28 June.—[*Ms Margaret Curran.*]

*Motion agreed to.*

**The Presiding Officer:** The next item of business is consideration of business motion S2M-4545, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a timetable for legislation.

*Motion moved,*

That the Parliament agrees that the timetable for completion of consideration of the Crofting Reform etc. Bill at Stage 1 be extended to 29 September 2006.—[*Ms Margaret Curran.*]

*Motion agreed to.*

## Parliamentary Bureau Motion

**The Presiding Officer (Mr George Reid):** The next item of business is consideration of a Parliamentary Bureau motion. I ask Margaret Curran to move motion S2M-4546, on the suspension of standing orders.

17:02

**The Minister for Parliamentary Business (Ms Margaret Curran):** I have one point on the motion, which I am moving in response to a request from members to schedule parliamentary time to debate the draft Student Fees (Specification) (Scotland) Order 2006. If the motion is agreed to, there will be a 30-minute debate tomorrow afternoon, from 4.30 pm to 5 pm.

I move,

That the Parliament agrees that, for the purpose of allowing up to 30 minutes to debate motion S2M-4538 on Thursday 15 June 2006, the second and third sentences of Rule 10.6.5 of Standing Orders be suspended.

## Decision Time

17:02

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

There are three questions to be put as a result of today's business. The first question is, that motion S2M-4450, in the name of Tricia Marwick, on the appropriate assessment of the River Tweed special area of conservation, be agreed to.

#### *Motion agreed to.*

That the Parliament notes the 1st Report, 2006 (Session 2) of the Waverley Railway (Scotland) Bill Committee, *Appropriate Assessment on the River Tweed Special Area of Conservation* (SP Paper 553), and agrees that the works proposed in the Bill will not adversely affect the integrity of the River Tweed Special Area of Conservation.

**The Presiding Officer:** The second question is, that motion S2M-4451, in the name of Tricia Marwick, that the Parliament agrees that the Waverley Railway (Scotland) Bill be passed, be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brown, Robert (Glasgow) (LD)  
 Brownlee, Derek (South of Scotland) (Con)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North East Scotland) (Con)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Fox, Colin (Lothians) (SSP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)

Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kane, Rosie (Glasgow) (SSP)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McGregor, 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)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Petrie, Dave (Highlands and Islands) (Con)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Tosh, Murray (West of Scotland) (Con)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)

Watt, Ms Maureen (North East Scotland) (SNP)  
Welsh, Mr Andrew (Angus) (SNP)  
White, Ms Sandra (Glasgow) (SNP)  
Whitefield, Karen (Airdrie and Shotts) (Lab)  
Wilson, Allan (Cunninghame North) (Lab)

**AGAINST**

Monteith, Mr Brian (Mid Scotland and Fife) (Ind)

**ABSTENTIONS**

Home Robertson, John (East Lothian) (Lab)

**The Presiding Officer:** The result of the division is: For 114, Against 1, Abstentions 1.

*Motion agreed to.*

That the Parliament agrees that the Waverley Railway (Scotland) Bill be passed.

**The Presiding Officer:** The third question is, that motion S2M-4546, in the name of Margaret Curran, on the suspension of standing orders, be agreed to.

*Motion agreed to.*

That the Parliament agrees that, for the purpose of allowing up to 30 minutes to debate motion S2M-4538 on Thursday 15 June 2006, the second and third sentences of Rule 10.6.5 of Standing Orders be suspended.

## Carers Week 2006

**The Deputy Presiding Officer (Murray Tosh):** I would be grateful if those who are leaving the public gallery could do so as quickly and as quietly as possible, because it is time to move on to the next item of business. As you should all be happy, I hope that you will not be too distressed by my request.

The final item of business is a members' business debate on motion S2M-4445, in the name of Cathy Peattie, on carers week 2006. The debate will be concluded without any question being put.

*Motion debated,*

That the Parliament notes that 12 to 18 June is Carers Week 2006; recognises the valuable work of national and local carers' organisations, such as Carers Scotland and the Falkirk and Clackmannanshire Carers Centre which this year celebrates its 10th anniversary; recognises the importance of supporting carers in employment and enabling them to fulfil their caring and work responsibilities without detriment to their own health and well-being; notes that the health of the Scottish economy depends on the health and well-being of unpaid carers and their ability to juggle work and care; further notes that recent research has shown that 58% of carers who provide a substantial amount of care give up work because of their caring responsibilities, and believes that the Scottish Executive, local government and employers should consider and support the adoption of flexible alternative care solutions and carer-friendly working arrangements to give more carers the opportunity to remain in, or take up, employment.

17:06

**Cathy Peattie (Falkirk East) (Lab):** I acknowledge and applaud the valuable work of national and local carers organisations such as Carers Scotland, which are tireless in supporting and campaigning on behalf of carers. The main support and point of contact for many carers is provided by local organisations such as the Crossroads Association and the Falkirk and Clackmannanshire carers centre, which celebrates its 10<sup>th</sup> anniversary this year.

The theme of this year's carers week is carers and health and my motion links carers' health to their importance to society and the Scottish economy and to the proposal that they receive adequate support to ensure, first, that their caring duties are not detrimental to their health and, secondly, that they are able to remain in and take up employment, if they so wish.

We must assist carers and enable them to access support and services. Although carers are key partners in community care, many of them remain unknown to statutory agencies. Indeed, in Scotland, an estimated 660,000 carers provide unpaid help and support to relatives and friends.

About one in eight adults is a carer and there are many young carers. Sixty-three per cent of Scottish carers are women and 37 per cent are men, and three in five of us—most of us—will become carers at some point in our lives. It is estimated that by 2037 the number of carers in Scotland will have increased to about 1 million.

Although carers are an increasingly important part of our social and economic system, their contribution is all too often underestimated and their potential contribution is not always taken into account. Carers save the Scottish economy £5 billion a year—an average of £7,500 per carer—which is almost equal to the cost of providing national health services in Scotland.

However, it is not just a question of what we would have to spend to provide the service that carers provide. More than 250,000 people juggle work with caring responsibilities for disabled, ill and frail relatives or friends; 150,000 people in Scotland provide more than 50 hours of care each week; and 58 per cent of carers who provide a substantial amount of care have to give up work to meet their caring responsibilities. Caring can mean not only giving up an income, but giving up future employment prospects and pension rights. The carers allowance does not adequately compensate for that loss.

Too often, people have to fight to get appropriate services for the people for whom they care, and that in itself can be draining. With support through the adoption of flexible alternative care solutions, more carers could remain in work. Carer-friendly working arrangements would give still more carers the opportunity to remain in work, and it is not too difficult to consider ways in which employers could be more flexible. That could mean longer lunch breaks, later starting times, access to a telephone or an understanding that someone might need to leave early, but it is not impossible to make such arrangements. In an age when we hear employers talk about skills shortages and the difficulty of recruiting staff, surely it is possible to consider flexible working hours. We need to support carers when they wish to take up employment. That would go some way towards redressing the injustice that they face.

We must recognise the potential impact of carers' work on their health. In a recent survey, only 27 per cent of carers questioned said that they had been offered a health check. Eighty-eight per cent of respondents believed that carers should receive annual health checks. Throughout the United Kingdom, there are 6 million carers and, as I said, the numbers are increasing. Many are elderly; 1.3 million carers are over 65. People who provide high levels of care are twice as likely to be permanently sick or disabled. Seventy-nine per cent of carers say that their health has been

affected by caring, with stress and depression being among the most common complaints. The national health service should introduce a system to ensure that carers are offered health checks when they become carers, with regular check-ups thereafter.

The role of carers is integral to the well-being of our society. We should ensure that carers' well-being is integral to the policies and practice of this Parliament.

17:12

**Dave Petrie (Highlands and Islands) (Con):** I thank Cathy Peattie for bringing the debate to the chamber. Many of us, at some point in our lives, will either be carers or need carers, or both. It is a consequence of the fragility of our society. As one who is related to carers, who is involved with those who care for elderly relatives and who is also a politician, I fully support carers week and all the good work that carers do for Scottish society and for the economy.

The Conservative party has always argued for a strong economy and a small state, giving power and responsibility to individuals and communities. It is clear to me that carers organisations define those two beliefs. An astonishing 12 per cent of the UK population are carers, and an eighth of the same population combine their caring with full-time or part-time work responsibilities. If the Scottish proportion of that number were to give up their care roles, it would cost the economy billions of pounds and would necessitate an increase in bureaucracy and red tape to manage it. In addition, approximately £660 million of carer benefits go unclaimed each year, some because many people do not know that the benefits are available to them but some because the individuals feel that they do not want to be paid for providing care that they see as a duty to kith and kin. Carers in the UK and in Scotland are therefore net contributors to the economy, and that fact should not go unnoticed.

On a more altruistic level, we should support those individuals because what they are doing is the right thing to do. We should support and encourage a society that lives up to the ideals that we feel are most important, one of which is caring. Caring brings together communities, encourages voluntary work and often aids the grieving process through a period of close support—not to mention the fact that we ourselves may well be forced to rely on a carer at some point in the future. For the reasons that I have just laid out, it is important that we give carers the support that they deserve because of their roles. It is also important that we do not bog down that vital role with added red tape and restrictions; it would not make sense to improve one sector of society to the detriment of

another. However, there are still points that should be considered and which could vastly improve the situation for many carers in Scotland.

Unfortunately, as Cathy Peattie said, many carers are more likely to fall victim to depression and other mental illnesses because of the situations in which they find themselves. It is therefore important not only that we provide the necessary help and support to those individuals, but that we make it easier to access. Readily available information and support networks and groups—as well as respite opportunities—would all take the strain off a situation that is often very stressful. That would have the added benefits of enabling the carer to provide a better level of care and to have greater part-time job opportunities, and relieving pressure on the national health service in the long run.

The response from surveys of carers shows that there is universally high praise for the service that is provided to carers by the voluntary sector. I have spoken about the voluntary sector frequently in my early weeks in the Parliament so I shall not dwell on the subject now, but a stronger and freer voluntary sector would provide much of the support that carers need in their lives in a non-patronising and more community-based way.

Estimates show that carers save the United Kingdom Exchequer £57 billion a year. That is equal to annual spending on the NHS. Therefore, voluntary carers in the community annually provide a second NHS for free. They participate actively in maintaining the health and well-being of our country. Scotland has almost half a million full-time carers. To ignore that huge section of our society would be myopic to say the least. We must support and strengthen community-based voluntary activity wherever we can. By “support”, I do not mean just standing up in Parliament and saying good things about it. Damage to carers’ health could be reduced, if not eradicated. If we allow voluntary organisations to work with carers to their best ability, we will put our actions where our words are and show that voluntary carers are a section of society that we really care about.

17:16

**Roseanna Cunningham (Perth) (SNP):** I congratulate Cathy Peattie on bringing the subject to the Parliament for debate. I offer apologies on behalf of John Swinney, who has done a great deal of work with various carers organisations. He would have been here tonight had it not been for an unbreakable engagement.

Like every member, I can add to the organisations that are named in Cathy Peattie’s motion others in my constituency, such as the Perth and Kinross Association of Voluntary

Service and the Princess Royal Trust for Carers, which runs a carers centre in Perth. However, what none of us can do is provide a roll call of the many individuals who care for family, friends and neighbours without reward, without recognition and, too often, without any official help at all. Carers are as diverse as the needs of the people for whom they care. They include people who look after elderly patients or partners with Alzheimer’s disease, parents of disabled children and young carers who do much more than we would ever expect young children to have to do.

To the description “unpaid carers”, I would add the phrase “unrecognised carers”. Carers are often unrecognised even by themselves; I know, because that happened to me. People often take on the role without realising that that is what they are doing. That results in many of them never accessing the limited help that is available unless others are vigilant on their behalf.

Carers’ problems are many. Capability Scotland has a substantial presence in my constituency as its Upper Springlands complex is just outside Perth. Capability Scotland’s research has shown that the parents of a disabled child are often denied the right to work because of a lack of suitable and affordable child care. Almost half the participants in its research said that they do not work because they care for their disabled child. The research also indicated that 70 per cent of the parents who work rely on family members to provide child care—half of them do so because of the lack of suitable or affordable child care.

The motion is right to applaud Scotland’s secret social service of carers, but we must do far more than applaud them. We must acknowledge the difficulties that they face and start to address them.

At the end of last year, I attended an event in the Gateway centre in Perth, which was attended by representatives of a wide range of voluntary sector organisations. The event considered issues associated with voluntary sector funding. There was real concern about the future. Most of the organisations recognised that local authorities are under increasing pressure and, given that they depend to a huge extent on local authorities for their funding, they are very concerned about what the future holds. As a result, many of those who were present expressed a desire for funding to be dealt with directly by the Executive. I know that the Executive is resisting that and trying to push the situation the other way. Frankly, there is a feeling that the Executive is dragging its feet on the issue.

The Health Committee will soon deal with petition PE954, which calls on the Scottish Executive to implement fully the 22 recommendations of the care 21 report, “The Future of Unpaid Care in Scotland”.

The 2001 census, to which Cathy Peattie referred, showed that a staggering 480,000 adults and more than 16,500 children and young people provide unpaid care in Scotland. The number of carers now tops 600,000. The reality of their lives is that carers would not have it any other way, but they are saving society a massive amount of money—£5 billion a year—and they deserve greater respect and more practical help in training, respite and support. In that regard, and following on from the Health Committee's care inquiry report, I point to the need for a much more proactive approach to, for example, the issue of direct payments to ensure that, now that family members can access such payments, there is a much greater take-up than there is currently. We need to be proactive on such issues. It is not enough to sit back and wait for carers to come to us; we must go to them. That is the only way in which we will make their lives better.

17:20

**Donald Gorrie (Central Scotland) (LD):** I congratulate Cathy Peattie on an excellent speech on an excellent subject. I also congratulate her on identifying an important aspect of the carers' situation: enabling them to combine caring with work.

I will concentrate on how the present system can be improved. The issue of carers is a prize example of something that, unfortunately, happens too often: there is a big gap between the well-meant and warm words that we and ministers utter, and the documents that set out strategies and so on, and what actually happens on the ground, where the position is variable. Sometimes there is a good system; sometimes there is a bad system. We must develop further what happens already. Carers organisations should scrutinise their local services systematically and identify things in the system that are going wrong or which could be done better to help carers. Local government and national Government departments should have a sort of doorkeeper who would liaise with the carers, receive their specific complaints or suggestions and feed them into the system in order to get something done. We must attend to what happens in the real world, as opposed to what we would like to think happens.

My next point concerns how to harness people's experience of caring in helping other people. People who are still caring probably do not have additional time to act as mentors to somebody else; if they do, that is fine. However, many people who have experience of caring but on whom there is now not such a demand could act as a sort of buddy, encourager, helper and identifier of benefits and things like that. When people start

caring, it is as if they are rather in the middle of a jungle somewhere, which they do not understand. Somebody like a David Livingstone who could lead them through the jungle would be helpful. Help from more experienced carers about information on benefits, suggestions on how to help and just moral support would be useful.

My final two points are not new, but they are still important. First, respite care should be as high a priority as possible for councils and the Government. If someone is taken away for two weeks, or whatever is required, to have a real rest, that makes all the difference to whether they can continue caring for the other 50 weeks in the year. They can resume another year with their batteries stoked up again.

My final point is on young carers, who are not always identified. Schools and social work departments should be told to help identify young people who have the burden of caring. They should ensure that they get support and that, for example, they do not merely get abused at school because they have not done their homework since they have been caring.

There are ways in which we can improve the system, but many good things are going on. I hope that we can build on the success of what we do already.

17:24

**Patrick Harvie (Glasgow) (Green):** I, too, am pleased to congratulate Cathy Peattie on bringing the debate to the chamber. I apologise because, unfortunately, I cannot stay for the full debate. However, I am happy to contribute.

In addressing the economic case, Cathy Peattie cited the astonishing figure of £5 billion as the value that unpaid care is worth to our society. In recognising the strength of the economic case, we need also to recognise carers as a workforce for which we have the same responsibilities as we do for any other workforce.

The idea of focusing on flexible working patterns and enabling people to retain employment if they choose to do so is also important. Although we seem to hear a lot about flexible working patterns from employers, the flexibility seems to work only one way—employees are often called on to be flexible, employers rarely so.

The Green party's citizens income policy is relevant to the debate. Our policy would see a payment made to all citizens; people should benefit economically from the society in which they live. We see a citizens income as a right and not a payment in exchange for unpaid work. The aim is to give people the flexibility to make choices at different times in their lives, which could include



combining work or education with the care of a relative or a friend.

Beyond the economic case, a discrimination and rights-based case needs to be made. In calling for a rights-based approach to be taken, the care 21 report, "The Future of Unpaid Care in Scotland", recognised that fact. If we agree not to exploit carers as a workforce but to give them rights, we need to ask ourselves not only what support carers need but what their needs and rights are. We need to find a way for carers to articulate those needs and rights at a stage in the process before the decisions are made on the services that are provided to them and the way in which they are delivered.

The care 21 report quotes a carer as saying:

"The reality is if social work says they can't do something because of health and safety and the nursing staff can't do it and it still needs to be done. Who does it? The informal carer – there you go."

That sums up the argument very well. It shows a workforce whose time and effort are being taken advantage of. The strong motivation of carers should not be exploited.

The human rights case—the rights-based case—calls on us not only to uphold and celebrate our human rights legislation but to go further. I hope that that will happen when, after the summer recess, we establish the Scottish commissioner for human rights. The commissioner should have the power to look at issues to do with how support services are provided to people and to investigate individual cases in which carers believe that their human rights were not taken into account in the service design.

The issue is very much in keeping with the Executive's access to justice agenda. If it is difficult for most people to access their rights through the courts, how much more difficult is it for someone who is juggling paid work with unpaid care?

I am very pleased that recommendation 1 in the care 21 report calls on the Executive to

"develop a Carers' Rights Charter in Scotland".

In his summing up, I hope that the minister will respond to that recommendation, for the record.

17:28

**Maureen Macmillan (Highlands and Islands) (Lab):** I congratulate Cathy Peattie on securing the debate, which is important because carers are such important people in our society. I also congratulate carer support groups in the Highlands on the work that they do. In our widely scattered communities, they are invaluable.

It is said that a picture is worth a thousand words. I draw the chamber's attention to Fin

Macrae's photographs of Highland carers, which are on display in the Parliament this week. The photographs show the diversity of carers and, more important, they show carers as people. It is very important for us always to recognise both those aspects of caring. Carers—old or young—look after husbands, wives, friends, parents and children.

My speech will be a bit of a litany of the carers who are in Fin Macrae's photographs. As I said, he has shown them not as carers but as people. There is Liza, walking her dog. There is Ian, who is determined to climb Ben Nevis because he wants to get fit. He has not looked after himself because he has been looking after somebody else. Eilidh, a young girl from Ullapool, helps to look after her sister and is an avid Rangers supporter. Those people should not be defined by the fact that they are looking after somebody. We have a poet in Rona. Diana's husband has dementia and is in a care home, but her treasured possession is two ornamental hearts that they bought, which symbolise their love.

There is Margaret MacKinnon, sitting with a dog on her knee, thinking of her husband, Alister. The caption says:

"Cherished memories of a lovely man."

We have David, with his two children, whom he looks after, and Alan Scougal, who is a carer and who also supports carers. Alan says that supporting carers "is a constant journey." We have Douglas, who looks after his mum and is a champion pizza maker because he has to be head cook when his mum is not feeling up to it.

There is Isabel, another poet, with a poem for her son. "I'll be your instrument", she says about his silent music. There is Margaret, who runs a bookshop in Kingussie and is a carer as well. Her bookshop helps to support people who would not otherwise get employment. We have Kathleen, writing a poem to her son James, who has Angelman syndrome, which I had never heard of before I met them.

We have Rachael and Nathan Davies. The caption says:

"Joined together by love and not necessity."

One of them is in a wheelchair—one cannot tell from the photograph which one it is. That is not important to them; what is important is their love for each other. There is Susan, pictured with her husband who, at the end of their married life, has had a stroke. However, Susan says, "We do things differently." They are still a couple.

Eilidh, another young carer, loves cats, Harry Potter and "Star Wars", just like her sibling, whom she looks after.

It is important that we recognise carers as people and recognise their needs, including their financial needs. I have had representations telling me that care 21 is wonderful but asking where the money is going to come from. The Executive has to answer that question.

17:32

**Carolyn Leckie (Central Scotland) (SSP):** I, too, congratulate Cathy Peattie on her speech. I concur with the aspirations of the motion, but I would probably wish to go a wee bit further. Despite having heartfelt admiration for the sacrifice and commitment of carers and their organisations, I confess to a bit of anger as well. That anger stems from personal experience. My mother gave up work to look after my brother when he was born with special needs. That was 34 years ago. She has never worked since and her income has never been replaced. She is now ill and is being looked after by my sister—an example of women sacrificing lifelong earnings and pensions to substitute for the state. As well as all the warm feelings of admiration, that makes me angry. Major political and economic change is necessary if we are to achieve any kind of fundamental shift in the lives of people who care and provide that substitute care. It is predominantly women who fulfil that role, so there are equality issues. We will not address the pay gap, the income gap or the pension gap for women unless we ensure that women have their income replaced if they give up their employment to carry out caring responsibilities.

Services in Scotland are being subsidised to the tune of £5 billion a year. We should demand at least a significant proportion of that to ensure that proper support is available for people who care and to replace their income. Fully funded implementation of the care 21 recommendations would be a start, but it will go nowhere near addressing the full scale of the problems.

To be frank, it is simply unacceptable that people should have to give up work to fulfil the needs of those they care for. That is society's responsibility and that is where Government legislation—whether employment legislation or other legislation—has a role. The Government must enforce that legislation and fill the gaps in public services to give those who need care and those who give it the confidence in those services that will prevent them from taking decisions that cut off or reduce their income and plunge many of them into poverty.

I realise that many people willingly choose to be the carer and, no matter how good public services were, would still want to give personal care, particularly for a close relative, but that fact does not excuse the Government from recognising their

contribution. While people voluntarily substitute for the state in caring for people, the state needs to substitute their income. That could avoid income poverty and inequality being consequences of caring.

17:36

**Mrs Nanette Milne (North East Scotland) (Con):** I congratulate Cathy Peattie on securing the debate during carers week 2006 to highlight, once again, the invaluable contribution that is made by the one person in eight in our country who fulfils a caring role for a relative, friend or neighbour who cannot manage without their support. As Roseanna Cunningham said, many of those unpaid carers do not recognise their roles as carers; they think of themselves as helping out friends or loved ones. Some have done it all their lives, some are dealing with the aftermath of illness or an accident and many care for more than one person.

Sometimes, carers suffer damage to their own physical and/or mental health as a result of their caring roles. A carers and health survey that was carried out in Aberdeen two years ago found that 94 per cent of the city's carers are under stress. The survey's conclusion states a point that is not often considered:

"carers are a workforce, albeit a hidden workforce, one which cannot take time off sick from their job or leave their stress behind at 5 o'clock. If 94% of any employer's workforce were found to be under stress, there would surely be an investigation into finding some means of reducing that stress."

It is obvious from that survey that carers need to be identified and properly supported if they are to carry out their caring roles without serious detriment to their own health. That is why the network of carers centres throughout the country performs an invaluable role. The Voluntary Service Aberdeen carers centre, which is part of the Princess Royal Trust for Carers network, has been in operation for 12 years now. When I visit the centre, I always meet carers who tell me that it is their lifeline. There, they can meet other carers, compare notes, help one another, work at their hobbies and get a little break from their caring duties. They can also get advice about and help with access to benefits, adaptations and activities that can help them and those for whom they care.

Many carers are in employment and find it difficult to meet the demands of what can amount to two full-time jobs. They often feel that they are unable to give their best to their work while feeling guilty about leaving the person for whom they care at home. That may leave them feeling tired and listless and eventually may lead to them giving up their paid employment to focus solely on caring. That decision can result in feelings of resentment

and contribute to the stresses of their caring role, as they face a loss of income and social contact, which can destroy their happiness and that of the cared-for person.

With appropriate support, it might not be necessary for a carer to give up their paid employment entirely. If more employers were to adopt policies to support carers, many more would be able to cope with a dual role. Part-time working, flexible working time and irregular hours could be possible and could allow the possibility of a return to full-time employment should the caring responsibilities change or cease. Temporary unpaid leave at times of crisis could also be of immense help to carers and allow them to return to work once a crisis is over. Employers of all kinds need to be more aware that they are likely to have unpaid carers among their employees and that they have a role in and responsibility for helping such people to balance work with their caring commitments.

The United Kingdom Government's Work and Families Bill introduces measures to help carers to access flexible working arrangements, and the action for carers and employment project to promote good practice among Scottish employers is to be welcomed. The Scottish Executive's policy of providing support structures for its staff, including flexible hours, part-time working, career breaks and special leave for family emergencies, sets a good example, which I hope will be followed by an increasing number of public and private sector employers.

Unpaid carers make an enormous contribution to the well-being of the country, both socially and economically. That contribution will increase as the population ages. Those carers deserve public recognition for their work and all the support and help that they need to cope with their responsibilities without damaging their own health and welfare. I am happy to support Cathy Peattie's motion to salute carers and to further their interests.

17:40

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

I thank Cathy Peattie for securing this excellent debate.

Donald Gorrie and other members have mentioned respite for carers, which is of paramount importance. I am pleased that the Scottish Executive's response to care 21's report specifies, in a political manner, in paragraph 22:

"If, after conclusion of the work outlined above, it appears that a statutory entitlement to respite might have a useful role to play, we will reconsider the issue."

I can assure the Executive that it must reconsider the issue—there should be no "might" about it, as respite is of paramount importance, as I said.

There are all types of carers. The prospects of kinship carers seem to be on the up a little bit. After dear knows how many years of children from families afflicted by drugs being taken to their grandparents, with the grandparents receiving no remuneration whatever, in many areas they are now getting recompensed for looking after those children. I believe that the Parliament, or the Executive, is looking into the situation with a view to making it imperative for grandparents to be paid some money for that.

The Kerr report could never be fully implemented without voluntary carers. We spoke earlier about how to recompense people. I will mention again the worst case that I have ever heard of. A lady phoned me up, saying that she was a bit perplexed at receiving only 9p per week of a pension. I did not believe it, and went to see her. It turned out that, although she was going to go out to work at the age of 16, her mother took unwell. She nursed her mother for 25 years; then her mother died. She was going to go out to work at the age of 40; then father took unwell. She stayed at home and nursed him for 20 years, after which he, too, died.

The lady turned 60 and applied for her pension. She was asked where the stamps on her card were. She explained that she had been a carer all her life and had never worked as such. The people at the agency asked why she had not let them know and told her that they could have given her some stamps to compensate her for caring for her parents. She replied that no one had told her about that. Perhaps that provision should be made more widely known in the community. She went on to ask whether she could have stamps put on her card retrospectively. "No," she was told. They asked her, "Have you any money?" She replied, "My old father left me £22,000." They said, "Come back when you're poor. In the meantime, we'll give you 9p a week of a pension."

That is a typical example of how carers tend to be financially looked after by the Government. Without carers voluntarily doing their work in the community, society would implode. It is as simple as that. They do a tremendous amount of work. They seek not recompense but a reasonable level of justice. We must raise the level of respite care, and we must make carers aware of the fact that if they care for someone and are not getting their card stamped, they can get the matter sorted out by the social benefits people.

17:44

**Nora Radcliffe (Gordon) (LD):** I add my thanks to Cathy Peattie for giving us this opportunity to raise issues around caring. I totally endorse everything that she said about giving support to adult carers so that they can maintain their own

employment, health and welfare. Often, quite small measures of support can make all the difference to whether someone can cope and can avoid the difficulties, expense, heartache and guilt that come with a breakdown in caring arrangements.

Sometimes, the support is there, but the person does not know about it, perhaps because they do not even identify themselves as a carer or are so bound up in their caring duties that they do not have the energy and time to seek the help that might make an enormous difference to their lives.

Young carers, in particular, are often left in situations that adults who can no longer cope have left. Some adults do not identify themselves as carers or get the help that they could get if only they knew about it, but what about young carers, who do not have the knowledge, confidence, contacts or ability to seek out help that adults have?

It is especially important that adults look out for young carers. School staff, general practitioners, health visitors and any other professionals who work in the community should be aware that there might be young people with caring responsibilities who are facing adult burdens from which other adults have walked away and who are just left to get on with it because nobody notices. That is a dreadful thought. It is important that teachers and health professionals are, as part of their training, alerted to the signs to look for and told what to do if they encounter young carers and how to put them in touch with the services that they need.

Young carers in rural areas are even more isolated than their urban counterparts. It is difficult and expensive to organise the peer groups that young urban carers find so helpful and reassuring. The part-time young carers support worker in my area had a case load of more than 30 young carers scattered throughout central Aberdeenshire, and it was hard for her just to visit all her charges in the time available, given the travelling distances involved.

We can and should do more for young people who are being robbed of a carefree childhood and, as Carolyn Leckie and John Swinburne pointed out, for people who sacrifice their own economic benefit to look after others—to the enormous economic benefit of society.

17:47

**The Deputy Minister for Health and Community Care (Lewis Macdonald):** I congratulate Cathy Peattie on promoting the debate, which comes at an important time for more than 660,000 unpaid carers in Scotland. It is appropriate that the debate is held during national carers week.

In many ways, addressing the needs of unpaid carers goes to the heart of health and social policy and relates to inclusion, equality of opportunity, reducing health inequalities and supporting the most vulnerable people in communities.

Our approach is not to take the view that all the issues can be resolved overnight, but to work with carers and their representative organisations to identify priorities and take actions to address them. Representative organisations such as Carers Scotland and many others worked closely with my officials in preparing the care 21 report “The Future of Unpaid Care in Scotland”, which I was delighted to help launch in Inverness last year and to respond to here in the Parliament on 24 April. We have maintained a focus on these issues with the reception hosted by John Swinney, the petition about which we have heard and this debate this evening.

The care 21 report is at the heart of what we want to do and what carers want to be done in this area. It emerged from a wide-ranging study that the Executive commissioned of present and future needs. It was the largest study of its kind in the UK and found that Scotland leads the UK in its support for carers but highlighted some of the gaps that exist and further actions that will be required.

In the report, there are 22 recommendations for action, some of which are for the statutory or voluntary sector agencies involved, some of which are for the UK Government and some of which are for the Executive. I will say one or two words about the ones for the UK Government, given the motion’s focus on employment issues.

One of the recommendations in the report was that the United Kingdom Government should undertake a national campaign to advise employers of the benefits to them of supporting carers and highlighting the rights and responsibilities of employers to carers. I forwarded that recommendation and other recommendations that were directed to the UK Government to colleagues at Westminster who hold relevant portfolios.

In my response in April, I was pleased to be able to welcome the UK Government’s proposals in the Work and Families Bill to give adult carers the right to request flexible working arrangements and to be able to acknowledge the work of Carers UK, Carers Scotland, the Equal Opportunities Commission, the European social fund and others to promote good practice among employers through the action for carers and employment project. There are good examples across the private and public sectors of employers giving a lead in these areas. Indeed, the Executive seeks to provide support to civil servants and other members of its staff who have caring

responsibilities to allow them to balance work and care. We will keep under review the measures that we have in place in the light of the Work and Families Bill and will seek to improve them further.

It is not my view that unpaid carers are in some way a substitute for care by the state. That view misunderstands the value of what motivates carers and what it is that those who are cared for want. The question is not how the state can replace unpaid care but, rather, how we can support unpaid carers. The question of carers' rights has been mentioned, as was the idea of a carers charter and the right to respite care. We are happy to consider those areas as policy goes forward, but they are not among the areas that have been identified as being the most immediate priorities. Clearly, there are things that can and should be done in the short term. However, we will keep under review the framework within which support is provided and services are developed.

In responding to the care 21 report, in consultation with carers organisations, we identified what we felt were the overall priority areas for immediate action. Strikingly, all of them have been mentioned in the debate this evening. With regard to our support for young carers, respite care, the health of carers and carer training, we have sought to work with carers organisations to develop proposals that can be put into place. On carer health and improving access to flexible respite services, we have brought forward proposals that are intended better to balance caring with paid employment. However, we recognise that improvement will come from wider developments in those fields.

We have issued a carer information strategy—we did that at the same time as we responded to care 21. We have also enhanced incentives for general practitioners to register carers with named carer-liaison staff, which will make a significant difference. Further, we have highlighted the interest of carers in the self-assessment tool that we are preparing to help community health partnerships in their work in managing long-term conditions.

Carer information strategies will ensure that carers are identified early on in their carer roles. Given that most carers present themselves in health settings before they present themselves in social work settings, I hope that that will help to address the issue that Cathy Peattie raised about carers being unknown to social work services and will help to get the recognition that a number of members highlighted as being important. Indeed, the single shared assessment, which is the gateway to accessing services quickly and efficiently, is something that we look to the national health service and social work departments to work together to deliver as efficiently as possible.

Maureen Macmillan and others asked about resources. Clearly, that is a critical question. We will certainly look to the work on respite, young carers and other areas that we are doing jointly with carers organisations to provide us with information in advance of the forthcoming spending review so that we can scope the resources that might be required to improve the position of carers.

Critically, we will do all that work in partnership with carers organisations, recognising both their effectiveness in representing carers and their importance in providing practical support to carers. They can give us in government a clear sense of the priorities for those who provide such valuable care.

The role of carers will only become more important in future years. Long-term challenges will demand long-term solutions. I finish by saying simply that we in government—along with, I am sure, members and carers organisations—are in this for the long term.

*Meeting closed at 17:55.*



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