

MEETING OF THE PARLIAMENT

Thursday 2 November 2006

Session 2

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CONTENTS

Thursday 2 November 2006

Debates

Col.

SCOTTISH EXECUTIVE BUDGET REVIEW	28847
<i>Motion moved—[Mr John Swinney]. Amendment moved—[George Lyon].</i>	
Mr John Swinney (North Tayside) (SNP)	28847
The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon)	28850
Derek Brownlee (South of Scotland) (Con)	28853
Des McNulty (Clydebank and Milngavie) (Lab)	28856
Mr Andrew Arbuckle (Mid Scotland and Fife) (LD)	28859
Mark Ballard (Lothians) (Green)	28861
Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)	28863
Dr Elaine Murray (Dumfries) (Lab)	28864
Mr David Davidson (North East Scotland) (Con)	28866
George Lyon	28868
Alasdair Morgan (South of Scotland) (SNP)	28869
FINANCIAL POWERS	
(SCOTTISH PARLIAMENT)	28873
<i>Motion moved—[Jim Mather]. Amendment moved—[Richard Baker]. Amendment moved—[Derek Brownlee]. Amendment moved—[Jeremy Purvis].</i>	
Jim Mather (Highlands and Islands) (SNP)	28873
Richard Baker (North East Scotland) (Lab)	28876
Derek Brownlee (South of Scotland) (Con)	28878
Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)	28879
Brian Adam (Aberdeen North) (SNP)	28882
Frances Curran (West of Scotland) (SSP)	28883
David McLetchie (Edinburgh Pentlands) (Con)	28884
Gordon Jackson (Glasgow Govan) (Lab)	28886
Christine Grahame (South of Scotland) (SNP)	28887
Patrick Harvie (Glasgow) (Green)	28889
John Swinburne (Central Scotland) (SSCUP)	28891
Mike Rumbles (West Aberdeenshire and Kincardine) (LD)	28892
Bill Aitken (Glasgow) (Con)	28893
Ms Wendy Alexander (Paisley North) (Lab)	28895
Alex Neil (Central Scotland) (SNP)	28896
QUESTION TIME	28899
FIRST MINISTER'S QUESTION TIME	28908
QUESTION TIME	28921
BUSINESS MOTION	28937
<i>Motion moved—[Ms Margaret Curran]—and agreed to.</i>	
SCOTTISH COMMISSIONER FOR HUMAN RIGHTS BILL: STAGE 3	28938
SCOTTISH COMMISSION FOR HUMAN RIGHTS BILL	28999
<i>Motion moved—[Robert Brown].</i>	
The Deputy Minister for Education and Young People (Robert Brown)	28999
Stewart Stevenson (Banff and Buchan) (SNP)	29002
Margaret Mitchell (Central Scotland) (Con)	29003
Marlyn Glen (North East Scotland) (Lab)	29004
Mike Pringle (Edinburgh South) (LD)	29006
Bill Aitken (Glasgow) (Con)	29007
Mr John Swinney (North Tayside) (SNP)	29009
The Minister for Justice (Cathy Jamieson)	29010
DECISION TIME	29013
CLYDESDALE PARKS	29027
<i>Motion debated—[Karen Gillon].</i>	
Karen Gillon (Clydesdale) (Lab)	29027
Chris Ballance (South of Scotland) (Green)	29030

Derek Brownlee (South of Scotland) (Con)	29031
The Minister for Tourism, Culture and Sport (Patricia Ferguson)	29032

Oral Answers

Col.

QUESTION TIME

SCOTTISH EXECUTIVE	28899
---------------------------------	-------

GENERAL QUESTIONS	28899
--------------------------------	-------

Children's Sports Glasses (National Health Service Provision)	28906
---	-------

Health Centres (Renfrew and Barrhead)	28901
---	-------

Housing Stock Transfer	28899
------------------------------	-------

School Facilities	28903
-------------------------	-------

Scoliosis	28905
-----------------	-------

Smoking Ban (Bar Workers)	28902
---------------------------------	-------

St Andrews Agreement	28905
----------------------------	-------

FIRST MINISTER'S QUESTION TIME	28908
---	-------

Cabinet (Meetings)	28908
--------------------------	-------

English Language Courses (Immigrants)	28918
---	-------

Methadone Programme	28915
---------------------------	-------

Prime Minister (Meetings)	28910
---------------------------------	-------

Safety at Sea (Meridian)	28919
--------------------------------	-------

Winter-related Deaths	28914
-----------------------------	-------

QUESTION TIME

SCOTTISH EXECUTIVE	28921
---------------------------------	-------

ENTERPRISE, LIFELONG LEARNING AND TRANSPORT	28921
--	-------

Age Discrimination	28924
--------------------------	-------

Cumbernauld (A80 Upgrade)	28921
---------------------------------	-------

Economic Development (North Ayrshire)	28928
---	-------

National Transport Strategy	28922
-----------------------------------	-------

New Forth Crossing	28925
--------------------------	-------

Rail Fares (North-east Scotland)	28923
--	-------

JUSTICE AND LAW OFFICERS	28928
---------------------------------------	-------

Alcohol (Sales to Intoxicated People)	28931
---	-------

Antisocial Behaviour	28929
----------------------------	-------

Confiscation of Assets	28935
------------------------------	-------

Drink and Drug-driving Arrests (Hamilton and Bellshill)	28932
---	-------

Fireworks Act 2003	28930
--------------------------	-------

Operation Triplicate	28934
----------------------------	-------

Reliance	28933
----------------	-------

Youth Courts	28933
--------------------	-------

Scottish Parliament

Thursday 2 November 2006

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

Scottish Executive Budget Review

The Presiding Officer (Mr George Reid): Good morning. The first item of business is a debate on motion S2M-5063, in the name of John Swinney, on the Scottish Executive budget review.

09:15

Mr John Swinney (North Tayside) (SNP): The Deputy Minister for Finance, Public Service Reform and Parliamentary Business and I have known each other for a long time and I wish him to take no hurt from what I am about to say, but I am more than a little disappointed that Mr Lyon is here to defend the Government's position in this debate. It is absolutely ludicrous that Tom McCabe is not here to defend the Government's position on an issue that is a result of his comments, recorded in the *Official Report* of the Finance Committee. It is absolutely absurd that a minister of the Scottish Executive who is paid a fortune by taxpayers does not have the decency to come to this debate to answer for the misleading way in which he has dealt with the matter or for a volte-face for which he has never properly accounted to the Parliament.

The First Minister fought the previous election on a manifesto that said he would

"Be open and transparent in government".

He said that his top priority would be

"to enhance, rather than avoid, parliamentary scrutiny".

Although we in the Scottish National Party do not always agree with the First Minister, we could have taken those words at face value and considered that the First Minister would run his Administration in line with those significant commitments to the principles of being open and willing to embrace scrutiny of Government by Parliament.

In the debate, I want to test whether the Scottish Government has honoured those principles, which the First Minister offered, in connection with the Howat review of the Scottish Executive's budget.

The Howat review was set up by ministers in 2005 to classify spending into various categories, to consider the performance and outcome of programmes and to identify those programmes

that do not match partnership priorities and are not performing well. It reported in the summer—late; everything is late with the Scottish Executive—and its conclusions are now in ministers' hands.

On 7 November 2005, the Minister for Finance and Public Service Reform appeared before the Finance Committee and offered to publish the report. We did not even ask him—he offered. He said:

"I have no doubt that the committee will want to examine the outcome of the review. Following the review, I intend to publish a report in spring next year".—[*Official Report, Finance Committee*, 7 November 2005; c 3012.]

Spring 2006 was months ago.

However, that was no flash-in-the-pan statement. The minister came back to Parliament on 11 May this year and said to Mr Brownlee:

"The group expects to submit its report before the summer recess. I will publish the report in due course thereafter."—[*Official Report*, 11 May 2006; c 25563.]

Then, in response to news reports, the minister announced that he would not publish the report until the conclusion of the spending review in September 2007. The reaction from the Finance Committee's independent adviser, Professor Midwinter, was:

"It would be pointless to publish it next September after the key Spending Review decisions have been made."

He said that such action would be a

"retreat to the private government of the public finances that existed before devolution."

The contents of the Howat report, which was paid for by Scottish taxpayers and examines the spending of taxpayers' money in Scotland, are now being pursued through freedom of information legislation. Therefore, we have the further ridiculous situation of legislation that was designed to open up scrutiny of Government business and which was proposed by the current Lib Dem-Labour coalition having to be used to find out information commissioned by the Lib Dem-Labour coalition and suppressed by the Lib Dem-Labour coalition. What a perverse position the Liberal and Labour Executive has got itself into.

Mr David Davidson (North East Scotland) (Con): John Swinney described a perverse situation. Does he agree that it is even more perverse that the Liberal Democrats, who went on about freedom of information in the first session, have been sent out to carry the can today?

Mr Swinney: I never thought that I would ever feel sorry for the Deputy Minister for Finance, Public Service Reform and Parliamentary Business, but believe me, I feel very sorry for him today.

The perverse position of the Lib Dem-Labour Executive gets much worse when we start examining the justification for refusing to disclose the report. In response to my first freedom of information request, the Executive said that the report could not be disclosed in case it caused an adverse public reaction. If it is worried about causing an adverse public reaction, why does it let the First Minister out of Bute House in the morning?

Like Mr Davidson, I am amazed that Lib Dem ministers who for years pontificated in a more than self-righteous fashion about the need for open government have suddenly signed up to secret government on big issues. I wonder how many Lib Dem voters in Scotland believed that their parliamentary group in this institution would sign up to run the Scottish Government in a fashion that would make the Labour administrations in North and South Lanarkshire proud of every step that they have taken.

Despite all the questions that I have asked about the review, it is still impossible to work out what has changed ministers' minds. Why did the Minister for Finance and Public Service Reform decide one day that he would publish the report, sustain that line for months and then, when he saw the report, suddenly decide that it could not be published until after the election? I can only presume that the report constitutes a damning indictment of the Lib Dem-Labour Executive and its management of our public finances. If that is the case, the people of this country have a right to know what their Government has been doing with their money.

If the report contains shocking proposals about changes to public spending—so shocking that they might cause an adverse public reaction—surely the public have a right to know before they cast their vote at the election. Why should the Lib Dem-Labour Executive be allowed to hide away from public scrutiny of its record and why should it be able to take major decisions affecting public spending without letting the public know what awaits them?

Perhaps the reason is, as the Convention of Scottish Local Authorities has been told, that there is headroom in the budget to fund other priorities and the Government wants to keep that secret to fund the announcements that it will use to try to buy the forthcoming election. The Government has good form in that regard.

Perhaps the real reason why the report is not being published is that we have not only an invisible but an incompetent Minister for Finance and Public Service Reform who cannot get it right. If members do not believe me, they should believe sources within the Executive.

On 29 September, the day after my party leader, Nicola Sturgeon, questioned the First Minister about the review, a report in *The Herald* said:

“A source in the Executive later said that the report being kept confidential was standard and should have been expected, and Mr McCabe had been unwise to promise an early publication.”

I presume that that comment was from one of Mr McCabe's rivals to be the next leader of the Opposition in the Scottish Parliament.

We call for the Howat report to be published and I hope that that will be the outcome of today's debate. If not, we have said that, on taking office, an SNP Government will publish the report as a matter of urgency.

Scotland will have a choice between this Labour-led Executive that operates in secret and an SNP-led Government that is open with the people. Scotland will have a choice between a Labour-led Government that has wasted a fantastic opportunity to invest in our public services and an SNP Government that will take wise decisions for all in Scotland. That choice cannot come soon enough to release Scotland from this wasteful and secretive Labour-led Executive.

I move,

That the Parliament calls on the Scottish Executive to publish the Howat review of the Executive's budget before the conclusion of Stage 1 of this year's budget process.

09:23

The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon): I welcome Mr Swinney's concern for my well-being. In his opening remarks, he spoke about our making announcements to buy elections, but the SNP has form on that one.

Much has been made of the fact that we will publish the report of the budget review group at the same time as we publish our decisions on the 2007 spending review. Since day 1, our position has been that the report would be published. *[Interruption.]* That is why the Finance Committee was informed that it would be published, why on two occasions Mr McCabe confirmed that it would be published and why today we reaffirm that the report will be published along with a range of other advice that will be available to ministers who take decisions on the 2007 spending review.

Alex Neil (Central Scotland) (SNP): Will the minister take an intervention?

Mr Davidson: Will the minister give way?

George Lyon: I will make some progress, if members do not mind.

The subject was discussed at length during Mr McCabe's appearance at the Finance Committee on 19 September. He explained that the report was only one part of a range of advice that ministers will receive as part of the decision-making process in the run-up to the next spending review in 2007.

The budget review group was appointed to help the Executive with that spending review by attempting to provide a range of options that allowed for realignment of budgets. The options in the report are a work in progress, and that is why a number of the budget reviewers have been asked to carry out a further round of work. They will be gathering more evidence, undertaking further analysis and providing further advice that will be used by ministers in the lead-up to decisions in the 2007 spending review.

Derek Brownlee (South of Scotland) (Con): Will the minister clarify why ministers are apparently able to publish the advice that they receive on the Scottish National Party's spending plans but are unable to publish the advice that they receive on their own spending plans?

Members: Answer!

George Lyon: Given that the SNP spending plans are calculated on the back of an envelope, that is not exactly hard to do. They do not require a lot of advice.

Officials are undertaking a wide range of other work to provide advice to inform the spending review. Publishing the report at this stage, before that further work has even begun—indeed, before publishing any other advice to ministers in connection with the spending review—and months before any decisions are taken would be neither sensible nor appropriate.

Mr Swinney: If that is the case, why did Tom McCabe say to the Finance Committee that the report would be published in the spring of this year?

George Lyon: As John Swinney well knows, the minister made it clear that that was not set in stone. He qualified the position. [*Interruption.*] Calm down.

It is now two years since the last spending review, and due to the postponement of the Westminster spending review until 2007, which has resulted in a similar delay in Scotland, at the next spending review three years will have elapsed since the last one. During that time, we will have enjoyed significant growth in public expenditure, and budgets are at a historically high level. However, the benign fiscal climate is likely to change after 2007, as any cursory examination of the current state of the United Kingdom finances will reveal. Therefore, it is important that robust

advice is prepared to help ministers to make the hard choices that are likely to confront them when deciding the priorities for 2008, 2009 and 2010.

By the time that the spending review comes round, the Government's intention is to have an array of robust information available to ministers to help them make the right choices that will ensure that services continue to improve and are sustainable in the longer term. Our ambitious futures work will support that objective by helping to assess some of the key challenges and opportunities that Scotland might face in the next 20 years or so, building on the work that is already under way in health, transport, planning, education and other areas.

Alex Neil: I thank the minister for taking an intervention and draw his attention to the loyal grins behind him from Mr McNulty. [*Interruption.*] In fact, they are now loyal hysterics. I am sure that the minister recognises the importance of parliamentary committees in the budget-setting process in the Parliament. As I am sure Mr McNulty would agree, surely it is right that if committees are to be taken seriously in the budget process, they should have access to the same information as ministers.

George Lyon: That is where Mr Neil reveals his ignorance of what we are talking about. The independent budget review group's work was nothing to do with this year's budget. It concerned the spending review that will inform decisions about spend in 2008, 2009 and 2010. This year's budget process is not being informed by the budget reviewers' work. If Mr Neil reads the reviewers' exact remit, it will inform him. He should have read it before making that point.

Mr Davidson: Will the minister give way?

George Lyon: I have taken several interventions. I want to make some progress.

We have been reforming public services since devolution, with modernisation taking place across Scotland. Much has been achieved, and more still has to be achieved. The current Scotland-wide dialogue on reform is well under way, helping to increase the speed and widen the scope of reform, which will be important in sustaining our services in the future.

Our efficient government programme is an important part of that wide agenda. So far, we have identified £920 million of cash-releasing efficiency savings and £350 million of time-releasing gains, which will be released by 2007-08. We are continuing to work to identify further efficiency gains, which will be needed in future.

All the various strands of work, and the range of advice, including the budget review exercise, will ensure that ministers have the most robust

information possible to help them make decisions on spending in the period from 2008 to 2011.

In conclusion, the independent budget review process is not a part of this year's budget process, as the SNP motion seems to imply. It is a work in progress, along with a wide range of other work designed to provide robust information for decisions that will take effect from 2008 onwards. We have pledged to release the full suite of advice, including the budget review, when the spending decisions have been made, and we restate that commitment again today. I hope that Parliament will support our approach by rejecting the SNP motion and supporting the Executive amendment.

I move amendment S2M-5063.1, to leave out from "calls on" to end and insert:

"notes that preparation for the 2007 Spending Review, including the provision of advice to Scottish Ministers by the Budget Review Group, is ongoing and further notes the Scottish Executive's intention to publish a comprehensive suite of documents including the completed Howat review as part of the Spending Review package."

09:31

Derek Brownlee (South of Scotland) (Con): It is always a pleasure to debate financial matters with so many members in the chamber, and it is a particular pleasure to debate them with the Deputy Minister for Finance, Public Service Reform and Parliamentary Business. It appears that, having first suppressed the report of the Howat review, the Executive is now suppressing the Minister for Finance and Public Service Reform.

I am not entirely sure where Mr McCabe is today—his deputy might enlighten us. Perhaps he is busy hiding all the other evidence of the Government's failure to get value for the tens of billions of pounds of taxpayers' money that it spends every year, or perhaps he is in St Andrews lobbying the information commissioner and begging him not to release any of the Howat review until at least after next May. As a result we have the almost tragic situation of the deputy minister being in the firing line for the mistakes of his boss—I am sure that he had no part in them. Is it not time for the Parliament to consider outlawing the baiting of the deputy minister?

As Mr Swinney said, we should have already seen the report, had the benefit of its contents, and been able to debate it. We would have done, had Mr McCabe not changed his mind. On two separate occasions, he confirmed to me, in committee and on the floor of the chamber, that the report would be published. There was not a word about waiting until September 2007—at least until ministers had received the report.

George Lyon: To be fair, we have committed to publishing the report. That is in our amendment,

and there has been an on-going commitment to publish. That is what we have always said, and on both the occasions that Mr Brownlee referred to, Mr McCabe qualified the timing of the publication.

Derek Brownlee: It is an odd interpretation to consider "in due course", said in May this year, to mean "in September 2007", but perhaps we should be used to the twisting of the meaning of plain language by ministers in this Executive.

As Mr McCabe has confirmed to me in response to questions on the subject, the terms of reference for the report have not changed. The report has been completed. Mr Lyon said that it was a work in progress but, under the terms of reference on which it was commissioned, the report has been completed and submitted to ministers. Does Mr Lyon deny that?

George Lyon: As I said, the report has been completed, and further work is now being undertaken as a result of the options provided.

Derek Brownlee: Mr McCabe was clear that the report had been completed under the terms of reference and that further, separate, work was now under way, but perhaps he has not enlightened his deputy. There are no obstacles to the publication of the report except those put in place by ministers.

The review group was asked to consider 2005-06. Today, the Deputy Minister for Finance, Public Service Reform and Parliamentary Business is telling us that nothing in the review—not one single piece of information—is relevant to the scrutiny of the budgets that are currently before the Parliament. Is there some mystical quality about the 2005-06 budget that renders it irrelevant to 2006-07 and 2007-08 but sufficiently useful for 2008 onwards that it was worth commissioning the external review? The situation is utterly bizarre.

During committee consideration of the budget process, my colleagues have pressed ministers on why they will not publish the Howat review. Mr Lyon's colleague, Mr Kerr, told the Health Committee that if the report was published, there would be

"a host of wild and inappropriate misunderstandings about the advice that has been given to ministers."—[*Official Report, Health Committee*, 24 October 2006; c 3150.]

However, it is hardly the case that there is any clarity now on what is in the report. Is Mr Kerr seriously suggesting that if the report is hidden away until next September, the entire populous will be able to reach a Zen-like state that renders them capable of understanding its true meaning?

What Patricia Ferguson told the Enterprise and Culture Committee was certainly likely to cause confusion. She said that the Howat review

"is not a commentary on what has already happened; it is meant to influence what happens in the future. I have

nothing more to add.”—[*Official Report, Enterprise and Culture Committee*, 24 October 2006; c 3349-50.]

It is a shame that she had nothing more to add, because she could have explained why something that is intended to influence what happens in the future is of no relevance to the Parliament, even though it scrutinises future spending.

Where does ministers' refusal to publish the document leave the Government? It leaves the Minister for Finance and Public Service Reform lacking in credibility, to the extent that he dare not even turn up for his own debates. It also leaves the Deputy Minister for Finance, Public Service Reform and Parliamentary Business lacking in credibility.

Alex Neil: Does the member not find it perverse that the Minister for Finance and Public Service Reform will open the next debate for the Executive, in which he will attack Liberal party policy on fiscal autonomy, while the deputy minister is here defending Labour policy on lack of information?

Derek Brownlee: Perhaps Mr Lyon needs to negotiate better. [*Laughter.*]

I wonder how much credibility the Minister for Parliamentary Business has left, given that she said, in relation to what she described as the Executive's enthusiastic introduction of the Freedom of Information (Scotland) Act 2002, that the Executive was committed to open and transparent government. We will find out how enthusiastic it is about that act when Mr Dunion has issued his opinion on the suppression of the Howat review.

Even the Chancellor of the Exchequer, who is not known for being particularly open about anything, has said:

“we must all open our books, be fully transparent and each of us account for our actions”.

Furthermore, as Mr Swinney noted, Jack McConnell said in his party's 2003 manifesto that as First Minister, he would be

“open and transparent in government”.

Damaging the credibility of Executive ministers is one thing, but damaging the credibility of the Parliament and its scrutiny process is quite another. I urge ministers to consider rather more carefully than they have done to date their cavalier refusal to publish the Howat review. Given that taxpayers have paid for that report and for the spending decisions that are analysed in it, they have a right to see it before next May. I have every confidence that they will because, at some point, the Government will have to give way and, when it does, ministers will have even less credibility than they have now.

09:38

Des McNulty (Clydebank and Milngavie) (Lab): I have enjoyed some of the jokes in this morning's debate, but I want to highlight some of the background to the issue that we should be focusing on, which is the process of how we examine the Scottish Executive budget over the longer term and what needs to happen if we are to do that effectively.

Six or seven years ago, Arthur Midwinter, along with one of his colleagues at the University of Strathclyde, produced a report on the headroom that was available to the Executive to change budgets in year. It concluded that between spending reviews, there is limited scope for the Executive to make strategic shifts in its budget. The Executive can make some adjustments, but because so many resources are taken up by major services such as the mainstream national health service, local government and education services, it can do so only at the margins. Although such adjustments are significant, they affect only 1 or 2 per cent of the budget; 98 to 99 per cent of the budget is specified and accounted for.

That is why spending reviews are so important. They give whoever is in government the opportunity to consider whether changes of direction should be made in major areas of spending and how that can be done. Even then, the scope for change is limited because, ultimately, no politician will say that we should shift away from providing the services that the Executive is expected to provide, whether in hospitals, schools or universities. However, spending reviews offer more scope for adjustment.

During spending reviews, long-term advance consideration needs to be given to the options that are available. That is certainly the Finance Committee's position. Early on, we were led by Arthur Midwinter in advocating the idea that we should use a zero-base budgeting approach to conduct a systematic review of how the Executive spends its money so that we can identify not just the scope that exists for change, but the direction in which it could take us. As members will recall, the Finance Committee undertook to carry out such a review, with the Executive's assistance. That was just before John Swinney joined the committee, when Alasdair Morgan was still the deputy convener. If I remember correctly, it was at that point that the minister said that he wanted to take possession of the process, and that was when the Howat review was announced.

Alasdair Morgan (South of Scotland) (SNP): Des McNulty will be aware that the description of the task that was to be undertaken stated:

“it is possible that the Scottish Parliament's Finance Committee may choose to seek evidence on the report from the reviewers.”

When the review was set up, the Government seemed relaxed about the Finance Committee taking evidence from the reviewers. Why has the Government now decided against that?

Des McNulty: All I can do is try to provide what seems to be the logical explanation. At least two factors must be taken into account. The first is that the spending review has shifted year. It was initially intended that the spending review would take place in the present budget round, which would have meant that we would have gone through it by now. However, the Westminster Government put its spending review back a year, which shifted the basis on which the original undertakings were made. A regrettable consequence of that is that the spending review is now aligned with the elections. Originally, that would not have been the case.

Mr Swinney *rose—*

Des McNulty: Just let me finish. Secondly, I am not sure that the remit that the Howat review was given necessarily made it fit for the purpose that it might sensibly have been asked to fulfil. The Finance Committee was concerned about that at the time.

Mr Swinney *rose—*

Des McNulty: In my view, the review was asked to combine two different tasks. On the one hand, it was an invitation to people from outside the Government to think the unthinkable. There is a place for that in government, but it could be handled differently. On the other hand, the review was to examine the Government's performance and management. The intertwining of those two aims underlies the current problem.

If the Government wants to think the unthinkable, as it has done in the past—the Wanless report and the Gershon report are examples of that—it is entirely consistent for the investigation that is carried out by external experts to be pondered on by the Government so that it can determine how it wants to respond, because some of the ideas that the independent experts suggest will not be ones that politicians would want to propose and there could be confusion that the report contained suggestions that were made by politicians. The remit for the Howat review poses that risk. That said, anything that focuses on the efficiency of how things are done and what scope exists for change might be legitimate.

Mr Swinney: If that was a ringing endorsement of the Government's stewardship of the budget process, Mr McNulty will have to get a bit more enthusiastic about the Government.

On the substantive point that Alasdair Morgan raised, the remit of the Howat committee gave the Finance Committee an opportunity to scrutinise

the review report. That suggests that the spending review is not a one-off announcement that is made in a parliamentary statement but a process that engages many other players, including various parliamentary committees. It also suggests that a lot of scrutiny and a lot of players have been carved out of the process by the Government's reinterpretation of the Howat review's remit.

Des McNulty: That depends on whether one views the Howat review as the only aspect of the matter. I appreciate that John Swinney wants to make a political point and that he and Derek Brownlee have entertained us with some of the points that they have made, but there is a real, substantive issue: in the context of the spending review—in particular, one that is aligned with an election—how do we do what is best for Scotland? How do we ensure that we have the appropriate mechanisms for identifying the parameters of change and, at the same time, protect the integrity of the political process? I am not sure that the matter is entirely straightforward, but it does not centre on the Howat review's publication. How we take forward option appraisal in Scotland and the room that exists for different choices are issues for us all.

Derek Brownlee has mentioned the SNP's options for higher education. The financial incompetence that lies at the heart of those proposals demonstrates the need for the proposals that we make to the public to have a robust basis.

Alex Neil: We will not take any lessons from the party that has a £500 million black hole in the Glasgow housing budget.

Des McNulty makes the point about the election cycle as if that is the reason for not publishing the report, but surely it is the reason for publishing it. In a democratic society, the voters should have access to all the information to which ministers have access before they have to vote.

Des McNulty: I have no idea what options might be in the Howat review, but I am sure that there are some that the Liberal Democrats would find unacceptable and some that the Labour Party would find unacceptable. It may even contain options that the SNP or the Conservatives would find unacceptable—who knows? There are many different ways of spending money. We have the opportunity to put our proposals to the electorate, who will make the choice. If that process gets tied up with a different kind of process, we will all end up very confused. I would not necessarily want the Howat review to be counted as the expression of my views any more than Mr Neil might want other things to be thought the expression of his views.

We must recognise that there are things that we need to do to ensure that Governments have the

space to think the unthinkable. This is a good knockabout debate, but the Gershon review, the Wanless review and perhaps the Howat review—I have not seen it and do not know what it contains—represent an attempt to explore the parameters. However, if that simply becomes a political football, we will never have a sensible process.

09:49

Mr Andrew Arbuckle (Mid Scotland and Fife) (LD): At first glance and on a superficial level, there appears to be some merit in the SNP motion, which requests the publication of a review into Scottish Executive expenditure. However, if we scratch beneath the surface and take into account the Minister for Finance and Public Service Reform's comments to the Finance Committee in September, it is obvious that the Howat review forms part—an integral part, but still only part—of a wide-ranging review of Government expenditure in Scotland. In isolation, the review is unlikely to provide much information or many solutions, if solutions are needed. I see the Howat review—

Jim Mather (Highlands and Islands) (SNP): He cannot see the review.

Mr Arbuckle: I see it as one piece in a jigsaw, the final product of which is intended for the 2007 spending review and the Scottish budget thereafter. It has nothing to do with the current budget or the 2007-08 budget, on which debate is about to begin.

Alasdair Morgan: Will Andrew Arbuckle give way?

Mr Arbuckle: I will make some progress and then I will give way.

Outside the Parliament, people will wonder what the debate is about. People in business will realise that sometimes internal reviews take place to check that delivery systems and management are as they should be. The Conservative party might recognise that point from when it was considered to be the party of business, but it might have forgotten it. Such reviews deal with the internal workings of organisations.

Mr Swinney: Will Mr Arbuckle explain to the Parliament why he has not, since Mr McCabe appeared before the Finance Committee in November 2005, made any of those comments in public or told the minister that he ought not to publish the report when he originally said that he would publish it?

Mr Arbuckle: Only a few minutes ago, Mr Swinney heard the deputy minister confirm yet again that the report will be published.

Mr Swinney: That is not what I asked.

Mr Arbuckle: The answer to the question is that there is no need to do what Mr Swinney asked. The report will be published when it is ready to be published.

Outside the Parliament, people will wonder what the debate is about. All around them, they see increased investment in the public sector. They see new schools, more investment in the national health service and more cash going into better public transport and many other sectors. Those who cannot see the increased commitment to improve Scotland's infrastructure can see it in the draft budget for 2007-08, which runs to almost £31 billion, which is 50 per cent more than only five years ago. Where does that leave the dust storm that the SNP is trying to kick up this morning?

Stewart Stevenson (Banff and Buchan) (SNP): In his eyes. *[Laughter.]*

Mr Arbuckle: Far from it. If the SNP members want to bring the debate down to a knockabout, that is up to them.

The Howat review's original remit included the classification of spending into different categories—statutory spending, partnership agreement spending and other categories. How many people outside the Parliament are waiting with bated breath to know the height of the various piles of cash that arise from the review? The original remit also asked the review to consider the performance and outcomes of various programmes, looking beyond this parliamentary session. Checking how effective investment has been is the mark of a responsible Government or, indeed, business.

Alex Neil: Is Andrew Arbuckle not proud of the role that Jim Wallace, a great Liberal, played in getting freedom of information legislation through the Parliament? Is the position that he argues not contrary to every principle and word in the Freedom of Information (Scotland) Act 2002?

Mr Arbuckle: As Mr Neil recognises, the Freedom of Information (Scotland) Act 2002 is one of the many achievements that the Liberal Democrats have contributed to the Government. There is no need to invoke it, because a promise has been given that the review will be published.

There have been accusations in the press that the information in the Howat review will be used as part of a base budget review. My response to that is, so what? *[Laughter.]* Just wait. Members should calm down. Des McNulty referred to the budget adviser's favourable views on base budgets. Although few organisations in the public sector actually get round to having base budgets, there are few healthier options on the financial front. In fact, there should be a requirement on public

bodies to ensure that little pockets of service that continue to eat up cash are not quietly forgotten. We need base budgets. As far as the Scottish Executive is concerned, that is especially the case if the Howat review forms part of a base budget review following a period during which there has been a massive increase in the Executive's annual expenditure. Moreover, it seems extremely likely that we will be entering a period of financial stringency, when acumen and accuracy will be required to ensure that cash is spent efficiently.

If the main purpose of the Howat review is to produce material to feed into a base budget review, I can sympathise a little with the Scottish National Party because, in my time in the Parliament, the SNP has seemed totally unable to produce any budget of its own.

Mr Swinney: Rubbish.

Mr Arbuckle: No. The review reflects nothing more than a responsible Government ensuring that public investment in projects is efficient and effective.

Alasdair Morgan: Will the member give way?

The Presiding Officer: No, he is closing.

Mr Arbuckle: The debate shows that, far from gaining even a whiff of wind in its sails, the SNP is trying to huff and puff itself towards the next election six months down the line.

09:56

Mark Ballard (Lothians) (Green): We have all enjoyed the desperate wriggling by the Executive as it tries to justify the unjustifiable. It has been great stuff. The debate is not just about one report, however. Andrew Arbuckle asked what members of the public would make of the debate. It is about the fundamental principles of the Parliament, which is why I will begin by quoting them and reminding everybody of them, particularly members of the Executive parties:

"the Scottish Parliament should embody and reflect the sharing of power between the people of Scotland, the legislators and the Scottish Executive ... the Scottish Executive should be accountable to the Scottish Parliament and the Parliament and Executive should be accountable to the people of Scotland ... the Scottish Parliament should be accessible, open, responsive and develop procedures which make possible a participative approach to the development, consideration and scrutiny of policy and legislation".

That is what the debate is actually about. It is about the role of committees, which act, in effect, as the second chamber of the Parliament, with their vital role in scrutinising decisions. It is about the sharing of power and being part of the process. That means having input into decisions. Participation does not, as the minister suggested, mean releasing documents only after the

decisions have been taken. There can be no participation, power sharing or accountability if that is the Executive's approach.

The attitude of George Lyon's boss was clear. In his letter to the Finance Committee prior to its meeting of 19 September, he wrote:

"However, on reflection September publication of the report will enable us to make best use of the investment we have made in the review, by thoroughly working through the advice and implications of the different options without external pressure."

Let us think about that phrase, "without external pressure". "External" means external to the Executive. Presumably, that includes the committees, the Parliament and the people of Scotland as a whole. We are talking about the approach of the Government to the legislature and the people of Scotland. At the moment, the Government does not want the report to be published because of a fear of external pressure, a fear of sharing power, a fear of accountability and a fear of participation.

I know that many members who are in the chamber now campaigned for this Parliament and tried to persuade people to vote in the referendum on it and to agree to the significant expenditure of public money on the Parliament. That was because we thought that this would be a Parliament based on principle, which would do a good job and enable the people of Scotland to have a real say in decisions on how public finances are spent. We wish to remain true to the principles of the Parliament, yet we are being told, seven years into it, that external pressure means that reports about the spending of billions of pounds of public money cannot be published or will only be published after decisions have been made, which is a disappointment to everybody who campaigned and voted for this Parliament.

The committee rooms, the debating chamber and this whole edifice mean absolutely nothing if the Executive majority chooses to ignore the principles on which the Parliament was established. The role of the legislature is to hold the Executive to account. The role of cross-party committees such as the Finance Committee is to hold the Minister for Finance and Public Service Reform and, through him, the whole Executive to account.

I am glad that we have only two choices at decision time today. We either support the SNP motion or the single, lonely amendment in the name of the Minister for Finance and Public Service Reform, which was spoken to by the Deputy Minister for Finance, Public Service Reform and Parliamentary Business, because the minister could not make it. As the legislature, we have a choice. Are we going to hold the Executive to account? Are we going to demand that the

principles of the Parliament—of sharing power, of accountability, of accessible, open, responsive Government and, most of all, of participation in power—be adhered to? Are we going to ensure that the Executive is held to those principles? Are we going to do our job as a Parliament? I hope that we are. I hope that everybody is going to vote according to their conscience to hold the Executive to account. To do otherwise would not be to do our job as legislators.

10:02

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): It is always a pleasure to follow my good friend Mark Ballard in a debate and to agree 100 per cent with what he has said. To amplify the point, it is relevant to mention that the Howat review cost the taxpayer £134,306.52. If Mr Arbuckle thinks that a humorous matter, he should come and speak to my constituents, who could use that amount of money to get a house, an operation or treatment for their special-needs children.

This is a serious debate that goes to the heart of what is wrong with the Scottish Executive. Earlier, the minister tried to chastise my colleague Alex Neil for not studying the review's remit—which was rather like being savaged by a dead sheep. The experts were given a remit to consider the performance and outcomes of programmes, based on a performance assessment rating tool. They were asked to identify those Labour-Liberal programmes that do not match with the partnership agreement priorities or that are not performing well. The review is a report card for the Scottish Labour-Liberal Executive—it contains a judgment about its performance. After Mr McCabe received his report card, instead of showing it to his parents—the public, in this case—he decided to keep it secret. It is like a schoolchild being given his report card and deciding to tear it up and chuck it into the gutter on the way home, because he cannot bring himself to show his parents what the experts—the schoolmasters—have said about how well he has been doing.

All the subterfuge, bluster and irrelevance that we have heard this morning are completely irrelevant. Moreover, what Government can bind its successors anyway? The present Executive is saying what the next Executive should do. Hang on a second—is there not something missing there? The people have a little bit of a say about who their next Government will be. Perhaps the next Government will want to take its own decisions. Funny, that. It might actually be a different Government. We might have a different finance minister—one who turns up to debates.

I must move on to freedom of information, on which I will quote two of my parliamentary

colleagues whom I hold in the greatest esteem. Margaret Curran said:

“The Executive enthusiastically introduced the Freedom of Information (Scotland) Bill because it is committed to ensuring that citizens have the means to call to account the people who make decisions that affect them.”—[*Official Report*, 2 November 2005; c 20191.]

That is rousing stuff. Des McNulty said:

“we wanted to change the culture of Government acting in secret, to stop the routine withholding of information”.—[*Official Report*, 2 November 2005; c 20207.]

What has happened to Superman Des McNulty? He has reverted to Clark Kent this morning—what a shame.

On Tuesday, Mr Swinney took his arguments to the Finance Committee, which Mr McNulty envisaged scrutinising and studying the review by now. Mr Swinney offered help to save the Labour-Liberal Executive from the error of its past ways and to try to move forward to a broader, sunny fiscal upland. However, instead of supporting Mr Swinney and endorsing his proposal to take evidence from the Howat group, Mr McNulty and his colleagues—whom I hold in high regard—voted against that proposal by five votes to four.

Des McNulty rose—

Fergus Ewing: Sadly, I cannot—

The Deputy Presiding Officer (Murray Tosh): Since Mr Ewing has criticised Mr McNulty, it would be reasonable for him to give way. I do not know how I will make up the time, mind you.

Des McNulty: The Finance Committee voted to take evidence on the review, but after it has been published.

Fergus Ewing: I have no doubt that we will debate that next summer.

When President Reagan said that the 10 most frightening words in the English language are, “I’m from the Government and I’m here to help you,” I now know what he meant.

10:07

Dr Elaine Murray (Dumfries) (Lab): I express my condolences to the deputy minister. I know how he feels. I am sure Mr McNulty does also, having been in a similar position.

The debate concerns two issues. The first is what the Howat review was about. To my mind, it was intended to inform the spending review.

Alasdair Morgan: No.

Dr Murray: That was my understanding of the review's main purpose. Alasdair Morgan should not heckle from the floor; he should intervene or—

Alasdair Morgan: Gordon Brown is conducting the spending review in London. Has he received the Howat review?

Dr Murray: A spending review also takes place in Scotland. The comprehensive spending review here should have taken place this year, but it has been postponed until next year, because the comprehensive spending review in London has been postponed.

In the Scottish budget spending review, ministers consider what can be expanded and contracted. The Howat review's purpose was to bring in a fresh set of eyes to advise the Executive on what the sun could set on and what could be expanded.

Mark Ballard *rose—*

Dr Murray: I am sorry, but I have only about three minutes for my speech.

Bringing somebody in serves a good purpose and it is done in local authorities, too. If deciding on closure programmes is just left with a minister or a department, people will come forward with the ones that look most frightening, because they do not want to lose face or revenue.

I warned our whips that if they asked me to speak, I would not be altogether helpful, because I think that the Executive made a mistake. It was unnecessary to set a timescale of February 2006. If the review was intended to inform the spending review, setting that timescale was unwise. It would be unwise to publish a report that says some budget lines should be altered or that advises ministers to discontinue programmes when decisions are not to be taken until more than a year later. That would leave those projects in limbo, as it is not known whether the Executive will accept the Howat review's advice that they should be run down. I wish that I had picked up on that lack of wisdom at the time, but perhaps I was not paying enough attention.

It is not the case that the Executive was unaware that the UK comprehensive spending review had been postponed, because the Chief Secretary to the Treasury announced the postponement in summer 2005. When the Minister for Finance and Public Service Reform appeared before the Finance Committee a year ago, he knew of that postponement. In the quote from him that is in my prepared speech, which I am not using, he says that the spending review will take place in 2007.

Alasdair Morgan: So why did the minister say that he would publish the review?

Dr Murray: I do not know—doing so was unwise.

As Andrew Arbuckle said, the public are not desperate to see the Howat review. In post office

queues and pubs, people do not say, "Oh dear, what's happened to the Howat review?" People are not terribly likely to vote on that basis. However, I say to the Minister for Finance and Public Service Reform that it was unnecessary to set himself a bear trap by saying that he would publish the report in spring. The minister conceded that if the review group asked for more time, he would consider allowing it. If the Executive has something to learn from the situation, it is that it should not make such commitments when it is unlikely to fulfil them.

Yesterday, I asked our whips whether the minister would appear, and I was told that he would. Given what a pugnacious character he normally is, I am surprised not to see him here.

Christine Grahame (South of Scotland) (SNP): The debate was too much for him.

The Deputy Presiding Officer: Order.

10:12

Mr David Davidson (North East Scotland) (Con): Last week, I was invited to participate in an animal welfare debate at the University of St Andrews debating society. After about three minutes of listening to and watching George Lyon today, I felt that I should be on the phone to Advocates for Animals, because it was pitiful to watch a minister come here to represent the Government of Scotland and have nothing of note to say on a vital issue.

As Mark Ballard said, the debate is about the dignity, role and power of the Parliament. The Minister for Finance and Public Service Reform has been arrogant in failing to turn up to defend his actions and the subject has been pathetically passed on to the Liberal Democrats as fall guys, which makes me feel sorry for them, although that does not help us.

Mr Swinney: Andrew Arbuckle and Elaine Murray said that the public are not that interested in the Howat review. Does Mr Davidson think that the public might be interested if the Howat review made recommendations that the Executive adopted to alter, damage and cut public spending programmes of which people are fond?

Mr Davidson: We are all elected to Parliament to represent the interests of everybody who lives out there, who pays their taxes and who tries to access public services. If the position is such a big mystery, how is it that the justice committees receive bill after bill, financial memorandums pile up and the chief of the Scottish Prison Service told the justice committees this week that, to be frank, if he had had more information, he would probably have thought that the budget would not work? The deputy minister talked as if no changes have been

made and the question is for the future, yet decisions are being made now that will set spending for the future. That is ridiculous.

Mr Arbuckle: Will the member take an intervention?

Mr Davidson: In a moment.

Mr Arbuckle at least mentioned the Freedom of Information (Scotland) Act 2002. It is scandalous that although the Liberal Democrats shouted and screamed about that act, they are taking the hit today and saying that the act does not apply and is not relevant and that we do not need the information at this stage.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Will David Davidson take an intervention?

Mr Davidson: No, thank you—time is short.

Perhaps Mr Rumbles and his colleagues might reflect on freedom of information after they leave the chamber, and drop a note to everybody on whether they have even had sight of the Howat review. If they have, that would be more than the committees have had.

Mike Rumbles: Come on, David—take an intervention.

Mr Davidson: To be honest, I find it strange that Mr Rumbles is defending his front bench's defence of the Labour Party. That is ridiculous. *[Interruption.]*

The Deputy Presiding Officer: Order.

Mr Arbuckle rose—

Mr Davidson: I give way to Mr Arbuckle, who is sitting on the front benches.

Mr Arbuckle: Mr Davidson said that decisions have been made as a result of the review. What proof, if any, does he have of that? What decisions have been taken?

Mr Davidson: I did not say that. I said that decisions are being made in parliamentary committees about bills from which huge spending issues arise, so the Howat review must be part of the process for the 2007 budget. That is the Howat review's relevance to the Parliament.

The truth is that parliamentary committees need to be able to take on any challenge in any way that they wish in scrutinising actions taken by the Government, its words and even its silences in the chamber. Ministers not coming to the chamber to discuss such matters of importance is an abuse of the chamber. I am afraid that funding makes the world go round. George Lyon must come clean and say that the Minister for Finance and Public Service Reform was wrong not to come to the chamber. Perhaps the First Minister ought to come

here and apologise for the fiasco that has occurred.

10:16

George Lyon: The Government has made a commitment to publishing the full suite of advice, including the budget review group's report, at the same time as decisions on the 2007 spending review are published. The fundamental reason why the independent budget review group was set up was to inform decisions that will be taken in the summer of 2007. It will provide information that will allow ministers to make decisions at that time about what future spend will be through to 2011. Of course the Finance Committee will scrutinise subsequent budgets in the financial years from 2008 onwards.

I turn to the criticisms that have been made. It is scandalous that David Davidson should dare to criticise the Executive in respect of the freedom of information legislation. His party was fundamentally and utterly opposed to the Freedom of Information (Scotland) Act 2002. Every Tory member voted against that bill. Let us not hear any more sanctimonious nonsense and doublespeak from the Tories. They are far from being great defenders of the Scottish Parliament; indeed, I suspect that every Tory member was against its establishment.

Mr Davidson: I thank Mr Lyon for his outburst because we are now seeing him in his true colours. He believes in the Freedom of Information (Scotland) Act 2002, but he has been sent to the chamber to deny its principles.

George Lyon: I am sorry, but we have always made it absolutely clear—as we have done again in our amendment—that the information in question will be published. As I have already explained, the appropriate time to do so is when decisions are taken on the 2007 spending review.

Mr Swinney: Will the minister take an intervention?

George Lyon: If Mr Swinney does not mind, I want to make some progress.

As I have explained, the independent budget review group's report is not the end of the process. The group will gather more evidence, undertake further analysis and provide further advice to be used by ministers in the lead-up to spending decisions in the summer of 2007. Mr Howat and four of his colleagues will have meetings with heads of departments and officials in which options will be tested in greater detail to ensure that they are robust and accurate. Therefore, the submission of the report does not bring the exercise to a close; it is only the beginning of a further process that must be carried out by the budget review team.

As we prepare for the tighter financial prospects of the next spending review, we must reflect on previous spending reviews. Since devolution, our resources have grown by 70 per cent, our economy has grown every year and our employment rate is among the best in Europe. We have introduced free personal care for the elderly.

Mr Swinney: Will Mr Lyon explain why Tom McCabe did not give the Finance Committee in November 2005 all the reasons that have now been given for not publishing the report until after the spending review is complete?

George Lyon: I have read the evidence that Mr McCabe gave to the Finance Committee and, as far as I can see, it was made clear that the information was being prepared with an eye on the work that would be undertaken on spending decisions during the spending review in 2007. That is the position. We have given an absolute commitment that the information will be published.

We have introduced the ban on smoking in public places and invested heavily in new schools and teachers, and pupil performance is improving. We have invested heavily in more staff and in modernising pay and conditions in the health service and we have invested in hospitals and community health centres. There are fewer premature deaths from heart disease and cancer, and overall life expectancy throughout Scotland has risen. We have done much more than that and, as we approach the spending review in 2007, it is right that work should be undertaken to provide robust and accurate information so that ministers can take hard decisions at that time.

In conclusion, it is nonsense to suggest that the Government is trying to cover up the report. We informed the Finance Committee what would happen when the independent budget review was set up and we have always said that we would publish the report. Today, we are reaffirming our commitment to publish it at the time of the spending review, when decisions are taken. Again, I ask the Parliament to reject the SNP's motion and support the Government's amendment at decision time.

10:21

Alasdair Morgan (South of Scotland) (SNP): I am glad that the Liberal Democrats are leading and closing the debate for the Government because of their association with the Freedom of Information (Scotland) Act 2002. What they have said points to the extent to which they must compromise their principles as junior partners in a coalition.

George Lyon: As Alasdair Morgan is well aware, advice to ministers is protected under the Freedom of Information (Scotland) Act 2002.

Alasdair Morgan: It is up to the Government to decide what constitutes advice to ministers. The more ministers try to hide behind that smokescreen, the worse they look.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): Would the SNP publish all advice?

Alasdair Morgan: The member for Tweeddale, Ettrick and Lauderdale should not come to the debate at such a late stage and intervene.

Mr Swinney: Exactly. He should get on his feet and apologise.

Alasdair Morgan: John Swinney rightly criticised the Minister for Finance and Public Service Reform for not being in the chamber. However, let us be clear. He is beginning to look like damaged goods. Even the two Labour members who have spoken in his defence have been more than slightly critical of him.

John Swinney was too kind. The Liberal Democrats do not have to defend the indefensible—they should stick up for their principles. When Jim Wallace introduced the stage 1 debate on the Freedom of Information (Scotland) Bill in January 2002, he mentioned that the consultative steering group looked for

“an accountable, visible Parliament, where people were encouraged to participate fully in public debate and the policy-making process.”—[*Official Report*, 17 January 2002; c 5453.]

People cannot participate in a policy-making process after decisions have been made. Today, Mr Lyon said that the Executive will release the full suite of information once the spending decisions have been taken. That flies in the face of how the Parliament was meant to operate.

It is not only the Minister for Finance and Public Service Reform who has been absent. Except for two Labour members of the Finance Committee, Labour Party members have been absent for most of the debate. Where, for example, is Maureen Macmillan, who said in the stage 3 debate on the Freedom of Information (Scotland) Bill that

“the passing of the bill and its implementation ... will be used to the full to bring about that change of culture”—

the culture of openness that we have been talking about.

Perhaps Donald Gorrie got things right when he said in the same debate:

“In life, it is people who are the problem, not rules. Many people in national Government ... are brought up in a climate of secrecy.”—[*Official Report*, 24 April 2002; c 11217-18.]

I think that we have a problem with our Minister for Finance and Public Service Reform in that respect.

On Tuesday this week, Dr Murray asked, in relation to calling people from the Howat review group in front of the Finance Committee,

"will they be able to discuss the review with us? In calling them, would we be putting them in a difficult position?"—*[Official Report, Finance Committee, 31 October 2006; c 4011.]*

I thought that it was the purpose of parliamentary committees—particularly the Finance Committee—to put people in a difficult position.

Dr Murray: If Mr Morgan had read the *Official Report* of that meeting more carefully, he would realise that my concern was that I would put Mr Howat and his colleagues in a difficult position, whereas it is the minister who should be questioned.

Alasdair Morgan: It can sometimes be difficult to put Mr McCabe under any scrutiny whatsoever.

If people are submitting a report that might contain significant options, they should be able to answer to the Finance Committee. All that I can say is God help parliamentary scrutiny. Somehow I do not think that the Finance Committee will pick up a prize for the third time in a row in the awards ceremony that will take place later this year.

We heard a rather novel argument from Mr McNulty that perhaps the Howat review was not fit for purpose. The minister is now damned on all sides—by us, the Greens and the Conservatives for the lack of transparency in not publishing this vital document, and by his own back benchers for setting up a review that was not fit for purpose.

I think that it was when he was in Elgin that Mr McCabe said that the Howat report would be published this year. Did anyone on the Lib-Lab benches say then, or subsequently, "No—you mustn't. It's only part of a jigsaw, and nobody wants it. It will undermine Government. The public don't want it so please don't publish it"? No—nobody said a word. They changed their minds only when the minister changed his mind. Fergus Ewing put his finger on it when he said that the minister changed his mind only when he saw what was in the report.

The remit of the report was to review Government policy. Is there a possibility that the policy did not quite get the glowing endorsement that Mr McCabe had hoped for when he set up the review? The jury is out, but I can see which way most people's minds are turning.

Even if we believe the Government argument and accept that the minister should not have committed to publishing the report this year, we have to acknowledge that it was not a slip of the tongue. It was not like Des Browne saying, "We will set up an inquiry," when he really meant, "Oh no we won't set up an inquiry." Rather, it was a

deliberate and calculated statement. So when did Tom McCabe decide that he had made a mistake? Did his civil servants tell him that he had made a mistake? Des McNulty did not tell him that he had made a mistake. Did the First Minister tell him that he had made a mistake?

A different argument was used by Elaine Murray and Andrew Arbuckle—that the public were not clamouring for the report. Well, the public might clamour for the report if they knew what was in it and if they knew that it questioned some Government programmes to which they were significantly attached or from which they benefited. However, the public are not being told, just in case.

Let us be clear: open government does not consist of publishing documents only when they are of interest only to academic historians after the decisions have been made. Government advice—if it is Government advice—should be withheld only if there is some overriding public interest in doing so. The minister has not demonstrated that that is the case. It is quite clear that the only interest involved in withholding the document is the interest of the Labour Party. The Government stands condemned out of its own mouth.

Financial Powers (Scottish Parliament)

The Deputy Presiding Officer (Murray Tosh):

The next item of business is a debate on motion S2M-5055, in the name of Jim Mather, on the financial powers of the Parliament. I advise members that we are behind the clock and that speaking times will be enforced.

10:28

Jim Mather (Highlands and Islands) (SNP): I note the absence of any Executive presence for this debate. No minister is here. We saw the Executive trying to keep the Howat review under wraps, but I had hoped that the Executive might not want to keep the most important debate in Scotland under wraps.

Many debates in this chamber end with somebody saying, "That was an interesting debate." I confidently predict that somebody today will say that about this debate. Although the motion is simple and straightforward, it is important and it has to be accepted if Scotland and this Parliament are to be credible at home and abroad. At home, we have to be credible with people who have legitimate aspirations for a much better life for themselves and their families. Abroad, we have to be credible with our ex-pats, many of whom could return; with potential customers, who need to see us being more competitive; and with competitors, who would rejoice if we were less than competitive.

Bristow Muldoon (Livingston) (Lab): Will the member give way?

Jim Mather: I would like to make some progress first.

More and more people are realising that it is difficult to compete and prosper when we have no economic powers. However, virtually everybody of good will realises that it would be infinitely worse if our Parliament were unwilling to debate economic powers fully and openly, or to consider all the options. If we were unwilling to do that, we would become an irrelevance and a laughing stock, and we would send out damaging signals. In other words, it is vital that the Parliament facilitates an open and honest exchange of views, encouraging the widest possible participation in the process. If we do otherwise, we will indicate our lack of willingness to learn from outside and our rejection of the need to review evidence and deliver evidence-led policy that has logic and a good track record at its core.

Ms Wendy Alexander (Paisley North) (Lab): The member indicated a desire to learn from other countries. I wonder whether he can name a single country that has adopted fiscal autonomy.

Jim Mather: Navarre, the Basque Country, the Isle of Man and the Channel Islands. Scotland, uniquely, has a system that damages its people; we need to learn from those other countries. This Parliament risks being party to the unhealthy closing down of debate by vested interests that would freeze-frame Scotland at the very time when other Governments and peoples are moving forward and changing their nations for the better.

I suggest to Ms Alexander that rejecting the motion would be inconsistent with what she suggests in her book "Chasing the Tartan Tiger"—that the only obstacles to Scotland making progress are people who are not open to radical ideas. The motion should be endorsed by all who have spoken in favour of our having more powers—including Lord Vallance, Henry McLeish, Michael Portillo and many others who will be watching this debate, such as Lord Steel.

Mr Brian Monteith (Mid Scotland and Fife) (Ind) rose—

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD) rose—

Jim Mather: I will take an intervention from Jeremy Purvis.

Jeremy Purvis: The member mentions Lord Vallance. Does he know that Lord Vallance, as a member of the Steel commission, absolutely rejected fiscal autonomy and independence? He favoured fiscal federalism.

Jim Mather: Mr Purvis may have read the motion or he may not. The motion calls for a debate. I respect Lord Vallance's views and I respect Jeremy Purvis's views; I want a debate. Indeed, more than 80 per cent of the people of Scotland want this matter to be debated and voted on. Even back in August 2004, 46 per cent of the business community were patently up for the debate, with 26 per cent being neutral.

Recently, there has been a spate of reports—from Experian, David Bell, Sir Donald Mackay, Fabian Zuleeg, Professor Ronald MacDonald and Professor Brian Ashcroft. The debate is taking place outside this chamber. Very few people want to close down the debate. Well, perhaps there is one—Iain McMillan—but we have to ask him, "Who would benefit from taking a position that was blind to the experience of Ireland and Norway and which flew in the face of the needs of all aspirational Scots and all those who wish to protect jobs and increase living standards?"

Mr Monteith: I suggest that Gerald Warner might take that view.

I will be supporting this welcome motion, but will the member confirm that fiscal autonomy—even full fiscal autonomy—does not mean independence?

Jim Mather: It would be a step on the road, and I repeat to Mr Purvis that the motion is about having a debate, scrutinising all the options, considering the legitimate ones and looking objectively at problems. We ask for nothing more.

Unlike some, we want a constructive debate. We are not alone in that. The editorial of *The Scotsman* yesterday called for a constructive debate. Such a debate would expose the arid and damaging negativity of the fear, uncertainty and doubt that we will hear when the Labour benches are repopulated and when ministers turn up. Their attitude encourages procrastination, the loss of opportunities, the diminishing of life chances and further damage to the social fabric of this country.

Failure to engage fully in this debate is a failure of leadership—indeed, it is the antithesis of leadership. There has been a suggestion that we will be in for 30, 40 or 50 years of constitutional wrangling. Oh really? That was not the experience of, for example, tiny Montenegro, which went from a declaration of independence to United Nations recognition in 32 working days. It is also not the experience of many other countries, or of countless corporate demergers and management buyouts.

In Scotland, we start from a neat position. People here have the incentive of already owning their proportionate share of United Kingdom plc. Our demerger is therefore available with no purchase price. That is not insignificant—but, beyond that, the people do not want wrangling. They want results; they want progress; they want us to converge on the higher living standards that have been achieved elsewhere; but, more than anything, they want a debate. We have to satisfy that rational and reasonable request. That will mean a clear identification of the problem, an evaluation of all the options and an avoidance of Scotland becoming just a branch not only of the UK economy but of the United States' software industry, Irish property portfolios, Icelandic retail conglomerates, Irish airlines and Norwegian salmon farming interests.

Who else would duck a debate on strategy? No other country, no viable company and no committed public sector organisation.

I move the reasonable proposition in my name,

That the Parliament recognises the need for an open, inclusive and objective debate about the financial powers that it requires to have in order to maximise accountability, efficient government, economic growth, public services, infrastructure development and good social outcomes in Scotland and further encourages the business community, the trade unions, the public sector, the voluntary sector, academia and wider civic Scotland to participate in this debate, the objective of which must be to make Scotland a more prosperous country, able to deliver social justice to its people.

10:35

Richard Baker (North East Scotland) (Lab): While the Scottish National Party tries to ensure that the Parliament endlessly debates its powers, Labour is using them to grow our economy and to deliver prosperity for our nation.

The SNP wants to debate fiscal autonomy not because it would be best for Scotland's economy but because of the SNP's desire for independence. That was made clear in Jim Mather's response to Brian Monteith. This is not a new discussion but the same old debate. The SNP supposedly wants an open and objective debate, but it has afforded just over an hour's debating time to the issue. It is no wonder that it does not want to subject its fiscal autonomy plans to any real scrutiny because, for SNP members, the debate is not about what works. They do not want an objective debate; they have already made up their minds on fiscal autonomy because they want independence. Although we welcome the debate, those are the real terms of the debate for the SNP.

Brian Adam (Aberdeen North) (SNP): Absolutely. We want independence. That is a perfectly honourable position to take. Why will the Labour Party not support a referendum and allow the people to make that choice?

Richard Baker: The people have made that choice in every Scottish election. The choice will be put before the Scottish people again at next year's elections. We will willingly take the debate to the Scottish people and look forward to doing so. Every time that the SNP's independence plans are put to a real test, the Scottish people reject them.

Those who want a genuine debate on fiscal autonomy must realise what the SNP seeks from the debate. I find it extraordinary that the Liberals want a whole new constitutional convention after just two sessions of the Parliament. I believe that people would prefer us to focus our energies on using the substantial powers of devolution.

Jeremy Purvis: Does Mr Baker recall that the Scottish Constitutional Convention recommended that a second constitutional convention should be convened after the first session of the new Scottish Parliament?

Richard Baker: My view is that it is too early to convene another convention after just two sessions of the first Parliament that we have had in 300 years.

No one should be distracted from the fact that devolution means that we already have autonomy over our budget and economic strategy. I reject the viewpoint that, without fiscal autonomy, we are somehow unaccountable for what we spend. Ministers are accountable every week in this

Parliament for the budget that they spend. We know that we need to get our budget right because not to do so would have serious implications for crucial areas of public spending. We already have the power to implement our own economic strategy for Scotland.

To reject the nationalists' plans, sketchy though they are, is not to ignore the issues, which is what the Tories claim while they try to obfuscate the fact that they disagree with their think-tank's report. The case that we make is that it would be ludicrous to change the constitution for the sake of change when the current system is working for Scotland. While other countries across Europe and throughout the world have slipped in and out of recession, we have enjoyed 20 quarters of consistent growth, record levels of employment and an employment rate that is above the UK rate. Scottish gross domestic product is on course for further growth. Why should we put such progress at risk? A protracted debate on fiscal autonomy might be of interest to some economists and political commentators, but what really matters for the people of Scotland is what this Parliament does to benefit them and their families.

Those economists who argue for fiscal autonomy because they hope that it will deliver a right-wing, low-tax, low-spend Scottish economy will be sadly let down by the SNP. Despite the best efforts of Jim Mather and Fergus Ewing, the SNP still promotes costly policies such as scrapping all graduate debt, which would cost many more millions than the SNP has budgeted for. Given such policies, the SNP cannot be trusted with devolution, let alone extra powers.

What matters to the people of Scotland is not the constitution but jobs, homes and investment in their communities and public services. Working in partnership with Westminster and as part of the strong UK economy that Gordon Brown has created, we have had record levels of jobs, record levels of investment in schools and hospitals and—a crucial issue for our economy—record spending on universities and colleges.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): Will the member give way?

Richard Baker: I would give way, but so little time has been allowed for the debate that I am unable to do so.

That record has enabled us to have an effective policy of our own that is contributing to higher levels of economic growth. That is the "union dividend" of which the First Minister is right to speak. Why should we risk that for the sake of a change whose aim is not to improve devolution or Scotland's economy but to meet the goals of a discredited and distasteful political ideology? In Labour, we prefer to act to bring greater prosperity to the people of Scotland.

Why should we have a fake debate on fiscal autonomy when we can get on with the real job of growing the economy and improving people's lives? That is what Labour has done and will continue to do.

I move amendment S2M-5055.3, to leave out from "recognises" to end and insert:

"believes that the arguments for further fiscal autonomy are being used as a cover for the debate on independence; calls on those MSPs who support a separate Scotland to give an honest explanation of what a separate Scotland would mean for our economy, and further believes that we should continue to use the powers of the Scottish Parliament to deliver better health, education, lower crime and economic growth."

10:39

Derek Brownlee (South of Scotland) (Con):

This morning's debate is not a debate about the powers of this Parliament; it is a debate about having a debate about the powers of this Parliament. I would have thought that, although we might want to spend more than an hour and a quarter debating what the proposed additional powers might be, debating whether we ought to have a debate on that subject should be easily accomplished in the time that has been allocated today. On the face of it, the amendment in my name might appear to aim to change significantly the motion in the name of Jim Mather, but it would in fact broaden his motion. If we are to have a debate on the powers of the Parliament, we should not restrict that to merely the financial but consider the non-financial aspects as well.

We should also recognise, as my amendment does explicitly, that we can have that debate without in any way, shape or form prejudicing the integrity of the United Kingdom. I understand where the nationalists will come from when they contribute to that debate but, equally, the unionist parties in the Parliament will put forward a unionist perspective. Those of us who believe in the strength of the United Kingdom have nothing to be scared of in debating the subject. If the union is as strong as I believe it to be, it can easily withstand a vigorous debate on the subject.

The key question to consider in framing the debate is how we make the Scottish Parliament and Scottish Government more effective and more accountable. This morning's first debate will surely tell anyone who wishes to scrutinise the Scottish Government that there is a real need to make it more accountable. Perhaps the First Minister's logic is that the Government's problems of accountability are due to the incompetence of his ministers. Perhaps that is why he sees no need to debate the subject and why he has set his face against even discussing it.

I have some sympathy with part of Richard Baker's argument. We should use the powers that

we have as effectively as we can and we should consider how we could use our current powers to grow the economy and to deliver improved public services. However, doing that does not preclude consideration of whether those powers are sufficient and whether they could be changed. It is ridiculous to suggest that the Scotland Act 1998 is absolutely perfect. After all, did not Donald Dewar say that devolution was a process rather than an event?

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Derek Brownlee said that we should use the powers that we currently have. Can he confirm whether the Conservative party is in favour of using the existing tax-varying powers?

Derek Brownlee: We may make our views clear in September 2007 so as not to prejudice the outcome of any current process. [*Laughter.*] After all, I am sure that Mr Rumbles, like us, would not want any wild misunderstandings.

The other reason why we should not be afraid of a debate is that debate on increased powers for the Scottish Parliament often takes place at a very abstract level. If the issue is to be taken seriously, we need to get down to specifics. Fiscal autonomy means different things to different people. If tax powers were to be devolved, we would need to look closely at the interaction between those powers and the increased complexity that might arise for individuals and businesses. None of those decisions should be made by one party or decided overnight. That is why it is entirely appropriate to seek an open and inclusive debate, as my amendment suggests.

The Lib Dems and Labour have set out their positions in their amendments and we will do so in due course. However, I see nothing for a unionist or Conservative to fear in having a debate on this subject.

I move amendment S2M-5055.1, leave out from "powers" to end and insert:

"and non-financial powers that it requires to have in order to maximise accountability, efficient government, economic growth, public services, infrastructure development and good social outcomes in Scotland and further encourages the business community, the trade unions, the public sector, the voluntary sector, academia and wider civic Scotland to participate in this debate, the objective of which must be to make Scotland a more prosperous country, able to deliver social justice to its people, and notes that a more effective and accountable devolved Scottish Parliament would strengthen the United Kingdom."

10:44

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): There is no doubting that Jim Mather is a reasonable man. In this Parliament, in December 2003, he outlined the SNP's position of wanting a debate about fiscal autonomy and the

powers of the Parliament. However, he has given no explanation today of why the SNP motion is so coy on independence, which is not mentioned. It is time, as the SNP says, for a debate. However, when my party proposed a second constitutional convention as the vehicle for such a debate, the idea was rubbished by Alex Salmond. He told me that the SNP will not take part because it has its own independence convention—the convention of odds and sods of Scottish politics—and a closed mind to any alternative.

The SNP does not want a debate—it wants separation. Why does it not say that? Why does it not lodge a motion that says what it really wants? Its policy is to hold a referendum in the next session—why does it not say that? Recently we saw what happened when the independent governor of the Bank of England joined the debate about the union and the economy—the SNP jumped on him. It said that it was an outrage and a disgrace for him to open his mouth. The same party wants to set up a council of economic advisers in Scotland. Its meetings will be absolutely boring, as only those who favour separation will be asked to take part and they will be able to give only one type of advice—the advice that Mr Mather wants to hear.

However, all may not be lost—there is a chink of hope for Mr Mather. I understand that the proofs of Mr Russell's new book were returned to him with paragraphs annotated with the Salmond code. Some—not many—were annotated with "RH", for relatively harmless. A few more had "D", for dangerous. However, the book was peppered with "VD"—very dangerous. I wonder which of Mr Russell's recommendations concerned the SNP so much. Perhaps it was his recommendation of "the new union". In that new union, the British Government ruling Scotland would have only the minor powers of foreign affairs and military control. Oh yes—the Queen would also be retained. I suspect that when Mr Mather called for a debate about the constitution and the Parliament's powers, he did not expect such an enthusiastic response from the putative future SNP minister for unionist affairs. I never realised that the referendum that the SNP proposes would not consist of a single question but would be multiple choice, and that people would be asked whether they wanted independence with or without the British Army and with or without the Queen.

If the SNP is hiding its true colours this morning, is there a real debate to be had about the powers of the Parliament, financial and legislative, to which Mr Brownlee referred? The answer is yes. That will not be helped if the next decade is taken up by a debate about separation, but there should be an inclusive approach.

Ms Maureen Watt (North East Scotland)

(SNP): Does the present devolution settlement accord with the Liberal Democrat idea of fiscal federalism? If it does not, what other powers should the Parliament have to meet the criteria that the Liberals have set down?

Jeremy Purvis: The answer is no. That is why, two years ago, the Liberal Democrats established the Steel commission. As Duncan Hamilton said in *The Scotsman* in March, its report put

“the Lib Dems at the front of the debate with a clear position on federalism.”

Liberal Democrats argue not only that the Parliament could have more powers, but that it should have them. However, we reject the stepping-stone to independence of fiscal autonomy and support the principles of fiscal federalism. Broadly, the Parliament should have tax-varying powers for the money that it spends, so that there is credibility in our debates not only about how the Parliament spends money but about how it raises it.

Credibility is sorely lacking in the SNP. Last year it put forward what it described as the most comprehensive economic reason for independence, but since the Parliament was established it has not produced one alternative budget.

Jim Mather: Will the member give way?

Jeremy Purvis: I am afraid that I do not have time.

The SNP has not presented costed policies on pensions or higher education, but only recently the shadow minister for social justice said that there should be no border raids by English sick people coming to our hospitals. Mr Mather wants credibility, but for that he must start at home.

I move amendment S2M-5055.2, to leave out from “recognises” to end and insert:

“believes that the Scottish Parliament needs significant new powers that follow federal principles; calls for a significant increase in the taxation powers of the Parliament in order to improve competitiveness and accountability, increase transparency, encourage more efficient allocation of resources and allow the Parliament to have greater fiscal levers to influence the direction of the Scottish economy; notes that full fiscal autonomy does not exist in any developed economy in the world and rejects the argument for such autonomy as a cloak for independence which would damage Scotland and our economy; calls for the establishment of a second constitutional convention during the next session of the Parliament to improve the home rule settlement in order to deliver real benefits to the people of Scotland; calls on all political parties and civic Scotland to participate in the new convention; believes that the new convention should also consider the case for additional legislative powers for Scotland and new procedures to improve joint working between the Scottish and UK Parliaments, and calls for the new legislative and fiscal powers of the Scottish Parliament to be enshrined in a written constitution for the United Kingdom.”

10:48

Brian Adam (Aberdeen North) (SNP): I am delighted that the Liberal Democrats and the Conservatives have engaged in the debate and have made use of the fact that an open motion is before us that allows members whose views are different from those of the SNP to feel comfortable about doing that. However, I am really disappointed that a young man, with a young family, who is clearly committed to Scotland, sees nothing better for the future than the status quo. That is a deeply conservative position, of which many of the forebears of those who are involved in the Labour movement would be deeply ashamed.

Richard Baker: What is wrong with sticking with the status quo when it delivers a strong Scotland that has consistent economic growth, provides jobs and has record investment in public services?

Brian Adam: I understand that economic growth is a high priority for the Government. Scotland had average annual growth of 1.8 per cent over the 25-year period from 1979 to 2004, but UK average annual growth was 2.3 per cent. That is the benefit of being in the union—the union dividend is that Scotland loses out. Small European Union countries had an average annual growth rate of 3.1 per cent, and Ireland had a growth rate of 5.2 per cent. I would much rather be in the position of small European Union countries such as Ireland than in Scotland's position within the United Kingdom, or even in the position of the United Kingdom as a whole. Success lies elsewhere. The deeply conservative position that new Labour has adopted is holding our country back.

Mr Baker is a young man who is clearly committed to Scotland; he has stood for election and has contributed here. However, I accept his position if he does not want to make progress for his country.

Jeremy Purvis: The member mentioned competitiveness, and Mr Mather often quotes the world competitiveness scoreboard. Can the member explain why Scotland is above the Czech Republic, Catalonia, France, Spain, the Slovak Republic, Hungary, Portugal, Slovenia, Lombardy and Italy on that independent scoreboard?

Brian Adam: The relative position is important. Whereas the countries to which Mr Purvis refers are making progress, Scotland's relative position is in continual decline, because we have no real powers to make changes. That is the union dividend.

Margo MacDonald (Lothians) (Ind): Is it only about the money? Should not something about the soul of Scotland be encompassed in today's motion?

Brian Adam: I am more than happy to recognise that there is more to life than money,

but today's debate is about how we create a country that is prosperous so that we can deliver the social justice that most members want. I recognise that as a country we have an identifiable culture that needs to be supported, but today's debate is about fiscal independence.

Members: Ah!

Brian Adam: It is about independence—it provides us with an opportunity to debate fiscal autonomy.

We have a totally distorted economy. We have some major world-class businesses, but we do not have the same range of businesses that exists elsewhere in the world. We have giants such as the Royal Bank of Scotland and HBOS; medium-sized companies such as Scottish and Southern Energy, Scottish Power and Scottish and Newcastle; growing businesses such as our bus companies FirstGroup and Stagecoach; and significant relatively new companies such as the Wood Group, the Abbot Group and Production Services Network. However, we do not have the same range of companies that one would find in a normal economy in a normal country. That is why we need to have levers of power over our fiscal environment that will enable us to make the economy grow.

10:53

Frances Curran (West of Scotland) (SSP): I am all in favour of having a public debate on extending the powers of the Parliament. The Parliament's complete lack of powers and how it will become a grown-up Parliament should be a matter of public debate. We have Mickey Mouse powers that are not much better than the powers of the average regional council of the past. Those who are running scared of having more financial powers should recall that the average US state has 10 times more economic power than the Scottish Parliament. It has tax-raising powers and the power to set a minimum wage, keeps the vast majority of its taxes and pays back money to the central Government. Catalunya and the Basque Country in Spain have control of 90 per cent of the taxes that they raise. The powers that they have—not just economically, but politically—go as far as possible, short of independence, whereas we get a block grant.

The motion is pretty wishy-washy. In a week in which 51 per cent of Scotland's population has indicated that it supports independence, a parliamentary debate about fiscal autonomy and financial powers is yesterday's news. I cannae see thousands of people taking to the streets with banners demanding more fiscal powers. If we are to mobilise public support in debate, we have to make it clear that independence is about not just economics, but political power.

If I were a cynic—which I am not; I am an idealist—I would say that the motion is much more about courting a coalition with the Liberal Democrats and Brian Monteith. Indeed, if David Cameron gets his way, the nationalists might even seek a coalition with those on the Tory benches. I simply cannot believe the poverty of the terms of the motion.

Let us have a debate on the Parliament's powers; let us discuss having control of our own resources such as North sea gas and oil to ensure that that wealth is not sucked out of Scotland; and let us talk about the imposition of nuclear power stations and the way in which our taxes have been used to fund a war that most Scots oppose. Let us do all that, because those are the issues that will inspire and mobilise people to get into halls and debate Scotland's future. I hope that—in fact, I am confident that—the independence convention will start that debate in this country.

The Scottish Socialist Party is in favour of an independent socialist Scotland. However, at the moment, it appears that the SNP is running away from that debate. Independence is its main policy; it should come out fighting on it. I am not the nationalists' electoral organiser and I am not suggesting what the SNP's election strategy should be, but this motion is very timid. We should build on the fact that a majority of people support independence. Yes, we should raise our own taxes; control economic ownership; be able to set the minimum wage in this country; and have control over welfare and other benefits. We should emulate countries such as Norway, Finland and Sweden, which have the best welfare provision and the lowest levels of child poverty. As only independence will allow us to redistribute wealth, we should inspire the country to take part in that debate in the run-up to next election and put members on the Executive benches on the defensive.

10:57

David McLetchie (Edinburgh Pentlands) (Con): Once again, the SNP has trotted out Mr Mather as the siren voice of soft porn nationalism, seeking to seduce us into a debate on the Parliament's financial powers when, in fact, his colleagues have no intention whatever of conducting the debate in the terms of the motion.

Frances Curran is absolutely right: this motion is SNP-lite. On the face of it, the blustering bravehearts have been transformed into wee, cowran, tim'rous beasties—but is it a ploy, or is it for real?

Jim Mather: Will the member give way?

David McLetchie: Mr Mather will get his chance.

The key question for the SNP is: what powers, short of those of an independent sovereign country, is it prepared to settle for? Is it prepared to accept that some powers and responsibilities should remain with the British state? If the answer from Mr Mather and the rest of the SNP is, "No—it's independence and nothing less", Mr Mather is floating a false prospectus. He does not want an

"open ... and objective debate on the financial powers"

of a devolved Parliament within the United Kingdom; instead, he wants to debate independence.

Jim Mather: What we want is progress, progress, progress. As for the nationalists being fearties, I wonder whether Mr McLetchie sees the great irony in the fact that while Ian Paisley and Gerry Adams are making common cause about corporation tax in Northern Ireland, the Liberal Democrat and Labour benches are unwilling even to have a proper debate on those and other issues.

David McLetchie: I do not think that Ian Paisley and Gerry Adams would agree that Northern Ireland should be extracted from the UK, which is, of course, the SNP's core principle with regard to Scotland.

The debate on the Parliament's financial powers is plagued by lack of precision in the language in which it is conducted, so I want to be clear: a country cannot have fiscal autonomy unless it is independent. No other country, province or state in the world that is part of a larger sovereign nation levies all the taxes within its borders and then contributes a share to a common pool of finance service.

Jim Mather: What about the Isle of Man?

David McLetchie: That is a constitutional anomaly. Does the SNP really aspire to make Scotland like the Isle of Man? If so, I find that pathetic. For a start, I am not aware that the Isle of Man is in the United Nations, which I believe is another SNP aspiration.

No Parliament that is wholly responsible for raising all taxes will willingly surrender to another body the right to determine how a major part of those taxes are spent. A debate on fiscal autonomy is a debate on independence—and nothing less.

For all unionists, the real debate should be about fiscal federalism—or, if one prefers, fiscal devolution. The UK now has a quasi-federal system of government in which powers and responsibilities are attributed between the national UK Government and subordinate bodies such as this Parliament and the Assemblies in Northern Ireland and Wales. One finds the same division of responsibilities in more fully fledged and long-

standing federal systems such as those in the United States, Canada, Germany and Australia. US states and Canadian provinces have greater powers to raise taxes to finance expenditure than we have. However, in other cases—such as the German Länder, whose financial system is similar to ours—those financial powers are not so great. As a result, in any discussion about a federal system of government in the UK, it is quite legitimate to debate whether we should have more or fewer tax-raising powers. One might well conclude from that debate that we should have more powers. However, as Derek Brownlee pointed out, none of that does violence to the concept of the UK any more than it would do violence to the concept of Canada or Germany as sovereign states.

It is worth observing that, even in the federal states or provinces that have more financial responsibility than we have, the taxes that they raise do not cover their total expenditure. In all such systems, the federal Government still has to give the states or provinces substantial grants. In that respect, if we did not have a Barnett formula, we would have to invent one.

11:02

Gordon Jackson (Glasgow Govan) (Lab): Years ago, at election time, I met a prominent nationalist who was giving out leaflets. He was very unhappy. He did not like that fact that the leaflet promoted the idea that, under independence, Scotland would be economically far better off—not because he did not necessarily believe in it, but because that was not the reason why he was a nationalist. For him, it was a matter of principle; he wanted an independent Scotland, better off or not. It was what Margo MacDonald called the soul of Scotland argument.

I disagreed with his viewpoint, because I felt that it was wrong-headed and showed a lack of understanding of Scotland and the union. However, I respected it, because it was—and remains—an honest nationalist position.

Margo MacDonald: Will the member explain what he means a little more? Why does he think that it is wrong-headed to have a soulful connection to independence but not to unionism?

Gordon Jackson: I do not think that there is anything wrong with having such a connection. I felt that the view was wrong-headed because it did not make good political sense. However, as I said, I respected it.

The problem is that such a position did not work for the nationalists, and they are now trying to move on from that honest nationalist stance to put forward what I would call a dishonest economic argument. Jim Mather is trying to persuade us that

Scotland would be better off if it left the union. That is what this debate is about, and it is simply not true.

I object to the motion in two very obvious ways. First, it calls for an “objective debate”. David McLetchie and others are right to point out that this debate is not honest or objective; it is about putting forward a preordained agenda to take Scotland out of the UK and all that goes with that.

Jim Mather: Will the member give way?

Gordon Jackson: No; in a debate such as this, I do not have time to give way.

Linked to that, Jim Mather’s motion sets out an aspiration

“to make Scotland a more prosperous country”

with more “social justice”. Of course, by definition, we all want that. However, it is inaccurate to suggest that moving towards independence will make Scotland better off.

In saying that, I am not being anti-Scottish. I believe in having a soul for Scotland, so to speak. I am not even saying that we could not run our own affairs: of course we could. What I want is pro-Scottish and is best for the country.

I will give an example from close to home. Many people fought long and hard to ensure that shipbuilding survived on the Clyde. We have achieved that. When we go to the BAE Systems yard the mood is more optimistic, among both management and men, than it has been in many a long day. There is work for the foreseeable future and there are new apprentices, new equipment and new life. What does that come from? It comes from a UK Government placing orders, which, for obvious reasons, cannot be placed elsewhere. Any honest person knows that those yards could not survive and compete in a cheap labour market without those orders. If the SNP takes Scotland where it wants to take it, the yards that we have fought for will close.

An industrialist, speaking from the comfort of silicon valley, said this week that if we had more fiscal power a by-product would be “recession”—that word might be theoretical for someone who lives where he lives, but for the people at the front line it is not a theory but a fear.

If people want independence for emotional reasons—for reasons of the soul—so be it, but please, Jim Mather, do not pretend that it will make us better off.

11:06

Christine Grahame (South of Scotland) (SNP): I make it clear to Gordon Jackson that I am a head-and-heart nationalist. I am proud to be one and have been one for 35 years and more.

I will speak to the terms of the motion and address whether, without increased financial powers, we can improve social inclusion and reduce poverty in Scotland. We are discussing the matter seven years after the creation of this Parliament, in which good people all round the chamber support the eradication of child poverty and improving standards of living.

Dealing with health matters is often a poverty issue, dealing with the failure to achieve at school is often a poverty issue and dealing with low-level crime is often a poverty issue. Can the Parliament, whoever is in power, really tackle those issues without greater financial powers? It is probably a truism to say that poverty is a complex, multifaceted problem; the same is true of its solutions. The issue for the Parliament is whether we have the tools to provide those solutions.

I will mention some aspects of the problem. I have taken the facts from figures published by the Joseph Rowntree Foundation and the Child Poverty Action Group, which have acted as my databases. Forty per cent of Scottish households have an income of £20,000 or less; 18 per cent have an income between £10,000 and £5,000; and 3 per cent exist on £3,000. As for individuals, three quarters of Scots have an annual income of £20,000 or less; nearly a quarter have an income of £10,000 to £5,000; and 20 per cent live on £5,000 or less. That is the reality for people. Those figures come from the Joseph Rowntree Foundation.

What does that mean for Scotland’s people and their health? One in four of our children lives in poverty and the figure is three times higher if someone is from a single-parent family. We all want poverty to be eradicated, but how can we achieve that with what we have in our hands now?

We have all moved on as MSPs in the past seven years and we know what we are dealing with. I say to Richard Baker that the number of working-age adults without dependant children who are in income poverty in Scotland has increased from 300,000 to 400,000 since the mid-1990s.

Ms Alexander: Does Christine Grahame acknowledge that there is no restriction of any kind on how the Scottish Executive spends the entire £25 billion that is available to it, whether the money is spent on tackling poverty or on anything else? In the SNP’s most recent budget—of course, we get such figures from the SNP only when the oil price is high—it acknowledges a non-oil deficit in excess of £10 billion this year.

Christine Grahame: We cannot begin to deal with the issues in Scotland while we are not in the position to deal with tax and benefits, which are at the basis of most poverty issues, but we have to deal with the social fallout.

Seven of the Child Poverty Action Group's 10 steps to a society that is free of child poverty relate to reserved matters. If we listen to people who tell us about the difficulty that they have in moving out of poverty, they inevitably refer to the benefits trap and not having access to education because they do not have funding for transport. We want to deal with all those issues. There is something dishonest in the arguments we hear today that suggest that the SNP's proposal is simply a camouflage for independence. Of course it is not: none of us in the SNP has ever said anything other than that we want independence. I am opening up for consideration the question whether anyone in the chamber seriously believes that we can tackle child poverty and the poverty of low-income families without having our hands on the real tools of tax, benefits and the ability to provide decent, well-paid jobs.

11:10

Patrick Harvie (Glasgow) (Green): I begin on a wee note of sympathy for the Scottish National Party. It seems, given the initial howls from members of the parties in the Executive, that the SNP is damned if it lodges a motion with words such as "autonomy" and "independence" in its title and damned if it does not. I welcome the motion, which calls for an open and inclusive debate. That is a far cry from the words of Mr McConnell, who seemed to imply that we should close down debate on the existing settlement for years—perhaps even for decades.

Jim Mather is right: years after the political decision was made by the Scottish public to create this Parliament, the debate is going on outside Parliament about how to fund the institutions of Scottish governance. I am sure that members will be aware of the many recent publications on the subject. It would be absurd if Parliament, which should be the foremost institution of Scottish public life—I think that it is confidently growing into that role—was to decline to take part in the debate. The SNP motion is in some senses a self-fulfilling one: it calls for a debate and, lo, it begins.

My small criticism is about an aspect of the motion that might merely be an oversight. Although the SNP seeks an inclusive debate, it has included in the motion a specific policy goal that not all parties can sign up to. Greens believe that, as Edward Abbey wrote, maximising economic

"Growth for the sake of growth is the ideology of the cancer cell."

In the wake of the Stern warnings on climate change, we should be willing now more than ever to face up to the reality that chasing the myth of everlasting economic growth on a planet of finite resources will do for us in the end.

However, the commitment in the motion to maximising growth is merely one aspect of the debate that is being called for, so on this occasion I will overlook it to support the substance of the motion, which is the proposal that we should all—unionist or nationalist; pro-independence or pro-devolution—be willing to engage in the debate rather than defer it, as Mr McConnell has suggested, perhaps for many years.

As for Mr Baker's amendment to the effect

"that we should continue to use the powers of the Scottish Parliament"

to benefit the people of Scotland, as long as we are limited to those powers, who could disagree? We should indeed use them to improve the lives of people in Scotland. I could even support Mr Baker's appeal for those of us who support independence to give an honest explanation—although I might be bolder and call it a vision—of what an independent Scotland would mean. I could support that appeal if I did not think that we were already doing that.

Greens have certainly been clear that our support for independence is not motivated by flag or by patriotic fervour, nor is it based on the events of hundreds of years ago or the politics of identity. It is grounded on the belief that a country the size of Scotland is, if it is independent, more capable of rising to the one overriding challenge that faces all Governments in the 21st century, which is to find prosperity and quality of life after carbon, after cheap energy and without continuing to fritter away the world's ecological capital. Sadly, Mr Baker is still proposing a narrower vision of a Government that must exist by the permission of another and live by handout.

Richard Baker: Will the member take an intervention?

Patrick Harvie: I am sorry—I do not have time.

Perhaps the most depressing aspect of Richard Baker's amendment is that he is not, even as a committed devolutionist, willing to debate openly the future of this institution.

The Conservative and Liberal amendments have much to commend them, but Mr Brownlee struck the progressive tone more successfully in his speech than did Mr Purvis in his. Mr Purvis rounded only on the SNP, despite the fact that the Labour amendment seeks to close down the debate.

The choice is before us on independence as well as on fiscal powers. Greens will make the case in the coming months, as will other parties, but it is depressing that the Labour Party asks us to close down debate on important issues that face Scotland.

11:15

John Swinburne (Central Scotland) (SSCUP):

I have always believed in the principle of fiscal autonomy, but I came to the first debate this morning with an open mind. However, after hearing the Executive's illogical statements about the Howat review of the Executive's budget, I am more convinced than ever that we must have full control of tax raising and expenditure in Scotland and be free from the cold and controlling hand of Westminster.

Many members of Parliament in England accuse us of receiving an unfair share of the country's wealth through the Barnett formula: nothing could be further from the truth. Richard Baker's assertion that fiscal autonomy would be a shortcut to independence is well wide of the mark. The Scottish Senior Citizens Unity Party is in favour of Scotland remaining within the union, but with full fiscal autonomy, which would make us far more able to institute an all-out attack on poverty in all its forms in Scotland.

The eradication of pensioner poverty would be our number 1 priority. Pensioners are utterly neglected and some 21 per cent of us live in poverty. That is not my statistic, but the Government's. In the 21st century, in the fifth most successful economy in the world, the fact that we have pensioner poverty is an abysmal disaster and it is unacceptable. It is unfortunate that not many members of the Government are in the chamber to hear me say that.

Contrary to what Gordon Jackson said, it would be possible for Scotland to enjoy fiscal autonomy while remaining in the union; indeed, fiscal autonomy would be the biggest possible setback to the campaign for all-out independence, because if we controlled our finances there would be no need for independence and the independence campaign would belong on the periphery of reality. If we remained in the union and big departments such as the war department—

Gordon Jackson: The war department?

John Swinburne: Well—whatever we want to call it. We could draw up a contract with the department: it could do what it liked on the military side of things and we could settle our share of the bill by demanding an exorbitant rent for the use of Faslane. That would balance things out.

When Westminster realises that fiscal autonomy for Scotland would be the biggest possible setback to the independence campaign, we will achieve fiscal autonomy. Until that happens, we are stuck with what we have got and we must put up with poor pensions, child poverty and all the rest of it. It would be nice to address those issues off our own bats, in our own country and without outside interference.

11:18

Mike Rumbles (West Aberdeenshire and Kincardine) (LD):

In about six months we will celebrate the 300th anniversary of the treaty of union between Scotland and England. The next elections to the Scottish Parliament will take place within days of that anniversary and it seems that the pre-election campaign is shaping up to be a contest about the future of Scotland, with calls for further devolution and more responsibilities for the Scottish Parliament on one side and calls for independence on the other.

All the evidence from the Scottish public suggests that there is a certain amount of dissatisfaction with the current devolution settlement. There is a groundswell of public opinion that Parliament does not yet have sufficient powers to enable it to do its job properly and that the current situation, in which Parliament is entirely reliant on handouts from Westminster, is unsustainable. If the Scottish Parliament is to mature, it needs greater responsibility for its finances. We have an immature budget process in which the Minister for Finance and Public Service Reform announces spending plans during the budget debate but does not identify any means of raising the money—or part of it—because he is not required to do so.

Liberal Democrats call for a significant increase in the taxation powers and responsibilities of the Scottish Parliament—the report of the Steel commission leads the way in that regard. We need greater fiscal levers if we are to influence the direction of the Scottish economy, further improve competitiveness and accountability and allocate resources more efficiently.

Jim Mather wants a debate on financial powers, but during his speech he admitted that increased financial powers would be

“a step on the road”

to independence.

Richard Baker said that we should use the powers that we have, but is the Labour Party willing to use Parliament's tax-varying power? It has steadfastly refused to do so.

Richard Baker: That approach was agreed by my party and Mike Rumbles's party; it is in the partnership agreement.

Mike Rumbles: It was put there by the Labour Party.

Like Richard Baker, Derek Brownlee said that we should use the powers that we have, but he refused to say whether the Conservative party would be willing to use Parliament's tax-varying powers. That is because the Conservatives cannot make up their minds and are completely divided

on the issue. After all, it has taken seven and a half years for them to come round to accepting the existence of the Scottish Parliament.

Margo MacDonald: Will the member give way?

Mike Rumbles: I am sorry—I do not have time.

Brian Adam was right to point out how conservative the Labour Party's position is. The Labour Party is the only party in Scotland that is stuck in the "no change" groove.

Only by giving Parliament serious and mature tax-varying powers and through willingness to use them can we ensure responsibility in Government. The Liberal Democrats believe that the Scottish people want a mature and more financially responsible Parliament. The Scottish people want their representatives—us—to spend their money wisely and to take responsibility for raising most of that money. We therefore need to reform the Scotland Act 1998 and allow Scotland's Parliament the proper financial powers to effect real change.

Our first First Minister, Donald Dewar, often said that devolution is a process, not an event. I urge members to support the Liberal Democrat amendment at decision time.

11:23

Bill Aitken (Glasgow) (Con): Jim Mather put what appeared to be a reasonable case reasonably, but as I listened to him I wondered what lay behind his speech. Gordon Jackson was correct when he said that people in Scotland regard the SNP as a party of independence. I do not agree with the SNP on independence, but to believe in independence is to take a perfectly honourable position, which is worthy of respect.

However, if there is not quite a conspiracy of silence on the SNP benches, there is a deliberate tactic to play down the independence issue. Alex Neil will no doubt frighten the horses in his summing-up speech, but every SNP member who has spoken has avoided the issue like the plague.

Margo MacDonald: Will the member give way?

Bill Aitken: I am sorry, but I have only four minutes.

I compare and contrast the dry fiscal reasonableness of Jim Mather and Fergus Ewing with the high-spending philosophy of Linda Fabiani and Christine Grahame. It is inevitable that I must agree with Richard Baker to some extent: the SNP is the party of high spend.

In anticipation that support for the independence argument might be canvassed during the debate and because I was wondering whether there might be something of which I was not aware, I did some

research. I logged on to the SNP's website, where a series of questions are posed. The first question, "Why independence?" is followed by the heading, "Why Scotland needs to become independent". The answer is:

"There are currently no items in this folder."

I then wondered what the SNP says about finance. Under the heading "What Independence will mean for your finances", the website states:

"There are currently no items in this folder."

I went on to Scotland's oil and how that will impact on the economy. The website told me that

"Scotland is very well placed to be a powerhouse economy, with a wealth of natural resource and an educated workforce",

but under that, it states:

"There are currently no items in this folder."

Under the heading "How Scotland can become independent"—yes; members have got it—it states:

"There are currently no items in this folder."

Scotland will not become independent, because the people of Scotland are not going to cast away all the benefits of a union that has stood them in such good stead for hundreds of years.

Some members made interesting speeches. I have a lot of respect for Jim Mather—he knows what he is talking about when it comes to money, until he gets on to the independence kick, although he was certainly not for doing that today. However, in response to an intervention, he gave the show away when he more or less admitted that the context of the motion was a gradualist approach to independence. Frankly, that is not acceptable.

Several issues have been raised on which there are questions that must be answered. The Conservatives have never taken the view that the Scotland Act 1998 is preserved in aspic or set in tablets of stone. Of course devolution is a dynamic process and must be examined. At the end of the day, the decision may well be that no change will be made, but that does not prevent us from having the discussion and argument.

It is the small things that give members away. Jeremy Purvis's amendment talks about home rule being adjusted

"to deliver real benefits to the people of Scotland".

That is surely a tacit admission that the Executive, of which Mr Purvis's party is part, has manifestly failed. That amendment is certainly not acceptable. The only amendment that makes sense is Derek Brownlee's, which states that the argument should take place in a reasoned manner but stresses that under absolutely no

circumstances should that process be seen as doing anything other than strengthening the union.

11:27

Ms Wendy Alexander (Paisley North) (Lab):

As this is an SNP debate six months before an election, the SNP should, as a minimum, have clarified what Scotland's principal Opposition party believes about the future financing of Scotland. It is somewhat bizarre that, after touting fiscal autonomy as its flagship policy for more than five years, the SNP cannot even bring itself to mention it in the motion or to tell us how it will work. To be fair to the SNP, by definition, every single independent country raises and spends its own taxes—they all have fiscal autonomy. However, as others have said, no devolved or federal nation has adopted fiscal autonomy to finance its constituent parts. Why? It is because the very reason for being part of a larger state is to share risk, resources and revenues. When I asked Jim Mather for examples of fiscal autonomy, he cited Navarre, the Basque Country, Montenegro and the Channel Islands. Those are hardly the fastest-growing parts of their respective states, but let us leave that aside. All those jurisdictions have fiscal decentralisation and share risk, resources and revenues with the centre; none has fiscal autonomy.

Jim Mather: There is an article by somebody who is very close to home in today's edition of *The Scotsman* calling for efficient government. Most people realise that efficient government can be achieved only when there is a closely linked virtuous circle between wise spending and Government revenues. How will we get efficient government in Scotland in the fiscal vacuum that Wendy Alexander wishes to create for it?

Ms Alexander: We get efficiency by good government and good politics.

Let me return to fiscal autonomy. As Brian Adam made clear, fiscal autonomy is a financing system for independence. As I think David McLetchie pointed out, that is why we cannot find a single paragraph on the SNP's website about how its flagship policy will work. The debate has been important in that the only conclusion that one can draw from it is that fiscal autonomy is officially dead as an SNP flagship policy. Members heard it here first: fiscal autonomy is dead and has been consigned to the cluttered graveyard of discarded dead economic policies.

Fiscal autonomy is going the way of the oil fund, which was the SNP's centrepiece in 2003, but which is no more and did not even rate a mention in the budget discussion this year. In 1999, we had the penny for Scotland, which is gone but perhaps not forgotten. In 1997, the SNP tried to balance

the books by claiming that an independent Scotland would inherit none of the national debt. All those policies are discredited and dead and all of them have been ditched because of their lack of plausibility.

The SNP knows that the Scots do not want to hand over all their public services, including the entire health, education and police services, to the mercy of a financing system about which the SNP cannot even provide a motion, never mind a one-page guide. That is not serious politics. We speak today not in some seminar room; this is a Parliament with a responsibility to the people to sustain their livelihoods and preserve their services. The people of Scotland deserve better. Let us forget the deception and start providing some detail.

11:32

Alex Neil (Central Scotland) (SNP): The debate has been interesting and we have learned some things: we have learned that Bill Aitken does not know how to use the internet and that Wendy Alexander has not read the motion. The words "fiscal autonomy" do not appear in the motion—we talk about "fiscal powers". I will make it absolutely clear to Gordon Jackson, so that there is no dubiety whatever: I am a heart-and-soul nationalist; I am a cultural nationalist; I am a political nationalist; I am an economic nationalist; and I am a moral nationalist.

Bristow Muldoon: Will the member take an intervention?

Alex Neil: I will, in a minute.

I want my country to be able to say that we are not participating in an illegal war in Iraq or anywhere else. I want my country to be able to say that we are not having Trident or son of Trident. I do not want to say to the people of England, as the First Minister did, "The reason we want to stay in the union is so that we can dump our nuclear waste on English soil."

I will let in Bristow Muldoon, but before I do, I congratulate him on his new appointment as an attack dog. Let us find out—is he a Rottweiler or is he a poodle?

Bristow Muldoon: I thank Mr Neil for his good grace in giving way. He declared himself to be an economic nationalist. Given that the SNP stands on a policy of separatism, will Mr Neil set out what currency an independent Scotland would have if the SNP lost a referendum on the euro and which way he would vote in such a referendum?

Alex Neil: All I can say is that Bristow Muldoon is the only poodle whose hair disnae curl. The answer to the question is easy-peasy. Our position is very clear: when Scotland becomes

independent, and during that process, we will retain the pound sterling. If, after independence, the Scottish people want Scotland to go into the euro, that will be a matter for the Scottish people. Why cannot the Labour Party trust the people? It is their decision.

What is interesting about the question and, indeed, what is interesting about all the speeches that we have heard from the unionist parties this morning, is that they have all forgotten about the much bigger union of which we are a member. We are no longer just a member of the union with Britain; we are also supposed to be part of the European Union. How is it logical and sensible for Ireland to be a nation state member, and for Austria, Portugal, Luxembourg, Sweden and all the other successful small countries to be members of the EU but not for Scotland to be a member? There is no answer to that question.

I say to the attack dogs—to the poodles, because the Rottweiler, Duncan McNeil, has left the chamber—that what matters is the European dimension. That is what makes independence not just desirable but absolutely essential. What we are dealing with this morning is the non-settled will of the Scottish people because it is clear from the poll that was published yesterday that they no longer regard devolution as their settled will.

Mr Monteith: Is not it illogical to want independence from Westminster but not independence from Brussels, where some 70 to 80 per cent of the laws of our land are framed and passed?

Alex Neil: It is precisely because of the transfer of power from London to Brussels that we should relocate our external representation from London to Brussels. We do not hear the Irish saying that they are going to give up their independence and let London represent them in Brussels. Wee Ireland—whose population was about half the size of Scotland's at one time—has done much more in the European Union than big Britain has ever done.

Jeremy Purvis rose—

Alex Neil: I will let Jeremy Purvis in. His main criticism of our proposed council of economic advisers is that it would be “boring”. All I can say is that Jeremy will recognise boring when he sees it. *[Laughter.]*

Jeremy Purvis: My question is about Mr Mather's virtuous circle, which I am sure Mr Neil supports. Is the virtuous circle to transfer control from London to Brussels? I thought that the SNP wanted control here, in Edinburgh.

Alex Neil: That was a devastating intervention—absolutely devastating. The reality is that, over the past 40 years, power has shifted from London to

Brussels. There is no reserved power in Westminster that could not be better exercised from Holyrood.

I agree with the first point that Richard Baker made in his speech. The main issues are jobs, housing and the standard of living. That is why we need independence. The economic consequences of the union have been disastrous for too many of our people. Let us compare child poverty in Scotland, where a quarter of our children are living in poverty despite all the resources that we have, with Denmark—a country that has practically no resources—where the figure is less than 2 per cent. Let us consider also the level of pensioner poverty in countries such as Finland, Norway and Austria. It is minuscule. Compare that to the fact that a fifth of our pensioners live on or near the poverty line.

We have had 10 years of a Labour Government—it calls itself a Labour Government—yet, according to all the recent reports, the distribution of income and wealth in this country is getting more unfair and the level of poverty is rising all the time.

Ms Alexander: Will the member give way?

Alex Neil: I will let Wendy Alexander in. Let me tell members about Wendy Alexander, in case they did not see her on “Newsnight” the other night. At 11 o'clock, she came on saying that, if we have independence, there will be 10 years of disruption and chaos.

The Presiding Officer (Mr George Reid): Very briefly, Mr Neil.

Alex Neil: At 5 past 11, it was up to 20 years. By quarter past 11, it was up to 60 years.

The Presiding Officer: You have 30 seconds, Mr Neil.

Alex Neil: All I can say is that I am glad that BBC2 does not have adverts. By the end of the adverts, it would have been up to 100 years. *[Laughter.]*

The Presiding Officer: We close there.

Ms Alexander: On a point of order, Presiding Officer. The member accepted my intervention but then did not let me make my point.

The Presiding Officer: I am sorry, but I did not hear that. We will return to that once we have consulted.

Question Time

SCOTTISH EXECUTIVE

General Questions

11:40

Housing Stock Transfer

1. Frances Curran (West of Scotland) (SSP):

To ask the Scottish Executive what impact the recent votes against stock transfer in Stirling and Renfrewshire will have on the Scottish Executive's stock transfer policy. (S2O-10930)

The Minister for Communities (Malcolm Chisholm): The Stirling and Renfrewshire ballot results were very disappointing. The packages that were put before tenants would have delivered significant new housing investment and rent stability. Despite those setbacks, transfer will remain a key means for some councils to improve housing in their areas. Tenants in the Highland Council area are currently voting on a transfer proposal and tenants in Inverclyde will have an opportunity to vote shortly.

Tenants in four areas—Glasgow, the Borders, Dumfries and Galloway and the Western Isles—have already transferred to community ownership, and substantial new investment is now being delivered on the ground, as Audit Scotland has made clear. The transfer in Argyll and Bute is due to be completed shortly.

Frances Curran: I wonder how many more ballot defeats the Executive needs before it gets the message that the privatisation of council housing is unacceptable to tenants. Will the minister demand that Gordon Brown release the almost £500 million that is currently sitting in a Westminster bank account, which should be spent on housing investment but which Gordon Brown will not give to tenants because he does not like the way in which they voted?

Malcolm Chisholm: It is shameful that Frances Curran is, once again, calling the process privatisation. There are many housing associations throughout Scotland in which tenants have a central role. The ballot that is taking place in the Highland Council area is a good case in point, as it is not just about transferring stock to a housing association. There will be six local committees, each of which will have a tenant majority.

Over and above that, as Frances Curran knows, housing associations are non-profit-making organisations. One of the major obstacles that we have faced in the ballots is the fact that Frances

Curran and other people are going round telling people that the process is privatisation. Let me make it clear to tenants in Highland and in Inverclyde that it is not; it is community ownership, new opportunities for tenant involvement and new opportunities for greater investment and stable rents in the years to come.

Tricia Marwick (Mid Scotland and Fife) (SNP):

Is it not the case that everybody but the minister knows that the Government's flagship policy of wholesale stock transfer is dead in the water? The minister, once again, blames misinformation campaigns. Does he not accept that the debacle of the Glasgow housing stock transfer and the Government's failure to deliver second-stage transfer to Glasgow tenants has led to other tenants who are faced with a ballot not trusting the minister and the Government to deliver on their promises? Even Margaret Curran recognises that. Will the minister take the opportunity today to give a timescale for the second-stage stock transfer in Glasgow?

Malcolm Chisholm: Tricia Marwick knows fine well that second-stage transfer is not an issue in the ballot in Highland and that it will not be an issue in the ballot in Inverclyde. Indeed, it was not an issue in any other ballot in Scotland. It is, again, misleading tenants to suggest that the challenges and difficulties of second-stage transfer are in any way relevant to the choices that they face.

The investment that is taking place in Glasgow is more than double the investment that was made each year before the stock transfer. That investment is being made in Glasgow notwithstanding the difficulties with second-stage transfer and we are determined that progress will be made. The joint team report will be published within the next month and will map a way forward on the issue.

Dave Petrie (Highlands and Islands) (Con):

What advice would the minister offer such councils regarding the servicing of their debt and the carrying out of essential repairs within reasonable rent limits?

Malcolm Chisholm: Councils have a choice. No one is forcing councils to go down the route of community ownership. If they are able to meet their investment levels while keeping rents at a stable level, they can choose to do that. However, the fact is that community ownership is by far the best option for many councils, as it allows the debt to be written off. In the case of Highland Council, for example, the 41p in the pound that is currently being spent on the repayment of debt could be freed up to promote more investment and keep rents stable. Councils have a choice. We are not against councils investing directly in their stock if they choose to do that, but it is important that we

have the option of community ownership for councils that can benefit from it.

Margo MacDonald (Lothians) (Ind): I wonder whether the minister would care to retract his statement that the debacle in Glasgow has had no effect on the other referenda on the matter. It was a pertinent factor in people in Edinburgh rejecting the new style of ownership. Will the minister explain why, when there is so much proof that people's instincts and experience caution them against moving outwith council control, the Executive insists on pursuing that approach? It is a matter for the people as much as the politicians.

Malcolm Chisholm: Tenants have a choice and a vote and nobody is trying to take those away. If Margo MacDonald had listened carefully to what I said to Tricia Marwick, she would know that I said that it is misleading tenants to suggest that second-stage transfer is in any way relevant to the choice that they face. I was not saying that perceptions about that do not influence some tenants—I know that research has been done on the matter in Edinburgh. That is clear in Edinburgh, but the fact is that the second-stage transfer process is unique to Glasgow.

The extra investment has gone in, both in Glasgow and in the other local authority areas where there have been transfers. If tenants in Highland and Inverclyde vote yes, they will have massively increased investment and stable rents in the years to come.

Health Centres (Renfrew and Barrhead)

2. Ms Wendy Alexander (Paisley North) (Lab): To ask the Scottish Executive whether the Minister for Health and Community Care will consider a visit to Renfrew, given the Executive's recent announcement of further resources for NHS Greater Glasgow and Clyde to support the building of new health centres in Renfrew and Barrhead. (S2O-10894)

The Minister for Health and Community Care (Mr Andy Kerr): I would be happy to respond to any invitation from the member or NHS Greater Glasgow and Clyde and its partners in respect of those important projects, which will improve health and social care services in Renfrew and Barrhead.

Ms Alexander: I thank the minister for his commitment. Does he agree that the facilities will provide a base from which to drive forward the public health agenda at the heart of some of the communities where we need to make the greatest progress?

Mr Kerr: Not only that, but the facilities fit extremely well with our well-received "Delivering for Health" strategy, which is about the localisation of care and the anticipation and prevention of ill health. I particularly welcome the local partnership

working between social work services, general practitioners and local health services.

I look forward to construction of the Renfrew centre starting in mid to late 2007 and to the facility being operational by January 2009.

Mr Kenneth Macintosh (Eastwood) (Lab): I echo my colleague Wendy Alexander's invitation to the minister. While he is visiting Renfrew, will he also visit Barrhead? He will be aware that East Renfrewshire enjoys good health outcomes for all people, but he might also be aware of the difference in longevity and life expectancy between the Eastwood side of the authority and the Barrhead side. He is welcome to come to Barrhead to see for himself the difference that the Executive's investment in the health centre will have on the population.

Mr Kerr: I would be happy to do that. The additional investment in resources is also about people and the services that they can provide. In Barrhead, we see a good example of best practice in the partnership working that is involved in the planned health and social care centre. I look forward not only to speaking to the staff who are involved in that process but to seeing the Barrhead facility in operation by 2010-11.

Smoking Ban (Bar Workers)

3. Marlyn Glen (North East Scotland) (Lab): To ask the Scottish Executive how satisfied it is with the reported benefits to the general health of bar workers following the introduction of the smoking ban. (S2O-10904)

The Minister for Health and Community Care (Mr Andy Kerr): It is too early to say precisely what impact the new laws on smoke-free areas are having. However, I welcome the findings of the study of bar workers that was conducted in Tayside, which suggest that the legislation is associated with significant early improvement in respiratory and other systems associated with environmental tobacco smoke. We intend to contribute in due course to the worldwide evidence base in relation to the policy.

Marlyn Glen: Are there any plans to publicise the detail of the study by the University of Dundee that the minister mentioned and the on-going study in Aberdeen? Such publicity would inform the Scottish public of the benefits of the smoking ban as well as the hazardous level of pollutants that were created by only three smokers in a small bar.

Mr Kerr: The survey that was done in Tayside is important. It shows that, even a short time after the ban was implemented, there had been a reduction of almost 33 per cent in respiratory symptoms, such as wheezes and coughs, and sensory symptoms, such as sore eyes and sore

throats. We are already seeing significant improvements.

The Scottish Executive is duty bound to contribute to the worldwide understanding of the benefits of legislation on smoking. That is why we put in place a significant and well-resourced project to research not only the effects of exposure but attitudes, compliance, culture, morbidity and mortality. The details are available at www.clearingtheairscotland.com. In doing that research, we will contribute to the worldwide efforts to pass legislation on smoking. The Tayside project is just one part of that.

School Facilities

4. Karen Gillon (Clydesdale) (Lab): To ask the Scottish Executive what priorities it has set for the additional investment in school facilities. (S2O-10903)

The Minister for Education and Young People (Peter Peacock): In announcing an additional £30 million for this year's schools fund capital grant, I emphasised the benefits of using it to deliver greener, healthier schools. That money is in addition to the excellent public-private partnership, schools fund and prudential borrowing investment that is under way in our schools.

Karen Gillon: I ask the minister to join me in congratulating South Lanarkshire Council on its ambitious programme to replace all its primary schools. Two new schools have opened in my constituency and two are under construction. Will the minister tell us what effect the Scottish National Party's plans would have on the building programme? [*Interruption.*] What further information can be given to local authorities so that they can enhance the opportunities for disabled children, particularly in physical education, and ensure that they have access to mainstream school facilities?

Peter Peacock: SNP members should not get too excited.

I join Karen Gillon in congratulating South Lanarkshire Council, which is one of the most progressive authorities. It is following on from the excellent example that Tom McCabe set when he was the leader there a few years ago. It has progressed enormously. Today, it is investing almost £400 million in new schools because the Executive has allowed that to happen.

I think that I am correct to say that, in Karen Gillon's constituency, there are five new schools, at Lesmahagow, Carluke, Larkhall, Biggar and Lanark. The development is unprecedented in the Scottish experience, so it is right to congratulate South Lanarkshire Council. As part of the investment, all modern facilities will comply with the requirements for proper disabled access.

Karen Gillon is right to point out to the Parliament—and, through it, to the wider Scottish public—that those programmes are exactly the ones that the SNP plans to cancel if it wins the election.

Fiona Hyslop (Lothians) (SNP): Is the minister aware that the SNP's school-building programme will match brick for brick any proposals by the Executive? When he considers his priorities, what priority does he give to after-hours access to PPP schools by youth and community groups to tackle the fitness and obesity problems in our communities? Can he confirm that expensive PPP programmes lock out youth and community groups from schools at 4 o'clock? What is the Executive doing about that?

Peter Peacock: That is one of the myths that the SNP portrays about PPP schools. There is nothing particular about PPP funding that allows or does not allow access to schools. Recently, I visited one of the brand new PPP schools in Scotland. It is open to the whole community seven days a week for all the hours of the day for which it is possible to open. There is nothing to prevent PPP schools from doing that.

Fiona Hyslop says that the SNP would match what we are doing brick for brick, but she has no evidence to support how it would do that. I wrote to her recently and asked 34 questions about the financing of the SNP's proposals, but I have been unable to get a single answer because the SNP does not have proposals that stack up. I remind the member of some of the questions that I asked.

The Presiding Officer (Mr George Reid): Briefly, please.

Peter Peacock: I asked the SNP what would be the legal status of its proposed trust, but it is unable to answer. I asked whether the SNP would issue bonds, whether it would have the power to issue bonds and who would stand as guarantor, but it is unable to answer. The SNP has a slogan about school improvement, but it has no plans to sustain that.

Lord James Douglas-Hamilton (Lothians) (Con): Will the minister consider increasing the number of school sports halls as a priority for investment? Will he take into account the fact that the retention of school playing fields should be an important factor before decisions are made on investment priorities?

Peter Peacock: Sports facilities are prominent in the development of new schools. Indeed, some of the sports facilities at Williamwood high school, which I mentioned earlier, are par excellence and second to none. Those new facilities are open to the community because one of our key objectives is to make sure that sport, art and drama facilities, for example, in which we are making a major

investment on behalf of the public, are widely accessible to the wider community.

St Andrews Agreement

5. Jim Mather (Highlands and Islands) (SNP):

To ask the Scottish Executive what plans it has to work more closely and effectively with politicians, business leaders, trade unions and civic society in Northern Ireland to support the St Andrews agreement and to foster economic and social cohesion between Scotland and the island of Ireland. (S2O-10890)

The Minister for Finance and Public Service Reform (Mr Tom McCabe): The Scottish Executive has developed good relationships with the Government in Northern Ireland and we will continue to build on those. The First Minister is in regular contact with the Secretary of State for Northern Ireland. In addition, he will meet the Taoiseach in Dublin shortly.

Jim Mather: I understand that £200 million of European money is available to Ireland and Northern Ireland to promote cross-border economic co-operation and that it could well be increased to include Scotland. What steps will be taken to identify how that money could be increased and, once we have achieved access to those funds, will the reinstatement of the Campbeltown to Ballycastle ferry feature in subsequent plans to ensure better economic co-operation between us and the island of Ireland?

Mr McCabe: I am not in a position to predetermine what form the discussions will take. The maritime cross-border co-operation programme is being examined at the moment. It represents another part of our determination to foster the best-possible individual and economic relationships to benefit people in Scotland as well as in Northern Ireland.

Scoliosis

6. Mr Kenneth Macintosh (Eastwood) (Lab):

To ask the Scottish Executive what progress is being made in improving services for the treatment of scoliosis. (S2O-10915)

The Minister for Health and Community Care (Mr Andy Kerr): There has been considerable additional investment in the scoliosis service since its designation as a national service in April 2005. As a result, there are now more specialist staff, new equipment and outreach clinics in Glasgow. Throughput for both assessment and surgery is now much faster, with most children waiting no more than four months for surgery.

Mr Macintosh: Is the minister aware of the on-going cases of two of my young constituents in East Renfrewshire who have experienced unacceptable delays in accessing surgery? Will he

investigate the impact of the welcome recent investment in scoliosis services and will he monitor that investment and the restructuring reform programme to see what benefit they have had for patients? Will he look in particular at whether there is enough capacity in the system—simply whether there are enough surgeons in Scotland who are qualified to treat scoliosis—so that patients such as my constituents and others in Scotland do not have to travel to England or elsewhere for treatment?

Mr Kerr: Reference has been made in the past to patients travelling to Stanmore hospital for treatment. As a result of difficulties in delivering the service, we felt that it was appropriate to offer parents and their children the opportunity to receive early access to expert care at Stanmore. More than 39 children took up that offer. However, I take the point that we want to build a sustainable service in Scotland and that is exactly what we are doing through the national service that we provide.

I will not discuss here the individual cases to which the member referred because I worry about patient confidentiality given the small number of cases involved, but he can rest assured that I know how many young children are in the system, how many are being treated currently and how many are waiting and for how long, and I know of any complications in individual cases. I am more than happy to look into the cases that the member outlined more privately.

I assure the member that additional consultants and new technology and equipment are now in place and that we are trying to reduce the patient journey through the new techniques that are available to us. Scoliosis treatment in Scotland is a serious matter for us. It is a national service that has been funded with extra resources and it is delivering rapidly improved services to patients.

The Presiding Officer: Question 7 has been withdrawn.

Children's Sports Glasses (National Health Service Provision)

8. Mrs Nanette Milne (North East Scotland) (Con):

To ask the Scottish Executive what plans it has to extend arrangements for the provision of NHS glasses for children under 16 to include the provision of sports glasses. (S2O-10933)

The Deputy Minister for Health and Community Care (Lewis Macdonald): Children under 16 get help with buying glasses through the optical voucher scheme. Additional vouchers are not provided for the purchase of sports glasses and there are no current plans to amend the scheme.

Mrs Milne: Does the minister agree that encouraging our young people to be active and

become involved in sport is essential if we are to build a healthy Scottish youth? Does he also agree that many young people who take up active sports such as rugby or shinty require visual correction by the provision of sports safety glasses, which can be prohibitively expensive to their families as they often cost upwards of £150? Will he undertake to look into the possibility of having the glasses provided free of charge to those children who need them?

Lewis Macdonald: We are always happy to consider proposals of that kind. We have not seen such a proposal from either sports or optical interests, but if Mrs Milne wishes to write to me on the matter, I will consider it with interest.

The Presiding Officer: Before we come to First Minister's question time, members will want to join me in welcoming to the gallery, during his three-day visit to Parliament, Cardinal Keith O'Brien. *[Applause.]*

First Minister's Question Time

12:00

Cabinet (Meetings)

1. Nicola Sturgeon (Glasgow) (SNP): To ask the First Minister what issues will be discussed at the next meeting of the Scottish Executive's Cabinet. (S2F-2508)

The First Minister (Mr Jack McConnell): The Cabinet will discuss issues of importance to Scotland.

Nicola Sturgeon: The First Minister said recently that he would fight the election campaign on education. He also said that education from the early years onwards was

"at the heart of our efforts to enhance our competitive advantage over the next 20 years".

In that case, can the First Minister explain why on earth his Government has allowed Scotland to fall seriously behind England in the provision of early years education?

The First Minister: In fact, Scotland was ahead of the rest of the United Kingdom in the provision of early years education and we are proud that that has been one of the benefits of devolution in Scotland. I have no doubt that the combination of our investments in pre-five education and in the early years of primary schools—reducing class sizes, providing additional support and ensuring that the early years curriculum is right for the youngsters—is one reason why youngsters in our primary schools today have increasing attainment and increasingly increasing attainment.

Nicola Sturgeon: Has the First Minister not just put his finger on it? Scotland was ahead, but now Scotland is behind. Is he aware that, while children in Scotland are legally entitled to 12 and a half hours a week of free nursery education for 33 weeks of the year, provision in England increased from April this year to 12 and a half hours for 38 weeks and next year is set to increase by a lot more?

Why, despite the First Minister's clear pledge to introduce a similar increase in Scotland, has he completely failed to do so? How does he expect anyone to believe his promise of a few weeks ago to

"make Scotland's education system the very best in the world",

when under his incompetent stewardship it is not even keeping pace with England?

The First Minister: I want to say two things in response to that, if my colleagues on the Liberal Democrat benches will allow me. First, I am

delighted that Miss Sturgeon wants me to congratulate the Labour Government on its improvement of nursery education. I will be certain to pass that on to the Prime Minister on the next occasion that I meet him.

Secondly, let me be clear that if I am still First Minister next summer, next year's spending review and the budget for the following three years will include not only 15 hours a week of nursery education for 38 weeks but—going further than the rest of the UK—a flexibility in provision that will allow people to tailor nursery education to their youngsters and their circumstances.

Nicola Sturgeon: Is the problem not that we heard exactly that before the general election last year? I remind the First Minister that in Scottish Labour's manifesto for the 2005 election he promised

“more hours for more weeks of the year for every child.”

On 17 April 2005, his spokesman said that a fully costed plan for 15 hours a week of nursery education would be produced before the end of summer 2005. Some 18 months later, absolutely nothing has happened, even though the First Minister knows how important early years education is and that many working families struggle with the cost of child care. I am sure that every parent in Scotland will want the First Minister to tell them why absolutely nothing has happened since he made that pledge.

The First Minister: The position is clear. If I continue to be First Minister, the budget for the following three years will include a commitment not only to provide, for 15 hours a week, the 38 weeks of nursery care that I believe are required to deal with the impact that the discrepancy between the school year and the nursery year is having on youngsters and their parents but, most important of all, to incorporate in the system the flexibility that will give parents and youngsters the best opportunity to seize the benefits that come from those services. That important commitment is made in the context of the resources that are available to us.

In the light of this morning's debate on the Parliament's financial powers, the question that the Scottish National Party must answer is how, should its plans for a separate fiscal regime in Scotland be implemented, it would finance not only our commitment to nursery education, but our commitments to schools, colleges and universities and to the centrality of education to growing our economy and keeping Scotland prosperous in the years to come.

Nicola Sturgeon: The problem with that answer is that Mr McConnell's published draft budget for next year makes no provision whatever for increasing the availability of nursery education in

the way that he has outlined. Let me make it clear that an SNP Government will increase free nursery education by 50 per cent in the next Parliament. Our policy is clear.

Last week the First Minister had the audacity to tell us that we should use the Parliament's existing powers before asking for more. Yesterday's poll showing that 51 per cent of people support independence proves that most people reject his false choice.

The Presiding Officer (Mr George Reid): Question.

Nicola Sturgeon: Is it not the case that Mr McConnell's record on education shows that he is not capable of using even the Parliament's existing powers properly? That is why more and more people in Scotland want a First Minister who is up to the job.

The First Minister: I could list the improvement in attainment and results at every level of the Scottish education system, the massive demand for places at our colleges and universities and the fact that we were the first place in the United Kingdom to implement the nursery education provision that is so important for our youngsters and on which we will go further. What is most important is that I list the choices that the people of Scotland will have next year. Let me take just one example. It is reported that Alex Salmond will make a speech in Belfast today—he does not have the nerve to make it in any Scottish community—in which he will outline his intention to cancel the school building programme and ensure that the public-private partnerships that have delivered it come to an end. At least 97 schools in Scotland would be affected by that commitment. Alex Salmond and the SNP must explain to them why, under the SNP, Scotland would not be fit for new school buildings. This Administration offers the only way of delivering those new school buildings. This Government is committed to education.

Prime Minister (Meetings)

2. Miss Annabel Goldie (West of Scotland) (Con): To ask the First Minister when he will next meet the Prime Minister and what issues they will discuss. (S2F-2509)

The First Minister (Mr Jack McConnell): I have no immediate plans to meet the Prime Minister.

Miss Goldie: When they meet, I hope that the Prime Minister and the First Minister will discuss the proposals that were mooted in the report by the chief inspector of prisons that was published yesterday. The First Minister will be aware that, under his leadership, the people of Scotland are used to lengthy waiting lists for hospital treatment,

but so far they have not been subjected to the ludicrous proposal of a waiting list for prison, whereby criminals who should be locked up would be loose on our streets. Yesterday the Minister for Justice said that she would not make criminals queue "at this time". Will the First Minister please rule out that idea immediately, for all time?

The First Minister: There are no plans whatever to implement that recommendation by the chief inspector of prisons.

I remind Annabel Goldie that the waiting lists in our health service have fallen dramatically. Under the last Conservative Government, the number of people on those waiting lists was not even counted. Scotland now has the shortest waiting times that have been recorded for both out-patients and in-patients.

Twenty thousand fewer crimes are recorded in Scotland each year and we have put in place a proper strategy for the management and rehabilitation of offenders and for reducing reoffending in Scotland, which was long overdue, as the figures on reoffending that were published this week show. Cutting crime, catching the people who are responsible and ensuring that they do not reoffend are this Government's priorities, not weekend prisons or waiting lists for prisons.

Miss Goldie: That response compels the question: why was the chief inspector of prisons forced to make those comments? He has been put in a ridiculous position. The First Minister should be aware that, compared to many European countries—such as Ireland, Portugal and Spain—Scotland jails few people per crime committed, which is the only valid measure. On Tuesday, his Minister for Justice was running around with her tail between her legs after the shocking figures for reoffending were released. Does the First Minister accept that much of that reoffending is down not only to inadequate rehabilitation in prisons, but to weak sentencing? Will he finally take some tough action on crime, adopt my three-strikes-and-you're-out proposal, expand prison capacity and send the message that crime does not pay in Scotland?

The First Minister: The response of both main Opposition parties to the figures that were announced on Tuesday was shocking and deceitful. Senior figures on the front benches of both of those parties have an absolute obligation to tell the truth about reoffending and about statistics when they come out. The figures on reoffending that were announced this week are indeed a shame on Scotland and the result of years and years of inactivity. That is precisely why this Government has ensured that the Management of Offenders etc (Scotland) Act 2005, the new community justice authorities, new rehabilitation programmes, investment of more

than £1 million a week in the structure of our prisons, the new measures in our courts that tackle people more quickly and effectively than ever before, the reductions in crime and the increase in police officers are in place to reduce reoffending. That was made crystal clear in 2002-03, which is exactly the period on which the statistics report. Therefore, it is wrong of Miss Goldie to misrepresent the figures. It is time indeed that the Conservatives and the Scottish National Party stopped making it up and talking tough on crime and instead started to vote with the Government when we put in place measures such as the retention of DNA, which both those parties opposed.

Miss Goldie: Let me give the First Minister some chilling facts. Since 1999, the figures for rape and attempted rape, handling an offensive weapon, assault, drug crime, fire raising and vandalism are up and those for persons recalled to prison from supervision or licence are up by more than 300 per cent, which is staggering. Is the First Minister seriously trying to tell us that our justice system is working? He should tell that to the family of Marc Lancashire, who is dead because the Scottish justice system failed him. The First Minister may bluster about anything that comes into his head but, to be frank, Scotland's victims and their families do not care. Our justice system is collapsing on his watch. Will he pledge to rebalance our criminal justice system in favour of the victims?

The First Minister: Not only is that a shocking misrepresentation of the facts in Scotland today, it also ignores the way in which the Tories created the situation in the first place by running down our justice system during all the years that they were in power, including through automatic early release, which they have made such an issue in the Parliament over recent years. I say to Miss Goldie that there is an obligation on leaders of political parties to tell the truth.

Crime in Scotland is down by 5 per cent. Violent crime, crimes of indecency, housebreaking and vandalism are down. There were 1,000 fewer of the most serious violent crimes last year. Our police forces all have additional police officers and our courts are running more effectively and efficiently than they have done for decades. We now have in place a proper system for dealing with the rehabilitation of offenders and cutting the reoffending rate that has been one of Scotland's shames for decades. It is time that the Opposition told the truth about that and started to support some of those measures, rather than frightening people with misrepresentations of the facts.

Mr Alasdair Morrison (Western Isles) (Lab): The First Minister knows that the Crown Estate Commission enjoys a reputation, both in my

constituency and beyond, for being distant, remote and inflexible. For understandable reasons, he will not yet have read the conclusions of a report that was commissioned by Highlands and Islands Enterprise and all the Highlands and Islands local authorities, entitled "The Crown Estate in Scotland: New opportunities for public benefits". Does he agree with that report's recommendation that a review of the property, rights and interests of the Crown Estate in Scotland must now be undertaken in conjunction with his office and that of the Secretary of State for Scotland, so that Scotland's territorial sea bed can be better deployed to the advantage of the people of Scotland? Does he agree that we already have a model that works, in the shape of the Forestry Commission Scotland, which is part of a United Kingdom body that is properly integrated with communities and their politicians throughout the UK? Lastly, will he agree to meet me to discuss those issues?

The First Minister: I am happy to meet Alasdair Morrison to discuss those issues. The report to which he refers has been published just recently. We will read it with interest, consider its conclusions and comment on them in due course.

Mr Jim Wallace (Orkney) (LD): When the First Minister visited Orkney in April, he saw the European Marine Energy Centre in Stromness and he knows the potential for developing renewable energy, under the direction and guidance of the Scottish Parliament and the Scottish ministers, along with aquaculture. Will he accept the fundamental need to change the role and status of the Crown Estate and take up the recommendation—once he has had a chance to read the full report—to hold negotiations and discussions with the Secretary of State for Scotland? Does he accept that the marine bill that is coming down the track might present an opportunity to do that?

The First Minister: Those are interesting points. I look forward both to reading the report to which Alasdair Morrison referred and to discussing those matters with colleagues here in the Scottish Parliament and colleagues in the Scottish Executive in advance of any discussions with colleagues in London. In due course, we will be able to comment on the recommendations of that report.

Scott Barrie (Dunfermline West) (Lab): The First Minister will be aware of the announcement made last Friday by the United States-based firm Soletron that it would issue 90-day notices to its 450 employees at a facility in Dunfermline. Where does he believe that that leaves the microelectronics industry in Scotland? What assistance will be available to my constituents and others to ensure that we are able to sustain a high-quality presence in the sector?

The First Minister: We are all disappointed by the decision that has been announced. We all wish that the owners and management of that company had taken more account of the skills that are available here in Scotland and had sought to continue some operations here. That said, it is important that we continue, as ever, to look to the future. First, we should ensure that the affected workforce has access to partnership action for continuing employment—the PACE programme—which has been so successful in helping to secure alternative employment opportunities under such circumstances in other parts of Scotland, and indeed in Fife.

Secondly, we recognise the need to move on in our economy. The electronics sector has played a very important role. There was a cross-party position in the late 1980s and in the 1990s on the very important role that that industry played in providing a bridge from Scotland's industrial past to today's modern economy. Now, in this modern, global economy, we in Scotland have to move up the value chain. We have to have the skills, ability and desire to achieve our ambitions in that global economy. Therefore, all companies, both those that are investing from overseas and those that are growing here in Scotland, in the electronics sector and elsewhere, must ensure that they can compete not just with low-value, low-wage economies elsewhere in the world, but with those that are increasing their skills and educational provision.

Winter-related Deaths

3. John Swinburne (Central Scotland) (SSCUP): To ask the First Minister what steps the Scottish Executive will take this winter to reduce the number of cold-related deaths among senior citizens. (S2F-2510)

The First Minister (Mr Jack McConnell): Figures released last week by the registrar general for Scotland showed that winter deaths were at their lowest level ever. Our policies continue to reduce the impact that the cold weather has on elderly people and other vulnerable groups. Measures such as our influenza vaccination campaign, the free central heating programme and the warm deal programme will continue to help.

John Swinburne: Will the First Minister join me in congratulating the Chancellor of the Exchequer, Gordon Brown, on the success of his excellent social experiment whereby, prior to last winter, when he was faced with the stark reality of more than 8,000 winter-related deaths among pensioners over the three previous winters, he gave an additional £200 of fuel allowance to pensioners? In the debate in the chamber on 5 October this year, I said that that allowance would have resulted in the first reduction in winter-related

deaths for years. My forecast was vindicated when the registrar general, Duncan Macniven, released his figures, which the First Minister described. Will he undertake to continue Gordon Brown's excellent social experiment, which some decried as an election bribe?

The First Minister: I can imagine the chancellor's response should I make any budget announcements here today, but I am willing to take the valid point that John Swinburne makes to the chancellor before this year's pre-budget report. The actions that the United Kingdom Government and our Government in Scotland have taken are making a difference and I am glad that that is being seen. I hope that we can build on that this year and in years to come.

John Swinburne: Will the First Minister take advantage of a simple method of emulating Gordon Brown's excellent social experiment? The suggestion complies with the Scotland Act 1998. Will he exempt every pensioner household from paying the water charges element of council tax? On the basis of the water charges for a band D house, that would save each household an average of £354 per annum. All pensioner households are required to pay water charges, even if their rent and council tax are paid for them, so the proposal would benefit all pensioners and particularly the poorest. It would lighten pensioners' burden of heating their homes this winter and would prevent more winter-related deaths, which have accounted for 10,000 pensioner deaths in the past four years.

The First Minister: The immediate priority is to continue and to build on the successful programmes that the devolved Scottish Government has introduced, such as the central heating programme and the warm deal programme, which helps people to insulate their houses and therefore to save energy. Such programmes are important and are making a difference, as is free personal care for the elderly and other services that we have introduced. The free bus pass scheme allows elderly people more access to travel, which keeps them alive, active and energetic and therefore keeps them healthier and fitter.

A balance has to be struck between universal provision and provision that is targeted on people who need support most. I am sure that the chancellor considers that carefully and I assure Mr Swinburne that we consider it carefully, too.

Methadone Programme

4. Mr Duncan McNeil (Greenock and Inverclyde) (Lab): To ask the First Minister whether the Scottish Executive will review the operation of the methadone programme. (S2F-2519)

The First Minister (Mr Jack McConnell): The Scottish Executive is reviewing the place of methadone in drug treatment programmes and we expect a report by the end of the year. The report will include new information from health boards about the level of use and how it is monitored. All treatment and rehabilitation programmes should help people to be free from drugs and to live productive and fulfilling lives with the support that they need.

Mr McNeil: It is certainly time for a review. Given the latest research by Professor Neil McKeganey, which finds that the methadone programme helps fewer than 4 per cent of addicts to kick their habit, does the First Minister agree that we need to review the methadone programme and drug treatment services in general and to ask hard questions about both? Is it not time to replace the open-ended and one-sided commitment that the taxpayer makes to addicts with some form of social contract with a clear programme for drug cessation? Would that challenge the prevailing view that drug treatment services are merely about stabilising addicts? Would it spell out our ambition to move addicts on, not to another form of dependence, but to a drug-free life?

The First Minister: It is important to record the progress that has been made. In recent times, the number of residential services that treat people who have problems with drugs or alcohol has increased by 50 per cent. In 2004-05, we had 33 services, which was up from 22 just three years before, and we had 4,000 admissions to those services, up from just over 1,000. The number of residential beds has doubled from 244 to almost 500. The number of places and the number of times that those residential services are used have been a priority, have increased and are making a difference.

I met Professor McKeganey earlier this week to discuss his research and to learn about how residential services seem to be much more effective in producing drug-free lives for people who are on those programmes. We believe absolutely that everybody who is on a programme should have an end point in sight and should agree to move from a drug-dependent lifestyle to a drug-free lifestyle. That is why the review is taking place. The Minister for Justice will report to the Parliament on the review when we have received the report and analysed its conclusions. I hope that, throughout Scotland, we can move to a drug treatment system not only in which there are more residential places, but in which people who are on drug treatment programmes—even in the community—move quickly and directly away from drug dependency and towards drug-free lifestyles.

Stewart Stevenson (Banff and Buchan) (SNP): I welcome the fact that the Executive has

commissioned a report. Its publication will be a helpful contribution to the debate. If only all Executive reports were published.

It has been revealed that England is 10 times more successful than Scotland in treating people on methadone. Will the review that is under way reveal why that is so? The First Minister said that he wants there to be more residential places. Will the review reveal why the existing residential places are not being used?

The First Minister: Stewart Stevenson knows that decisions about who should be placed in residential places are primarily for clinicians and local agencies. A key task is ensuring that local agencies use those places more regularly.

An issue that is raised by the treatment of drug addicts in Scotland is the apparent inconsistency in the approaches of local authorities and health agencies at the local level and of individual practices and treatment programmes. Getting greater consistency throughout Scotland in the treatment of individuals is an issue. Every individual needs an individual programme, but agencies, medical practices and drug programmes should be more consistent and have the clear objective in sight of encouraging people to have a drug-free lifestyle. They should aim to use the residential places in which we have invested a lot of money.

Margaret Mitchell (Central Scotland) (Con): It is almost a year since the tragic death of Derek Doran from a methadone overdose. Derek was two years old. When will the review of guidelines to pharmacists that are issued by NHS Education for Scotland on aspects of methadone prescribing—which were promised for autumn 2006—be published? Are any new measures being implemented, such as a re-evaluation of the assessment criteria that allow addicts to take home three days' worth of prescribed methadone, to ensure that such a terrible accident never happens again?

The First Minister: The review is work in progress. I am certain that I can tell Margaret Mitchell in writing when she can expect the new guidelines to be published. I am also certain that, as part of the review of programmes that I referred to in my first answer on the topic, the guidance that is given and the consistency of the distribution of methadone will be considered.

I think that every member—indeed, everybody in Scotland—was shocked by the death of Derek Doran. We do not know how many families come close to such things happening and are lucky that they have not happened. We need to be clear about what should happen and there needs to be consistency throughout Scotland. There should be clear guidelines for people who are responsible for

prescribing methadone and on the safety measures that should be in place for families so that children are not put in danger.

English Language Courses (Immigrants)

5. Ms Maureen Watt (North East Scotland) (SNP): To ask the First Minister what steps the Scottish Executive will take to ensure that new immigrants to Scotland have the necessary access to English language courses. (S2F-2525)

The First Minister (Mr Jack McConnell): Given the welcome arrival of many new workers to Scotland, providing high-quality, accessible and affordable English courses for speakers of other languages is increasingly important. Colleges and local authorities are funded to provide such courses. Given the increased demand for them, we are reviewing how best to provide them and funding for them in the future so that supply better matches demand. We aim to publish a report with recommendations for the way ahead by the end of the year.

Ms Watt: I broadly agree with the sentiments expressed by the First Minister in *The Press and Journal* on Saturday. A recent survey showed that 106 different languages are spoken in Scotland's schools; in Aberdeen alone, 60 different languages are spoken. Does the First Minister agree that, to ensure a stable multicultural society, it is vital to have more teachers of English as an additional language? Can we expect the report to recommend that steps be taken to fast-track more people into becoming EAL teachers, so that not only children but women do not feel isolated in their new home country and can play a full part in the life of Scotland?

The First Minister: Last Friday, I spoke to workers from Poland and their families on this very subject. I also spoke to some Aberdeen teenagers who are at school with Polish youngsters, and asked about the impact on them. I have come to the clear conclusion that we require additional English language support services not only in the interests of those who have come to Scotland, but in the interests of integration and good community relations, so that youngsters from other countries can converse with and join in with the youngsters who are already in our schools. That point was made to me most forcibly by some young girls from Torry academy in Aberdeen.

This is an important issue. It requires not only funding and systems, but staff or volunteers to assist. We will be looking at the issue as a complete package and producing a report in due course.

The Presiding Officer: We started late and question 6 is important, so I call Iain Smith.

Safety at Sea (Meridian)

6. Iain Smith (North East Fife) (LD): I am sure that the First Minister and the whole chamber will join me in sending condolences to the families of the skipper and crew of the Meridian, who lost their lives last Friday.

To ask the First Minister what review of safety at sea will be carried out following the tragic loss of the fishing vessel, Meridian. (S2F-2512)

The First Minister (Mr Jack McConnell): I am sure that we all deeply regret the loss of the Meridian. I pay tribute to the crewmen who lost their lives and offer my condolences to their families.

Maritime safety is a reserved responsibility. United Kingdom authorities have started an investigation into the loss of the Meridian. We will remain in close contact with them about the investigation and any recommendations for safety at sea that might emerge.

Iain Smith: I, too, welcome the announcement from the marine accident investigation branch of its proposal to investigate the accident. I am sure that the First Minister will agree that at this time our thoughts must be with the bereaved families. What assistance will the Scottish Executive give, in line with the wishes of the families, to the search to locate the wreck of the Meridian and to the investigation into the feasibility of raising the wreck or recovering any bodies that may still be on board?

The First Minister: Following a direct approach from local representatives last weekend, Mr Finnie spoke to me and approached the Norwegian authorities through the appropriate channels. He was involved in discussions on behalf of the families to secure the maximum level of effort from the Norwegian authorities to reassure the families that everything possible had been done in relation to the four lost crewmen. We will be happy to continue discussions with the Norwegian authorities through the appropriate channels in order to reiterate the important points made by the families and by local representatives about the fact that the boat remains undiscovered.

Mr John Swinney (North Tayside) (SNP): On a point of order, Presiding Officer. I wish to raise a point of order in relation to today's and last Thursday's general question time. Last Thursday, Mr Andrew Arbuckle withdrew a question asking the Executive when it expected to receive the final report of the local government finance review committee. This week, Mr Bristow Muldoon withdrew a question asking how long the Executive intended to take to respond to the report of the local government finance review committee.

As you are aware, members enter a ballot for oral questions and the subjects that are chosen

allow other members who have not been selected in the ballot to scrutinise the Government on important issues of public policy. That provides a welcome opportunity for Parliament to scrutinise the Executive. I do not know the reasons why the questions were withdrawn by the members—whose motives I do not impugn in any way whatever—and the parliamentary authorities could not explain to me why the questions were withdrawn. However, on two successive weeks, Parliament has missed out on an opportunity to scrutinise ministers on the publication of an important report on public policy.

Bearing in mind this morning's debate on the Scottish Executive's failure to publish the Howat report in the fashion that was promised, do you share my concerns about the fact that Parliament has lost this valuable scrutiny opportunity? Are you able to suggest any fashion in which we may ensure that the Government is held to account so that it cannot escape scrutiny by supporters of the Scottish Executive withdrawing significant parliamentary questions?

The Presiding Officer: It is in order for members to withdraw questions, but they should not do so lightly, given that other members, as Mr Swinney has outlined, will be denied the right to a supplementary question. In such cases, the Presiding Officer will normally expect, for reasons of courtesy, to be informed of the reasons for withdrawing such questions. They should not, I repeat, be withdrawn lightly.

12:36

Meeting suspended until 14:15.

14:15

On resuming—

Question Time

SCOTTISH EXECUTIVE

Enterprise, Lifelong Learning and Transport

Cumbernauld (A80 Upgrade)

1. Donald Gorrie (Central Scotland) (LD): To ask the Scottish Executive how the community of Cumbernauld will benefit from the decision to follow the on-line route for the upgrade of the A80. (S2O-10939)

The Minister for Transport (Tavish Scott): The community of Cumbernauld will benefit from that significant investment through reduced traffic noise, improved quality in local watercourses and better access between local roads and the M80.

Donald Gorrie: Will the minister indicate whether consideration is being given to the possibility of an additional lane, which is something that is being discussed locally? If a major change of that sort was made, would it require a new public inquiry or could it just go ahead by ministerial decision?

Tavish Scott: The project will be taken forward as detailed in the previous local public inquiry. That was the recommendation that we received and on which we accepted the reporter's findings, and we have no plans to change that position.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I am sure that I speak for the people of Cumbernauld when I say that they would not wish the Executive to consider an additional lane. I await a response from the minister on the subject of bunding and fencing. The people of Cumbernauld want 3m-high bunding along the line of the road as it passes through Cumbernauld. Can the minister give me any further information on that?

Tavish Scott: First, I apologise to Cathie Craigie for the length of time that it has taken to respond to her earlier inquiry. I hope to be able to provide a full technical answer to her points later today. There are some issues to be addressed and I respect the perspective that she has given on that issue on behalf of the residents who have raised it. I understand that the matter was fully examined in the context of the local public inquiry, at which evidence was led about noise. I understand that the Executive's response was made by Dr Bernadette McKell, an acknowledged expert in the area, and I hope to share the findings of Dr McKell's work with Cathie Craigie later today.

National Transport Strategy

2. Patrick Harvie (Glasgow) (Green): To ask the Scottish Executive when it will publish the final draft of the national transport strategy and its analysis of responses to the recent consultation. (S2O-10956)

The Minister for Transport (Tavish Scott): Scotland's first national transport strategy will be published before the end of this year. At the same time, an independent analysis of the responses to the consultation that was carried out as part of the development of the strategy will be published.

Patrick Harvie: I draw the minister's attention to the Executive's website, which is still promising a publication date in October, although close reading of my *Business Bulletin* informs me that today is 2 November. We all look forward to publication of the strategy, but can the minister tell us whether, in the period of delay before publication, there will be time to analyse the strategy in the light of the Stern report's recommendations on climate change?

Tavish Scott: I am grateful to Patrick Harvie for keeping me up to date. I must ensure that the website is fully updated after question time this afternoon. I can assure him that the broad spread of the science behind climate change has been taken into consideration in the national transport strategy. A key aspect of the Stern report, which was published on Monday, is that it makes an economic analysis of the science, and in that regard it is an important piece of work. I can also assure Mr Harvie that a voluntary strategic environmental assessment was undertaken in relation to the national transport strategy, which I hope will assist in the overall consideration of the environmental pressures that we all undoubtedly face.

Rob Gibson (Highlands and Islands) (SNP): In his review of the national transport strategy, will the minister take into account the live petition from the association of Caithness community councils, which seeks a strategic root-and-branch review of the provision of rail services from Caithness to Inverness? Will he perhaps come and visit the petitioners by taking the train from Inverness to Caithness with me?

Tavish Scott: That is a kind offer and I will see what I can do about it.

I hope that Mr Gibson will appreciate that we have worked with First ScotRail to augment the rail services to the far north, particularly on connections to Scrabster and ferry services to Orkney. I understand that the timetabling changes will be implemented in December, and I hope that they will assist people in the area. I will certainly work in both the national transport strategy and the strategic projects review on issues such as rail

connections to the far north, and I respect the interest that the member takes.

Dave Petrie (Highlands and Islands) (Con):

On road improvements, can the minister offer some comfort to the frustrated residents of the west Highlands and Islands and confirm that the proposed upgrading of the hazardous pulpit rock section of the A82 from Tarbet to Crianlarich will be treated with the utmost urgency and will be completed within the next two years at the very latest? I know that the minister is familiar with the route.

Tavish Scott: I am grateful to Dave Petrie for raising the issue, and I will look into the timetabling questions that he has asked. It is clearly a long-standing issue, and it is important that we bring forward our plans and, more to the point, the contract that will deliver the improvements as quickly as possible. I will look into the matter and write to the member.

Mr John Swinney (North Tayside) (SNP): Is the minister in a position to share with Parliament the balance of opinion in the submissions to the national transport strategy on the case for dualling the A9 between Perth and Inverness? Can he tell me what steps he will take to direct the national transport strategy to support the option? I certainly submitted to it that the case for dualling was robust and should be taken forward as part of the strategy.

Tavish Scott: I am beginning to think that this question allows any transport question on anywhere in Scotland to be raised, and I applaud Mr Swinney's ability in finding such an opportunity.

I am aware of the arguments on dualling the A9, and I also know that Mr Swinney has made a formal submission to the consultation on it and other matters. As he and Parliament will know, we are considering the section between Perth and Pitlochry in the strategic projects review. For the rest of the road, we are continuing to work on the issue of journey times—that is one of the cornerstones of our approach—and we hope to make further progress in due course.

Rail Fares (North-east Scotland)

3. Mike Rumbles (West Aberdeenshire and Kincardine) (LD): To ask the Scottish Executive whether it will regulate rail fares for passengers in the north-east of Scotland in the same way as it does for passengers in Edinburgh and Glasgow. (S2O-10950)

The Minister for Transport (Tavish Scott): We will shortly review fares policy, including issues relating to fares regulation.

Mike Rumbles: I am sure that the minister is aware that First ScotRail has increased some

passenger fares between Aberdeen and Edinburgh by up to 50 per cent. Will he raise the issue with First ScotRail at the earliest opportunity?

Tavish Scott: I will certainly take the opportunity to raise the point with First ScotRail. Indeed, given the investments that we make in both the franchise and the network, I have already discussed with it the broad relationship between fares and our clear transport policy position of encouraging people to switch from the car to forms of public transport, including Scotland's rail network. I appreciate Mr Rumbles's concern, and I would be happy to take it up with the company.

Age Discrimination

4. Brian Adam (Aberdeen North) (SNP): To ask the Scottish Executive what the implications are of the new age discrimination laws for skills and training providers. (S2O-10887)

The Deputy First Minister and Minister for Enterprise and Lifelong Learning (Nicol Stephen): It is the responsibility of individual employers and training providers to ensure that they comply with the legislation. We welcome the Employment Equality (Age) Regulations 2006, although it is important to mention that certain age-related practices may continue to be justifiable if they are considered a proportionate means of achieving a legitimate aim.

Brian Adam: Is the minister aware that Scottish Enterprise local enterprise companies are providing advice to the providers of such training. They are being told in no uncertain terms that the Executive will stick with its age-related funding plans while telling the providers that it is their responsibility to deal with anything that comes up?

The advice states:

"Providers and employers, however, cannot use the fact that Scottish Enterprise is not contributing towards the funding of a particular age group as a defence against the Age Legislation."

Surely providers are almost being encouraged to break the law.

Nicol Stephen: Modern apprenticeships are and will continue to be available to people of all ages. Although the enterprise networks support modern apprenticeships for people of all ages in all sectors, the support is divided up according to age. There are three distinct categories: age 16 to 19, age 19 to 25 and age 25 plus. Scottish Enterprise has considered all the legalities and the impact of the legislation on its training programmes. It has consulted closely the Scottish Executive and the Department for Work and Pensions, which will continue to apply a cut-off at the age of 25 under the new deal.

Young people are at a higher risk of work that is not sustained, poor career progression and low income. A range of reasons can be given for targeting training opportunities at the 16-to-19 age group and those young people who are not in education, employment or training. In the opinion of both Scottish Enterprise and the Department for Work and Pensions, a cut-off at the age of 25 is and will remain justified under the new legislative framework.

New Forth Crossing

5. Helen Eadie (Dunfermline East) (Lab): To ask the Scottish Executive what progress has been made in the decision-making process about a new crossing for the Forth at North Queensferry. (S2O-10902)

The Minister for Transport (Tavish Scott): We are taking forward the planning work that must be done if a replacement crossing of the Forth is needed. Therefore, planning is under way through the strategic transport projects review. Five detailed reports have been commissioned and will be completed by next May. The reports will be submitted on 3 November, 30 November, 31 December, 30 April 2007 and 31 May 2007.

That work will allow ministers to take any necessary decision next summer as part of the spending review 2007. At that point, ministers will have an analysis of the condition of the current bridge, options for a replacement crossing—which will include type, form and location—funding and procurement options and legislative requirements. Ministers' possession of the fullest possible information will allow them to make a decision that is based on a comprehensive analysis of options, risks and costs. Full details of the reports will be placed in the Scottish Parliament information centre.

Helen Eadie: I thank the minister for that answer and for the exchange of correspondence in which he has engaged with me. However, I must express genuine frustration and concern on behalf of the people of east-central Scotland, who believe that the minister has done very little work on the matter since he first gave an assurance to Parliament in the spring of this year. The public perception is that he has been dragging his feet and the perception of those who are closest to the coalface is that he has done little or nothing, especially on environmental impact assessment issues and a variety of technical matters. For the well-being of the Scottish economy, it is imperative that a new crossing is considered urgently and with haste.

Tavish Scott: I gave a full answer on what we are doing. It is now on the record that five reports will be submitted later this year and next year. The work that must be done, regardless of when the

decision is taken, is being done. That is what businesses and local people expect. We are talking about a decision that will be of great significance for the Government of the day. In my view, it would be wrong to take a decision now, without doing all the necessary work. Ministers must have the full analysis when they make their decision. As I said in my initial answer, the fact that that analysis is being provided will ensure that the ministers of the day have the full information.

The Presiding Officer (Mr George Reid): As it is unlikely that we will reach question 9, any member who wished to ask a follow-up to question 9 should do so now.

Tricia Marwick (Mid Scotland and Fife) (SNP): Does Mr Scott recall that almost a year ago, the First Minister told me that it would be particularly stupid to carry out the work that he has just announced? Does the minister agree that if that work had been carried out a year ago, the decision could have been made this summer instead of next summer? Will he give a commitment that, regardless of which design is chosen, the Executive agrees in principle to the building of a new Forth crossing, thereby ending once and for all the uncertainty for businesses in Fife and the north?

Tavish Scott: Governments must take decisions on the basis of full information and we are ensuring that the work is being done to allow that to happen. I would have thought that any responsible Opposition would agree with that approach and I am disappointed that the Scottish National Party does not.

I finish by quoting at Tricia Marwick Mr Salmond, who said on 5 September:

"Certainly the planning should be done now because you've got to plan for the eventuality. You don't build something unless you have to."

Margaret Smith (Edinburgh West) (LD): I thank the minister for his response to Helen Eadie. It is clear that on both sides of the Forth there is frustration and concern that we should make progress as quickly as possible. I would like an assurance that the report that is being prepared for the minister not only considers the general issues but goes a step further, so that if a decision is taken that a new Forth crossing is required, some of the practical work to address engineering issues—whether for a bridge, a tunnel or whatever—that forms part of the planning that the minister talked about will have been done. There are concerns that we might get another general report, rather than a report that covers some of the hard practical planning to which the minister alluded.

Tavish Scott: As I said in my answer to Helen Eadie's initial question, one of the pieces of work

that is being done, on which a report will be produced before next May, is on the options for a replacement crossing, covering type, form and location. I assure Margaret Smith that that will include the kind of detail that she is looking for. I repeat the somewhat obvious point that no minister or Government could take a decision without the fullest possible analysis of such issues, which is what will be produced.

Murdo Fraser (Mid Scotland and Fife) (Con): Does the minister accept that damage is already being done to the Fife economy due to the uncertainty that is being created about the Forth crossing? Although I appreciate that work on the detail needs to continue, businesses throughout Fife and the east of Scotland are looking for a commitment in principle to replace the Forth crossing to ensure that we do not see a meltdown in the east of Scotland economy.

Tavish Scott: Let us try to keep to a rational, objective assessment of the situation. The difficulty with that argument is that it suggests that Governments should always take a decision in principle and then consider the evidence to see whether the decision should stand. We are doing it the right way round. We are ensuring that the work and planning in all these areas—which members in all parties will acknowledge must be done—is done, to ensure that we take a decision at the right time with the right information. That is what we will do.

Marilyn Livingstone (Kirkcaldy) (Lab): I hear what the minister says, but I have to agree with my colleagues that for people in my constituency, the whole of Fife and the wider east of Scotland, the issue is the uncertainty. The reports from the bridgemasters have said that there are issues with the bridge. People, in particular those who rely on haulage going across the bridge, are talking about relocating businesses outwith the Fife economy, which must be a worry for us. If the issues with the bridge remain, I do not see why we cannot have a decision in principle to have a new crossing.

The Presiding Officer: You must ask a question.

Marilyn Livingstone: What can the minister do to reassure companies in Fife that the situation is being addressed as a matter of urgency and that a decision will be made quickly?

Tavish Scott: I am not sure what more I can add to the answers that I have already given without repeating exactly what I have said. I appreciate the points about the haulage industry; indeed, we had a fair airing of those points during the Local Government and Transport Committee's debate on these matters a week or so ago. That debate was helpful in allowing us to understand those points fully.

I assure Marilyn Livingstone that we are taking these matters forward and that we are doing the work. I have detailed what the work packages will be. Further information on them will be placed in SPICe, as I said a moment or so ago. We will continue that work and will take the right decision at the right time.

Economic Development (North Ayrshire)

6. Irene Oldfather (Cunninghame South) (Lab): To ask the Scottish Executive what importance it places on increasing economic development opportunities in North Ayrshire. (S2O-10924)

The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson): We place great importance on increasing economic development in North Ayrshire. Along with the local authority, Communities Scotland and other local partners, Scottish Enterprise is making a significant contribution to the North Ayrshire economy. That contribution will be further enhanced by Scottish Enterprise Ayrshire's involvement in the urban regeneration company for Irvine bay and the surrounding area.

Irene Oldfather: I welcome in particular the urban regeneration package, which will assist in upskilling, retraining and bringing much-needed jobs to the local area. Does the minister agree that, in addition to those measures, any strategy on economic development depends on connectivity through social and transport infrastructure? To that end, will the minister discuss with his colleagues additional measures that could be taken, in particular the upgrading of the A737, to support the measures that he has already outlined?

Allan Wilson: I would be pleased to give that commitment. I agree with the underlying premise in the question, which is that implementing improvements in communications—in this instance, roads infrastructure—is vital to future economic development. That was exemplified in the previous discussion about Fife. Of course, the £26 million three-towns bypass helped to open up North Ayrshire to wider access and greater inward investment. The completion of the Scottish transport appraisal guidance report on the design work for the Dalry bypass will now be taken forward in the context of the strategic roads review that the Minister for Transport referred to.

Justice and Law Officers

The Presiding Officer: Question 1 has been withdrawn, as Phil Gallie is on a Commonwealth Parliamentary Association assignment.

Antisocial Behaviour

2. Sarah Boyack (Edinburgh Central) (Lab):

To ask the Scottish Executive what measures are being taken to expand diversionary projects to prevent antisocial behaviour. (S2O-10898)

The Deputy Minister for Justice (Hugh Henry): The local action fund provides £5 million a year to help voluntary sector, sporting and cultural organisations that work with young people to provide interesting and attractive activities as alternatives to antisocial behaviour.

The youth crime prevention fund and the intensive support fund have provided investment of more than £20 million over a four-year period to enable local authorities and voluntary organisations to improve their services, including widening the range of crime prevention projects for young offenders, increasing the support that is available for their parents and victims, increasing the level of community-based supervision of young offenders and supporting those returning to their communities from secure accommodation.

Sarah Boyack: Will the minister discuss with the Minister for Justice, Cathy Jamieson, a recent meeting that she attended in my constituency, at which local people were extremely concerned that not enough diversionary projects are in place for young people? Does the minister agree that we need to monitor the effectiveness of diversionary projects, because we have a small but persistent number of young people whom the criminal justice system is not dealing with effectively? There is great dissatisfaction with the effectiveness of our policies to break the cycle of crime that some young people are trapped in. That is a huge issue for people, not only because of the impact of that behaviour on communities, but because of its effect on the futures of those young people. Will the minister agree to consider the number of diversionary projects in Edinburgh and the number of secure places, so that we can have a comprehensive strategy that gives young people the right kind of support but which also challenges them? That is how we can turn them away from a life of crime.

Hugh Henry: As Sarah Boyack said, a complex range of issues affect antisocial behaviour. She is right to focus on the need for effective diversionary activities.

We take seriously the question of secure accommodation places, and we have expanded the secure estate. I look forward to the new and improved facilities making a major impact throughout Scotland.

Diversionary activities are best designed and delivered locally. Our commitment should be to provide the necessary funding, which we have done. In Edinburgh, there has been a range of

activities, such as arts activities, youth agency activities and outdoor education activities. There is a lot of support for young people. All of those activities have a contribution to make, but Sarah Boyack is right to say that local agencies, local providers and others whom we fund should examine carefully how effectively the funding is used. We should always strive to ensure that we get better outcomes for the money that we invest and, where necessary, obtain additional funding.

Fireworks Act 2003

3. Iain Smith (North East Fife) (LD): To ask the Scottish Executive how many complaints to the police there have been under the Fireworks Act 2003 and what steps it is taking to stop the sale of fireworks to those aged under 18. (S2O-10948)

The Minister for Justice (Cathy Jamieson): The number of firework or bonfire-related incidents reported to police in the period around 5 November was 5,293 in 2003, 4,551 in 2004 and 4,905 in 2005.

Trading standards officers are working closely with police to prevent underage sales. Community wardens are working with local agencies and communities to make neighbourhoods safer in the run-up to bonfire night. I hope that this year everyone who wants to can go out and enjoy firework displays in their communities without having to tolerate the antisocial nuisance that is caused by the irresponsible use of fireworks.

Iain Smith: I agree with the sentiments that the minister has expressed.

We all enjoy a good fireworks display, but the misuse of fireworks causes problems in our communities. The minister will be aware that, although there was a welcome drop in the number of injuries from fireworks after the passing of the 2003 act, there was an increase in the number of such injuries last year, most of which were attributed to incidents that happened in the street. A number of those incidents involved mid-teen children. Does the minister agree that that remains a serious problem and that we must work hard with communities to get the message across that the misuse of fireworks is dangerous and a nuisance? Will she work with trading standards officers and the police to ensure that shops do not sell fireworks to under-18s?

Cathy Jamieson: As I said, trading standards officers are already working closely with the police. For safety reasons, we want fireworks to be used responsibly. It is tragic that so many people have been injured by fireworks and that people are put at risk by their irresponsible use. I want to ensure that we do as much as we can, working in co-operation with trading standards officers and our colleagues at Westminster, as some of the issues

relating to fireworks are reserved. We have had good co-operation up to now, and I expect that to continue.

Alcohol (Sales to Intoxicated People)

4. Mr Andrew Arbuckle (Mid Scotland and Fife) (LD): To ask the Scottish Executive how many people have been prosecuted for selling alcohol to customers who are already intoxicated in the Fife region and nationwide in the last three years. (S2O-10943)

The Lord Advocate (Mrs Elish Angiolini): In the three financial years from 2003 to 2006, a total of 50 charges of selling alcohol to a drunken person were reported to the procurators fiscal throughout Scotland. Seventeen of those charges resulted in a prosecution and 16 were dealt with by an alternative to prosecution. During that period, one person was prosecuted in Fife.

Mr Arbuckle: What additional steps is the Executive taking to counter the culture of binge drinking in Scotland?

The Lord Advocate: The member will be aware of the implementation of the Licensing (Scotland) Act 2005, which presents a completely new framework within which enforcement can take place, especially in relation to the planned prohibition of happy hours and initiatives that may encourage concentrated drinking. We see evidence of such drinking in a number of young people who are accused of crimes or are the victims of crime.

In addition, the test purchasing pilot scheme that is taking place in Fife at the moment is proving successful. We are watching it closely and we will evaluate it. All 900 licensed premises in Fife are to be tested and targeted through the scheme. By 16 October, 521 premises had been tested, of which 74 failed and will be the subject of consideration for prosecution.

Those are effective measures that can be taken under the new framework. I am optimistic that the difficulties that we have had in the past in attempting to prove offences will be overcome more effectively with the new tools that we have as a result of the 2005 act.

Christine May (Central Fife) (Lab): I am pleased to hear the Lord Advocate mention the test purchasing scheme in Fife, which has been successful in my constituency as well.

Does the Lord Advocate accept that there would be fewer prosecutions if better training were given to bar staff by their employers? Will she agree to discuss with procurators fiscal and relevant ministers how that training might be improved so that young people—who are predominantly those

employed as casual labour in bars—are well aware of their responsibilities under the 2005 act?

The Lord Advocate: Procurators fiscal throughout Scotland are working in our communities to raise the profile of all aspects of antisocial behaviour. Indeed, many licensed premises have taken significant steps to train their staff in the health and safety issues that are central to their responsibility not to serve alcohol to persons who may be intoxicated or underage. That responsibility falls squarely on the employers, and failure to comply with the legislation may result in prosecution.

Procurators fiscal are happy to speak to licensees about the legislation and to assist with the training of staff where circumstances permit within the local community. They are doing that with all aspects of the community. It is in everyone's interests to ensure that, as far as possible, the legislation is enforced briskly by licence holders throughout Scotland, most of whom fulfil their duties responsibly.

Drink and Drug-driving Arrests (Hamilton and Bellshill)

5. Michael McMahon (Hamilton North and Bellshill) (Lab): To ask the Scottish Executive how many people were arrested for drink and drug-driving in the Hamilton and Bellshill area during the last festive season. (S2O-10916)

The Minister for Justice (Cathy Jamieson): Strathclyde police have advised us that 19 drink-driving or drug-driving crimes were recorded in the Hamilton and Bellshill area between 16 December 2005 and 4 January 2006.

Michael McMahon: Obviously, the minister will agree that one drink-driving or drug-driving offence is one too many.

In the wider context, does the minister agree that, as we look forward to the festive season, what people want most of all is a peaceful and safe Christmas? What plans does the Executive have to mount campaigns or launch strategies that will ensure that communities are safe in the Christmas period?

Cathy Jamieson: I agree that people want to be able to enjoy themselves over the festive period, but we must ensure that our communities are as safe as they can possibly be. A campaign that highlights the consequences and dangers of drink-driving is already under way. It will run throughout the Christmas period and into the early new year.

Michael McMahon made a valid point about the potential prevalence of other forms of crime during the festive period and the potential for people to be victims of those crimes when they are out shopping or out and about in our towns and cities.

The Executive takes that matter seriously. I will consider what else we can do to highlight such issues.

Reliance

6. Bruce Crawford (Mid Scotland and Fife) (SNP): To ask the Scottish Executive what reviews have been undertaken of the record of Reliance in relation to prisoner escapes. (S2O-10886)

The Minister for Justice (Cathy Jamieson): A review is conducted every time there is an escape, attempted escape or significant incident.

Bruce Crawford: Is the minister aware that a number of my constituents have been attacked or traumatised by prisoners who have escaped from Reliance's custody? Will she review Reliance's contract and ensure that it is amended, so that individuals who are injured or traumatised by escaped prisoners are appropriately compensated when it can be shown that Reliance has been negligent?

Cathy Jamieson: Bruce Crawford has written to me about an incident at Stirling royal infirmary that involved one of his constituents. The local member of Parliament, Gordon Banks, has written to me about the same incident. I understand that Gordon Banks was offered the opportunity to meet Reliance to discuss the incident further, as there is clearly an issue for the company. I am sure that Bruce Crawford can also meet Reliance and that he will want to take up the opportunity to do so.

Youth Courts

7. Mark Ballard (Lothians) (Green): To ask the Scottish Executive when it expects to make a decision about the extension of the youth court model. (S2O-10954)

The Minister for Justice (Cathy Jamieson): A decision on the future of youth courts will be taken soon, and will be based on a final evaluation, which we intend to publish shortly.

Mark Ballard: I look forward, as the minister does, to the results of the pilot project.

To what extent will any decision to adopt adult-style hearings for 16 to 18-year-olds be dictated by cost factors rather than judicial considerations? What is the minister's response to criticisms that the youth court model is being used as a cheaper alternative to extending the children's hearings system to deal with 16 to 18-year-olds, as many leading children's charities have suggested?

Cathy Jamieson: I am sure that the member will take a close interest in the published evaluation.

I assure the member that there is no truth in any rumour that the youth court model is being used

as a cheaper alternative to dealing with matters in the children's hearings system. Youth courts were introduced because we believed that doing so was right as part of the process of dealing with the problem of persistent offenders, particularly 16 and 17-year-old offenders.

When I have visited projects related to the youth courts and discussed issues with people who work in them, I have been told that, far from being in direct contradiction to children's hearings, the youth court model has effectively incorporated some of the best qualities of children's hearings in getting to the root of problems, solving them and dealing with the issues in young people's lives. At the same time, the youth court model gives young people a clear indication that offending behaviour will not be tolerated.

Margaret Mitchell (Central Scotland) (Con): The latest figures reveal that the Scottish Executive has failed to reach its target of cutting youth crime by 10 per cent. Does the minister now agree that 14 and 15-year-olds—who make up 66 per cent of the total number of persistent young offenders—should be sent to youth courts rather than to children's panels?

Cathy Jamieson: We have always said that the possibility exists to involve 15-year-olds in the pilot schemes. The important point is to do what is effective. As people know, I am not happy that we have not had a consistent approach throughout Scotland in dealing with persistent offenders—the small number of people who cause the most grief in communities. Everybody has a responsibility to try to deal with that problem.

It will be important to consider the findings of the youth court pilot schemes, decide what has been effective and try to learn lessons. I want to speak to the Parliament once we have the evaluation.

Operation Triplicate

8. Mr Duncan McNeil (Greenock and Inverclyde) (Lab): To ask the Scottish Executive what progress is being made in freezing and seizing the assets of those arrested during the recent operation triplicate police raids. (S2O-10917)

The Solicitor General for Scotland (John Beckett): Presiding Officer, the question relates to on-going criminal investigations, therefore you will appreciate that it would be inappropriate for the Crown to comment on these live cases at this stage.

Mr McNeil: I thank the Solicitor General for Scotland for that answer, and on behalf of the chamber I welcome him here today. *[Applause.]*

I want to put on record the sense of satisfaction that my community felt on hearing that tens of

thousands of pounds-worth of money and drugs were seized during the recent operation triplicate raids. Will the Solicitor General assure me that the new powers that allow the courts to seize suspects' assets at the start of criminal investigations are being used to their full extent? When will he be able to outline how many houses, bank accounts or other assets have been either seized or frozen in my constituency?

The Presiding Officer: I do not know whether you can add to your previous answer, Solicitor General.

The Solicitor General for Scotland: I can say something, Presiding Officer, but first I thank everybody for their generous welcome.

I reassure Mr McNeil that the Crown is committed to continuing to use the full range of criminal and civil measures to tackle and inhibit serious criminal activity, including drug dealing. That is evidenced by the lowering of the cash-seizure threshold for civil recovery. That approach is shaking the confidence of criminals, emptying their pockets and benefiting communities. We are committed to continuing with such measures. Our success is vouched for by the £1.8 million that was recovered in the six months to the end of September.

Any other comment will have to await the termination of the present proceedings.

Confiscation of Assets

9. Nora Radcliffe (Gordon) (LD): To ask the Scottish Executive what volume of the assets confiscated from drug dealers under the Proceeds of Crime Act 2002 has been returned to local communities. (S2O-10949)

The Deputy Minister for Justice (Hugh Henry): Communities the length and breadth of the country have benefited from the national drug dealers don't care campaign, which was funded by £1 million recovered under the Proceeds of Crime Act 2002 and resulted in 175 arrests and the seizure of a total of £1 million in cash and drugs.

This year, the six local authorities hardest hit by serious violent crime will benefit from a further £2 million of reinvestment, which includes the provision of twilight basketball, localised drug dealers don't care, do you? campaigns, evening and weekend sports initiatives, vehicles such as closed-circuit television vans and graffiti clear-up vans, after-hours clubs and youth outreach work.

Nora Radcliffe: That answer is encouraging.

In an earlier answer, the minister outlined what the Executive is doing to fund diversionary projects for young people, which are important. Does he agree that the ill-gotten gains of drug dealers should properly be applied to measures

that help to take young people out of the market for drugs, and that such measures should be maximised?

Hugh Henry: We will continue to consider imaginative ways of ensuring that the communities that are worst affected by drug dealing see some tangible benefits from the assets that are recovered. There is nothing worse for a community than seeing known drug dealers not only persist with their trade but, sometimes after conviction, continue to lead a life of relative luxury. As the Solicitor General outlined, we intend to ensure that such people are punished through proceedings in the criminal courts that affect their luxury lifestyle. We will think imaginatively about how that money will be used. The worst-affected communities can be assured that there will be tangible benefits from the results of police activity and from the tremendous amounts of information that members of the public have provided through Crimestoppers. I thank all the courageous members of the public who have helped to make arrests a reality.

Business Motion

14:55

The Presiding Officer (Mr George Reid): The next item of business is consideration of business motion S2M-5058, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Scottish Commissioner for Human Rights Bill.

Motion moved,

That the Parliament agrees that, during Stage 3 of the Scottish Commissioner for Human Rights Bill, debate on groups of amendments shall, subject to Rule 9.8.4A, 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:	50 minutes
Group 2:	1 hour 20 minutes
Groups 3 to 5:	1 hour 45 minutes
Groups 6 and 7:	2 hours 20 minutes.—[Ms Margaret Curran.]

Motion agreed to.

Scottish Commissioner for Human Rights Bill: Stage 3

14:57

The Deputy Presiding Officer (Trish Godman): The next item of business is stage 3 proceedings on the Scottish Commissioner for Human Rights Bill. For dealing with amendments, members should have the usual papers: the bill as amended at stage 2, the marshalled list of amendments and the groupings of amendments. Members know about the division bell, so I shall not read out anything more about that.

Section 1—Scottish Commissioner for Human Rights

The Deputy Presiding Officer: Group 1 is on the appointment of a commissioner/establishment of a commission. Amendment 1, in the name of the minister, is grouped with amendments 1 to 4, 6 to 26, 30 to 34, 36 to 96, 98, 100 to 104, 106 to 128, 131, 132, 134, 136, 137, 139 to 150, 152, 153, 156 and 158 to 174. I draw members' attention to the pre-emptions that are printed on the groupings paper.

The Deputy Minister for Education and Young People (Robert Brown): The Executive amendments in group 1 will implement the commitment that we gave at stage 1 to create a commission instead of a commissioner.

The bill as introduced was framed in terms that would create an office of the Scottish commissioner for human rights. That followed the model that the Parliament adopted in previous cases, such as the Scottish Public Services Ombudsman Bill.

During stage 1, it became clear that the Justice 1 Committee and others had concerns about the potential difficulties involved in entrusting a single person with the task that was to be given to the proposed commissioner for human rights. Having considered those concerns, and as part of a wider strategy, the Executive agreed to revert to the original concept of a commission.

Let me pause for a moment to say, by way of providing some context, that the general architecture and the accountability and administrative framework have been substantially strengthened following the stage 1 discussions and the committee's suggestions. The commission will now operate within the context of a strategic plan. We have also changed the commission's accountability to Parliament on budgetary and locational issues, which will be much more closely tied to the powers of the Scottish Parliamentary Corporate Body.

Amendment 1 will replace the current section 1(1) with a new subsection that will establish

“a body corporate to be known as the Scottish Commission for Human Rights”.

Having considered the issues that the committee raised at stage 1 and the concerns that have been raised in wider contexts, such as the recent Procedures Committee and Finance Committee inquiries into commissioners more generally, we propose significant improvements to the architecture of the original proposals. Several of the amendments are consequential on the change of wording from “Commissioner” to “Commission”.

Amendment 100 will amend schedule 1 by inserting a new paragraph to provide that the commission will have a chair and up to four other members. Like the existing commissioners, the chair will be appointed by Her Majesty, on the nomination of the Parliament, with the other members being appointed by the parliamentary corporation. There is a saving in that procedure. All the members could be full or part time, but a likely outcome is that the chair will be full time and the other members will be part time. The change could, therefore, result in administrative cost savings, compared with our original estimates.

15:00

Mr John Swinney (North Tayside) (SNP): In light of the views expressed in the Parliament at stage 1, what consideration did the minister give to amalgamating this office with one of the other offices that Parliament has already established and thereby simplifying some of the architecture of the commissioner and ombudsman sector for which Parliament has legislated in the past and for which it may legislate again this afternoon?

Robert Brown: As Mr Swinney is aware, that suggestion was the subject of discussion at stage 2 and was rejected. We will deal with the issue later.

We are all aware that a number of issues arise from both the governance and management arrangements and from the architecture and structures of commissions and commissioners. One key point is whether there is a place for a distinct focus at commissioner level on the issues involved. In my view, there is a need for a clear focus on human rights through the establishment of a Scottish human rights commission. Notwithstanding that, there is considerable scope for the commission to share common and back-room services with other bodies and to consider the option of co-location. As Mr Swinney is aware, a lot of attention has been given to those matters during consideration of the bill—far more than was the case during the appointment of other commissioners.

There are further minor amendments to the arrangements. A provision in schedule 1, as introduced, prohibited the commissioner and deputy commissioners from holding any other office or employment without the consent of the parliamentary corporation. That provision was removed at stage 2, to avoid any implication that members of the commission ought to be full time.

Amendment 117 will allow the commission, with the approval of the parliamentary corporation, to make arrangements for the payment of pensions, allowances or gratuities to, or in respect of, any person who has ceased to be a member of the commission. That reflects the status of the commission as a body corporate with employees.

The remaining Executive amendments in the group will make changes consequential to the move from a commissioner to a commission. For example, they will change the references in various parts of the bill. Although it looks as if there is a large number of amendments in the group, they all relate to the same issue.

Amendments 3 and 4, in the name of Margaret Mitchell, revisit the issue on which John Swinney touched. What they propose was discussed at length and rejected at stage 2 by the Justice 1 Committee. Essentially, the amendments would make the Scottish commission for human rights and the Scottish public services ombudsman one organisation, by requiring the commissioner to be the same person as the ombudsman and the deputy commissioners to be appointed only from among those people who are already deputy ombudsmen.

I cannot support the proposal and will repeat some of the arguments that were made before the committee at stage 2. At present, the ombudsman is a full-time appointment, and the expectation is that the chair of the human rights commission will also be full time. There is a significant contradiction between requiring the ombudsman to take on the significant extra responsibilities that are envisaged for the chair of the human rights commission and expecting her to continue to perform her ombudsman duties on a full-time basis.

More important, it would be inconsistent with the principle of establishing a new post to stipulate that it could be filled only by the holder of another post. The Parliament should be able to reach a view before taking a decision, rather than it being laid down in advance who must be appointed. That will allow the substantial difference between the ombudsman's role and that of the commission, on which I have touched and which the ombudsman has recognised, to be taken into account. It will also be more in accordance with the principles that govern public appointments, which are aimed at ensuring the accessibility of all

public appointments and encouraging as wide and diverse a range of applicants as possible, so that the best person for the post, based on merit—and, not least in this case, on experience—is appointed. Similar issues arise in respect of the deputy commissioners, to whom amendment 4 relates. I do not want to explore those issues further, because the same arguments apply.

More fundamentally, it remains our view that there is a significant gap that only the creation of a separate human rights body can fill effectively. In that context, it is worth noting that a report that Amnesty International published recently concluded that there was still a widespread lack of focus on human rights among Scottish public authorities and called for more to be done to secure awareness and compliance. If only one report had made those points, that would have been one thing. However, reports by organisations as varied as the better regulation task force, the National Audit Office, the British Institute of Human Rights and the Executive itself reached similar conclusions.

It is also worth noting that, at stage 1, the Scottish public services ombudsman herself welcomed the bill and expressed a preference for the creation of a freestanding human rights body over any expansion of her remit. In doing so, she noted the substantial difference between her role, which is reactive and focused on individual complaints, and the role of the proposed SCHR, which is proactive and aimed at addressing more general issues. We do not believe that there is a significant overlap between the two bodies.

That is not to say, of course, that the commission and the ombudsman's office should neither work closely together on issues of mutual interest nor explore opportunities for sharing support services and other resources. Indeed, we have taken significant practical steps to facilitate the possibility of sharing resources among different bodies by discussing the matter with the ombudsman, her staff, the SPCB and the United Kingdom team with responsibility for establishing the Great Britain commission for equality and human rights. Indeed, that reflects our general approach to public bodies.

Bill Aitken (Glasgow) (Con): Is the minister able to cite any cases of human rights abuse in Scotland for which no legal remedy could be found in the existing Scottish legal framework?

Robert Brown: I will highlight one matter that might be appropriate in that regard, although I should point out that we do not know what cases will arise in future and that, of course, many people already take such cases through the courts.

A human rights analysis undertaken by Professor Alan Miller at the request of Carstairs state hospital led to very significant improvements in the institution's practices and policies that better safeguarded the inmates' human rights—which I trust Bill Aitken accepts are important. It also led to improved public practice at the hospital and, bearing in mind the challenges that might have been made to the previous regime, resulted in possible cost savings.

I stress the point about location because, given that both the UK Government and the Executive are establishing new bodies, the SPCB should fully investigate the possibility of co-locating both organisations if, as I hope, the bill is passed this evening.

The key point is that Parliament must have the discretion to decide who should be appointed as commissioners or members of the proposed human rights commission on the basis of their suitability for those roles. As a result, I hope that the Parliament will see fit to reject amendments 3 and 4, even though I understand the point that lies behind them. I also hope that, given the strengthened financial and administrative framework, members will support the new changes that we are seeking to make to the commission.

I move amendment 1.

Margaret Mitchell (Central Scotland) (Con): Amendment 3 seeks to confer the functions that the bill establishes for a Scottish human rights commissioner on the Scottish public services ombudsman by extending his or her role to include human rights promotion and awareness-raising. The Justice 1 Committee identified that narrow gap in existing service provision during its stage 1 consideration of the bill.

The Law Society of Scotland has confirmed that the ombudsman satisfies the criterion set out in clause 7(4) of the Equality Act 2006, which refers to a person

"established by Act of the Scottish Parliament"

whose principal functions would be the same as those of the commission for equality and human rights south of the border. The problem is that no one in Scotland has had a human rights promotion and awareness-raising function, although that does not mean to say that the promotion or protection of human rights has been ignored or neglected here—indeed, far from it. Pre-devolution, Scotland had a very good record of dealing informally with human rights issues. Post-devolution, with the incorporation of the European convention on human rights into Scots law, courts must take account of human rights issues and, under the Parliament's standing orders, every

single bill must be examined for ECHR compatibility.

In addition, post-devolution, numerous commissioners have been created to deal with matters that range from health to freedom of information. All the commissioners also have responsibility for human rights in the areas that fall under their remits. On top of that, non-governmental organisations and HM prisons inspectorate for Scotland all have a human rights role.

Robert Brown: Can the member elaborate on her statement that those other commissioners have a human rights role? By that, I do not mean something incidental but something central and intrinsic to their role.

Margaret Mitchell: The minister has only to look at the work of the commissioner for children and young people. She is certainly not slow in promoting human rights or highlighting any aspect of her remit in which she thinks human rights are being adversely affected.

The gap is a narrow one, so the minister's response, which is to create a commission or a commissioner, is in our view disproportionate. The minister's proposal certainly does not provide a value-for-money solution, as it will cost £1 million per annum. That money could and should be used to give voluntary organisations the funds to carry on in the role that they perform very well, with their expertise and experience in promoting and protecting human rights and, crucially, in taking up individual cases. The bill does not give power to either a commission or a commissioner to take up individual cases.

On top of that, I believe that by giving the role to the Scottish public services ombudsman, unnecessary duplication and overlap would be avoided. There would be a one-stop shop, which the public could readily access and use to address their concerns about human rights. Such a role would certainly complement the Scottish public services ombudsman's current role, which is to investigate maladministration. Human rights are a huge aspect of that role.

The main advantages would be that complementary role and the fact that there would be a one-stop shop. The public services ombudsman already has, from her investigations of maladministration, a good idea of where gaps exist and where she would like to promote and raise awareness of human rights among local authorities and other public bodies. Crucially, our proposal would save a considerable part of the £1 million that has been earmarked to pay for a commission or a commissioner. The money would be much better used to fund voluntary organisations rather than pay for advertising or for

the salaries, pensions, allowances, accommodation and so on of the proposed commission or commissioner.

Mr Swinney: I support the arguments that Margaret Mitchell has put forward. Those arguments must be carefully explored by Parliament before we establish another stand-alone commission to add to the number of commissioners for which the Parliament has already legislated.

I preface my remarks by saying that I have no doubt that human rights issues must be addressed and that awareness of human rights must be improved. However, I doubt whether, to make that happen, we need to establish a separate and discrete infrastructure in addition to the infrastructure for which Parliament has already legislated over the past few years.

I intervened on the minister to ask him what consideration had been given to the arguments against the proposition that Margaret Mitchell has put forward. The fact that an amendment is rejected at stage 2 does not render the argument futile. Rather, we must hear compelling arguments why it is necessary not to build on the existing infrastructure that we have established but to establish a stand-alone commission. With the greatest respect to the minister, I did not feel that in his response to my intervention he provided a compelling explanation of why the incorporation of the human rights remit and responsibilities within the functions of the Scottish public services ombudsman could not be done following the requisite changes that would make that possible.

15:15

Robert Brown: Does the member recall that the issue of whether a Scottish human rights commission could be amalgamated with other bodies was included in the consultation on the proposals? That approach was considered as part of the preparatory work on the bill as well as more recently during stage 2 consideration.

Mr Swinney: I do not deny that, but I have heard no compelling reason why that route should not have been followed.

The remits of existing office-holders could be amended by the Parliament, if the Parliament deemed that to be the most appropriate way to proceed. As I said, human rights gaps exist and need to be addressed. We need to ensure that there are appropriate organisations that have the appropriate responsibilities to address such issues. Changes could be made, if the Parliament was minded to move in that direction.

The minister said that a purpose of the exercise is to secure greater awareness of human rights

issues and greater compliance with human rights legislation. Of course we agree with that objective. However, I question whether we need to spend £1 million of public money on establishing another infrastructure to make that possible and practical.

In response to Bill Aitken's question about human rights issues that have been addressed, the minister cited the example of the state hospital, at Carstairs. Human rights at Carstairs needed to be addressed, but the issue was not addressed by a commissioner; indeed, it was dealt with before the proposal to have a human rights commissioner was made. Why do we need to establish a £1 million infrastructure, given that various processes of public policy allow us to address such issues? If there are gaps, let us allocate responsibilities and statutory duties to office-holders and give those people the appropriate resources to allow them to do the job, rather than expand and confuse the infrastructure of governance in Scotland. I hope that members will reflect on that point. The democratic Parliament of Scotland has a duty to ensure that we have a Government infrastructure that is simple, efficient and responsive and, most important, which does not duplicate what is going on in different corners of the public arena.

The issue could have been approached much more effectively, without incurring the cost to the public purse that is envisaged. We are repeatedly told that the spending situation will get tighter and hard choices will have to be made. This morning's debate on the budget review was all about the hard choices that we face. However, we do not seem to be making hard choices about how we allocate responsibility with resources, without increasing the burden on the public purse.

Patrick Harvie (Glasgow) (Green): Is the member aware that the Executive has set aside £58 million to cope with the possibility of legal action on slopping out? Slopping out is a human rights issue that could have been successfully tackled by a commissioner. Prisoners are not popular people and they cannot rely on MSPs to make their case.

Mr Swinney: With the greatest respect to Mr Harvie—and to Mr Wallace—the issue could have been resolved years ago by Mr Wallace. A commissioner could not have directed Mr Wallace, when he was Minister for Justice, to end slopping out. A minister is an elected member of the Parliament and is, quite properly, accountable to the Parliament. Mr Wallace was entitled to decide to spend money not on ending slopping out but in another fashion—[*Interruption.*] If Mr McCabe, who was absent from this morning's debate, wants to intervene, he should get on his feet. I cannot hear what he is trying to say.

The Minister for Finance and Public Service Reform (Mr Tom McCabe): Perhaps Mr Swinney should take his own advice. Day after day in the chamber, he shouts like an uncontrollable child.

Mr Swinney: If that was meant to be an intervention worthy of Scotland's finance minister, Scotland's finance minister should think twice about his interventions.

To return to Mr Harvie's point, Mr Wallace was the democratically elected Minister for Justice and was entitled to take the decision that he took on slopping out, and the Parliament was entitled to hold him to account for that. The decision was completely within his powers. If he was still the Minister for Justice, no commissioner today could direct him on that matter. I would not approve of a commissioner who tried to do so, because the electorate must determine whether we take the necessary action. I reject Patrick Harvie's argument entirely.

Parliament has an opportunity to pause and reflect on the issues. We should not clutter up Scotland's infrastructure but take a sensible step forward—Margaret Mitchell's amendments and those of other members would help us in that respect. Parliament needs to pause and reflect on the issues before we commit to more public expenditure that could go to other matters. The minister's approach will not assist in the governance of Scotland or in addressing the human rights problems and concerns that our constituents bring to our attention.

Pauline McNeill (Glasgow Kelvin) (Lab): As I said when the Parliament debated the bill previously in a substitute chamber, my starting point has always been that I was elected to the Parliament to represent people and to take seriously the issue of human rights, which I have done. I believe in the European convention on human rights and in many other rights that are not covered in that convention. I have always argued that every single elected member in the Parliament has a responsibility in relation to human rights and that that is our primary purpose.

Patrick Harvie and others have argued that, if we had had a human rights commissioner before now, we would not have slopping out in prisons today. I put it on the record that I utterly oppose slopping out in prisons—it is wrong and we are well on the way to ending it. However, if I thought for a minute that the human rights commission would think that its priority and that of the general public was to spend public money on taking cases to court, I would not support the proposals.

It is important to look carefully at the Executive's amendments, because they fit together. Importantly, the Executive has, I think, changed substantially the direction in which it is going. The

bill was amended so that the duty of the commissioner—or the commission, depending on our decision later—will be to think not only about the obvious people who are in a position to lobby, but about those who are in more deprived communities and who are far more remote from the Parliament and commissions. Members should not forget that that duty is in the bill.

The question that we will determine this afternoon is whether any body should exercise a human rights function. Although the Justice 1 Committee did not endorse the bill's general principles and had divergent views on how the human rights function should be exercised, our view was that someone should have that statutory function. The proposals have changed from being for a commission to a commissioner at least four times, and we must make a decision once and for all today—that is for sure.

The Executive's proposals today are a wee bit different. The structure of the new body is important and we have before us the possibility of a commission that involves part-time people. That is important because, as a trade unionist, I believe that trade unions can make a significant contribution to human rights. The proposals would allow people from different backgrounds to be part of the structure and to contribute to the promotion of human rights.

Whatever members think on the issue, they should acknowledge that a lot of work has been done. Margaret Mitchell was right to lodge amendment 3, because it is legitimate for the Parliament to discuss whether the Scottish public services ombudsman is the right person to exercise the human rights function. I happen to think that the Executive's proposal to create a commission is the right way forward, although I attach some conditions to that. It is important that the rest of the debate fits in. I will not support the Executive amendments until we get further down the road of ensuring that the commission will be accountable for its finances. We need to know who will determine the location of the body—whether it is co-located with the public services ombudsman or the Great Britain commission. I do not believe that the decisions on those matters will interfere with the commission's independence.

Finally, it is important that, whatever body we set up to exercise the human rights function, that body—or person—should tell the Scottish Parliament what it intends to do with its £1 million. Were the Corporate Body to appoint such a body or person, it is only right that, for the five years covering the appointment, the Parliament should be told what the body or person will do with its time.

This is not just about supporting the amendments in the first group; it is about

everything else that goes along with that. If we are going to have a body or person that exercises the human rights function, which is a promotional function, we have to get into the detail of how the process will work.

Even if members support amendment 3, which would give that function to the ombudsman, they still have to decide the detail of how the function will be exercised. One way or another, some decisions have to be taken. With those conditions, I support the Executive's amendments to section 1.

Patrick Harvie: I very much hope that we will create a full commission for human rights. The opposition to that approach echoes the general but, I hope, minority opposition to the bill. A full commission might not be the cheapest option—although, in bandying around the figure of £1 million, we should remind ourselves that that is the annual cost of a small handful of MSPs—but it will be the best and the strongest option and will give the greatest value.

Stewart Stevenson (Banff and Buchan) (SNP): Patrick Harvie used the phrase “full commission”. Is he suggesting that such a commission would be complete and would require no powers, or is he using the word “full” in a different sense?

Patrick Harvie: I use the word “full” to differentiate a commission from a commissioner, but I very much agree that we should give the body the full set of teeth that it will require to promote and protect human rights. I regret that we are unlikely to do that, but I want the body established so that it can grow in its authority and—I hope—be given those teeth over the years.

Margaret Mitchell's amendments propose merging the proposed commission with the public services ombudsman, but the two organisations have fundamentally different ethos. Human rights are focused on the individual. Maladministration is focused on a public body that is executing some function. In focusing on maladministration, the public services ombudsman may encounter human rights issues, but that organisation's ethos is different from that of the proposed commission. Further, I disagree with the concept that there is a narrow gap. The human rights issues that the commission will engage in cover the full range of the Scottish Parliament's functions and devolved issues.

It has also been suggested that the other bodies that engage from time to time with human rights issues can fill the gap. Other bodies engaged with human rights issues have human rights responsibilities, but all public bodies have to comply with the law. It would be bizarre to suggest that we can muddle by without any organisations

whose specific focus and remit is the justice system—we should say the same about human rights.

Margaret Mitchell used the phrase “one-stop shop”. The proposed commission will not be a one-stop shop if we merge it with the public services ombudsman, because the ombudsman has a role in maladministration in relation to individual cases. Regrettably, the proposed commission will only have a role in promotion. If we go down the route of Margaret Mitchell’s amendments, there will come a point when an individual may be given the response, “No, I’m sorry, there’s no maladministration here. This is a human rights issue. I have to put the phone down on you now because I have no responsibility for individual cases.”

Margaret Mitchell: Would the member rather create a commission or a commissioner that cannot take up individual cases, in the hope that it may one day have the ability to do so—although perhaps it never will—or would he rather use the money that is available to fund voluntary organisations that do sterling work in promoting and protecting human rights for many vulnerable people in our society?

15:30

Patrick Harvie: I happily join Margaret Mitchell in commending the voluntary sector for the work that it does, but it is wrong to turn up our noses at the proposed commission simply because it will be given only one of the two important functions. I want the commission to have both functions, but it is getting one of them today and that is better than nothing.

I agree with Pauline McNeill that many people would not agree that slopping out should be a priority for the commission. I am reminded of the statement—I cannot remember who said it—that the problem with human freedom is that we spend our lives defending scoundrels because oppressive laws are used first against scoundrels. If oppression is to be stopped, it must be stopped at the beginning. It is not appropriate to say that, because a group is unpopular, it should not be a priority and its human rights can have second-best status.

Karen Gillon (Clydesdale) (Lab): Is the member seriously suggesting that, if we go down the proposed route and appoint a human rights commission, it will somehow be able to direct ministers on how to spend public money? That is the only way in which a human rights commission could have ended slopping out.

Patrick Harvie: I take that point. John Swinney made the same point earlier. I do not propose that the commission should be able to direct ministers,

but it should be able to make life uncomfortable for politicians in the Government and the Parliament. If we believe—

Mr Stewart Maxwell (West of Scotland) (SNP): Will the member take an intervention?

Patrick Harvie: I am sorry. I have taken a lot of interventions.

Members from across the political spectrum believe that the European convention on human rights is part of the moral fabric of a modern society. If we believe that the treatment of people, no matter who they are, must not slip below a certain minimum standard, we should be willing to establish a strong, independent and focused human rights commission. I hope that members will vote to do that today.

Mr Jim Wallace (Orkney) (LD): A human rights commission was not required in order for me, in September 2002, to announce the biggest-ever investment in refurbishing and building new prisons. That programme has been carried on and enhanced by Cathy Jamieson.

Life was made difficult for me when I produced the plans for reforming the prison estate, not least by Christine Grahame and the Justice 1 Committee. When they were quibbling over whether the programme should be private, private-public or public build, I remember saying to a colleague, “It is interesting that none of these people ever mentioned the need to end slopping out earlier.” I take some of Mr Swinney’s criticisms with a pinch of salt.

I remind Mr Swinney that, in a Conservative party debate on the European convention on human rights in March 2000, Michael Matheson, who was the SNP’s deputy justice spokesman at the time, said:

“a massive vacuum has been left in relation to human rights in Scotland and that vacuum must be filled. The most effective way of achieving that would be by establishing a human rights commission in Scotland.”

Linda Fabiani said:

“If the European convention on human rights is to be properly incorporated into Scots law, Scotland needs its own human rights commission in the form described in the Scottish National party amendment.”

I could quote Ms Cunningham too.

Roseanna Cunningham (Perth) (SNP): I anticipated that the member would do that.

If Mr Wallace cares to think carefully about that debate, he will remember that the SNP was talking about a human rights commission that would have subsumed the various other human rights bodies that are now in place. The human rights commission that we were discussing is nothing like the one that is being discussed now.

Mr Wallace: Roseanna Cunningham said:

"The SNP wants a commission which would fulfil a wide range of functions. It should promote good practice, and public authorities and private bodies would be covered by human rights legislation."—[*Official Report*, 2 March 2000; Vol 5, c 328, 333 and 318.]

That is very much in line with what we are proposing today.

Patrick Harvie said that the difference between the proposed human rights commission and the ombudsman is that the ombudsman takes up individual cases—that is correct—and the only function of the commission would be to promote awareness. To be fair, however, the commission's functions will go much further than that. It will provide information, guidance and education but it will also have a responsibility to monitor laws, policies and practices and the power to conduct inquiries. Its role goes a good bit further than simply promoting awareness.

Patrick Harvie: I am sure that Jim Wallace will agree that the commission's functions in relation to individual cases are limited, but I hope that he will also reinforce the point that, because of its specific focus on human rights, it is more important for the commission to work closely with the UK commission than with the Scottish public services ombudsman.

Mr Wallace: I entirely agree, and I think that Patrick Harvie's comment answers one of the points that Pauline McNeill made about whether the human rights commission could take up an individual case. As I understand the bill, it could not do that and I endorse the point that it must range much more widely than the Scottish public services ombudsman does. That is why I think that Margaret Mitchell's point is misguided, particularly if the Scottish public services ombudsman says that she does not want those responsibilities. It is a full-time job, and to add it to her existing functions would overload the ombudsman, who would probably end up doing neither job as well as it could be done.

Margaret Mitchell said that the money could be given to some of the groups that promote human rights. Most of the groups that promote human rights whose representatives I have met are 100 per cent behind the proposals and want the commission. To pray them in aid—or to pray financial support to them in aid—of opposing the proposal is therefore somewhat disingenuous.

Margaret Mitchell: Is it Mr Wallace's contention, therefore, that the various voluntary organisations to which I referred would not welcome a substantial share of £1 million to continue their effective work?

Mr Wallace: I have never yet come across a voluntary organisation that would not accept

money, but those organisations believe that what they are in business to do would be substantially enhanced by the bill being passed, not by its being watered down or defeated.

When the consultation was produced early in 2003, the Parliament's Education, Culture and Sport Committee had proposed the establishment of a children's commissioner and had published a bill to bring that about. At that stage, the question whether children should be excluded from the human rights commission work was considered, but it was accepted that they should not be excluded. However, the consultation paper stated that the human rights commission should

"establish workable practical arrangements with a Commissioner for Children and Young People",

and that that process

"should include considering whether there is scope for co-location and sharing resources."

The idea of sharing resources was consulted upon and indicated as a preferred option at an early stage. At that stage, of course, the UK Government had not taken its proposals for a human rights commission as far as it has done now. If there were to be some co-location, it would make a lot of sense to work alongside and collocate with the new UK body.

It is a misunderstanding or a misreading of the situation on Bill Aitken's part to say that it is only about specific pieces of litigation. I see the matter as going far wider than litigation, to encompass awareness and promotion of the culture. That is one of the most important things about what is proposed, so it goes further than individual cases. It is also wrong to bask in the idea that everything in the garden is rosy, as Margaret Mitchell seemed to suggest. Many members will have seen the report on Scottish public authorities that was published in September this year by Amnesty International in Scotland. It stated:

"Amnesty International agrees with the Justice 1 Committee that a Scottish Commissioner for Human Rights must '... successfully deliver a core promotional and awareness raising role which will embed an awareness of human rights in the provision of services by all public authorities in Scotland.'"

However this survey has demonstrated that over half the public authorities surveyed do not understand what compliance with the Human Rights Act means."

There is a gap to be filled. Awareness needs to be raised and education is required, so the idea of a commission—the original consultations were on a commission, rather than a commissioner—is to be welcomed. The Information Commissioner for the UK has highlighted the problems associated with closed-circuit television, and yesterday the person who pioneered DNA sampling for the police raised issues about that. There are numerous human rights issues to consider and we

would benefit from having a commission. The commission should, as a matter of fundamental importance, deliver good value for money, and its independence will be vital. The minister's amendments will go a long way towards delivering what surveys show many people in this country want in order to safeguard and promote our human rights.

Stewart Stevenson: I congratulate the Deputy Minister for Education and Young People on producing what is probably the most heavily populated group at stage 3, with about 150 amendments in it. Would that such cerebral fecundity had been an attribute of the Minister for Justice in his intervention on my colleague, Mr Swinney. Of course, it was not.

Bill Aitken: Finance minister.

Stewart Stevenson: I stand corrected—it was the Minister for Finance and Public Service Reform. He has the effect of puzzling us whenever he rises to his feet, and I am not immune.

I am reminded of the wonderful BBC series, "First Minister"—

Members: "Yes, Minister".

Stewart Stevenson: Yes, "Yes, Minister" and then "Yes, Prime Minister". The first episode had Jim Hacker meeting his civil servants and asking about a freedom of information bill, only to find that the civil servants had prepared for it. Later in the programme, we hear discussion between civil servants and the view is expressed that the bill is dangerous. However, Sir Humphrey is able to assure his boss at the Cabinet Office that they always get the difficult things out in the title of a bill so that they do not have to talk about them in the detail. In many ways, the bill does that too: it says that it is a Scottish Commissioner for Human Rights Bill, but it actually delivers something considerably less.

Some interesting and strange arguments have been deployed today. In rebutting the proposition that was put forward from the Conservative benches, the Deputy Minister for Education and Young People said that it would not be appropriate to extend the powers of the public services ombudsman, although this morning we heard Jeremy Purvis articulating precisely the argument that it was appropriate to extend the powers of the Parliament. A bit of consistency would be appropriate.

We need to look more closely at the detail of what the bill says. What can the commission actually do? It can

"(a) consult, (b) act jointly with, (c) co-operate with, or (d) assist".

That is fine, and when we put it in parallel with the public services ombudsman, the inquiries that can

be done focus on Scottish public authorities in general, Scottish public authorities in particular, and any particular kind of Scottish public service authority—precisely the area of activity of the public services ombudsman. There is clearly a parallel set of responsibilities in the public services ombudsman that justify serious consideration of the amendments that were lodged by Margaret Mitchell.

The question has been asked whether a minister can be directed by the commissioner. Of course, they cannot.

The real problem with the bill is that it focuses on corporate bodies. It leaves my constituents—and those of every member in the chamber—continuing to be puzzled about why they cannot go to someone's door to seek redress or answer in relation to their rights. The bill does not create such a person. I suspect that if it did, there would be support across the chamber to a much greater extent than there will be at 6 o'clock tonight. The focus on the corporate is unhelpful; the neglect of the individual is not useful.

The bill will certainly do no harm, but it shows little sign that it will do any realistic good that justifies any price tag—whatever it might be—that we put on it.

15:45

Robert Brown: Some peculiar and contradictory arguments have been made across the chamber. Stewart Stevenson makes a number of good and interesting speeches, but I am not sure that that was one of them, particularly with his rather bizarre allusion to the powers of the Parliament.

Let us be clear about what the human rights commission will do. Bill Aitken set us off on a wrong track by talking about individual remedies. The bill does not propose a commission that will provide individual remedies, as anyone who took the trouble to read the bill would agree. The bill is specifically about improving the promotional arrangements for human rights in Scotland; it also deals with the other aspects that Jim Wallace listed in his excellent speech.

The bill is important because there is a gap that needs to be filled if we are to get better standards of human rights. However, the commission will not solve all the world's problems, as some members have suggested.

Exaggerated statements have been made, notably by Patrick Harvie, on slopping out, which continues to be a matter of great political controversy. John Swinney was right to say that no member would expect any commissioner to give directions to ministers about how to deal with such matters. It is not the intention—nor is it

likely—that the commission would have a decisive role to play in bringing such issues to public attention or in pursuing them.

Patrick Harvie: Will the minister take an intervention?

Robert Brown: I have only four minutes, so I cannot take interventions.

As Patrick Harvie rightly said, there is a range of issues across the gamut of the Parliament's activities on which the commission will be able to adopt a helpful approach to improving standards. The bill focuses on the corporate level. As the various reports that have been done—including that by the Justice 1 Committee—identify, that is where the gap lies. The issue of human rights is complex; expertise is required to deal with it. We cannot always follow it through in all its manifestations without professional input. The new commission will be able to provide such advice and assistance.

John Swinney talked about the need to pause for consideration. No bill in the Parliament's history has had more pause for consideration than the Scottish Commissioner for Human Rights Bill, which began its parliamentary progress in 2000. It has been the subject of two consultations, both of which supported the general principles of the direction of travel and explained clearly what the proposal would mean. It is interesting how many members have suddenly discovered, at a late stage in the Parliament's consideration of the bill, what the various difficulties might be.

Roseanna Cunningham has engaged in some imaginative rewriting of the SNP's position.

Mr Swinney: Will the minister give way?

Robert Brown: No, I cannot.

The Conservatives are putting forward the proposition that there is no place for a commission for human rights, but in a parliamentary debate David McLetchie said:

"I would welcome the establishment of a human rights commission or similar body to act as a point of reference or guidance on a consultancy basis. That is the most effective way of providing advice to public authorities."

Margaret Mitchell: That is misinformation.

Robert Brown: It is not misinformation; it is a direct quotation from a parliamentary debate.

Lord James Douglas-Hamilton made similar comments. He said:

"Public authorities in Scotland need a body to which they can refer for expert guidance on action to iron out any difficulties that the incorporation of the European convention on human rights may impose ... it is not inconceivable that public authorities will also have them. That is why we need a Scottish human rights commission".—[*Official Report*, 2 March 2000; Vol 5, c 307, 350.]

The Executive's amendments are important structurally. The central issue is having a commission rather than a commissioner. That will provide the strategy for making progress on human rights issues. I hope that the Parliament will support our proposal.

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

Members: No.

The Deputy Presiding Officer: There will be a division. There will be a five-minute suspension while the division bell is sounded.

15:48

Meeting suspended.

15:53

On resuming—

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

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 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)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)

Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 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)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (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)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 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)
 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)
 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, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)

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 75, Against 37, Abstentions 0.

Amendment 1 agreed to.

Amendment 2 moved—[Robert Brown].

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

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 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)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 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)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 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)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 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)
 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)
 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, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 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 73, Against 39, Abstentions 0.

Amendment 2 agreed to.

The Deputy Presiding Officer: Group 2 is on parliamentary approval prior to appointment of the commissioner or the member to chair the

commission. Amendment 5, in the name of Des McNulty, is grouped with amendment 100A.

Des McNulty (Clydebank and Milngavie) (Lab): Earlier this week, during a lecture in the University of Glasgow on the lessons of devolution, Jim Wallace said:

"If things have changed in 2006, since a partnership agreement commitment made in 2003, then it makes no sense to press on regardless."

That comment is particularly relevant to the bill. The proposal to establish a combined United Kingdom commission for equality and human rights, with an office in Glasgow, gave us an opportunity to create a one-stop shop to deal with all human rights matters—a solution that would have been more cost effective and, undoubtedly, simpler for the public to understand and access.

In September, the cross-party Finance Committee unanimously recommended that there should be a moratorium on the creation of new commissions. We were prompted by concerns over accountability, overlapping remits and the burgeoning expense of the bodies and felt that, unless it can be demonstrated that there are responsibilities that cannot be picked up by an existing body, no new commission should be established. In this instance, not only could the powers of the existing commission for equality and human rights easily have been extended but there was another alternative. As the Scottish public services ombudsman accepted in evidence to the Justice 1 Committee at stage 1, it would be possible for her office to discharge the responsibilities that were intended for the Scottish human rights commissioner. She accepted that she could undertake the advocacy responsibilities in relation to human rights. She also highlighted concerns about overlaps and duplication should a separate body be created—concerns that the Executive has ignored.

It is not too late for the Scottish Parliamentary Corporate Body to be asked to explore options that will allow us to simplify the delivery of the advocacy of human rights, which is the purpose of the bill. My amendment will enable us to save substantial sums of public money that would otherwise be irresponsibly wasted. Before spelling out how that might be achieved, I would like to highlight some process issues that I believe should give every member of the Parliament cause for concern.

We should point out that ministers have flipped and flopped repeatedly over the issue of whether there should be a commission or a commissioner. We are being faced at stage 3 with 164 Executive amendments—not around 150, as Stewart Stevenson said—which were lodged by the minister only last Friday. Although they are

repetitious, their effect at this late stage is to significantly change the nature of the bill.

16:00

Mr Swinney: Has Mr McNulty noticed that many of the amendments that the Government has lodged at stage 3 were defeated at stage 2 in the committee? Does that not render redundant some of the arguments that were made by the minister in the previous debate?

Des McNulty: Mr Swinney is absolutely right. I was going to point out that similar amendments were defeated at stage 2, when the minister lost not only key votes on his own amendments but, I would argue, all the arguments on my amendments. Mr Brown repeated his performance today, although I thought that it was marginally better than his performance at stage 2. We should also remind ourselves that that performance was preceded by the Justice 1 Committee's refusal to endorse the principles of the bill at stage 1. There has been a catalogue of problems, which should give us pause for thought.

Many members will not have seen the financial note that was sent out by the minister only on Tuesday, which shows that less than a quarter of the money that we are being asked to authorise today will be spent on functional costs and the work of the commission. The remainder will be required to pay support staff—many of whom would probably not have been required if the task had been given either to the ombudsman or to the commission for equality and human rights—and, of course, the inflated salaries of the members of the commission. It is an ill wind that does not benefit lawyers. Those costs might not be a huge element of the Executive's budget, but they represent a heavy price to the people of Scotland for the stubbornness of the minister and his political colleagues.

The Parliament has no revising chamber, which makes it all the more important that we exercise due diligence in legislating. Since 2003, there have been material changes that mean that the case for a new commission has been invalidated. The Executive has had many chances to change tack. Had the minister acted sensibly, the Parliament would have come out of this with some credit. However, the wise words of Jim Wallace, to which I have referred, have not been heeded by his colleagues. They have insisted on pressing ahead despite the growing recognition of most members that the bill is poor legislation. We have arrived at this point by a process that I believe is as embarrassing for this Parliament as the Dangerous Dogs Act 1991 was for Westminster.

Patrick Harvie managed to compound that embarrassment last night by appearing to claim

that opposition to the bill would lead to dictatorship. I am sure that others will be as irritated as I am by sanctimonious claims that anyone who questions the proposition that there should be a stand-alone body is somehow opposed to human rights. The reverse is true. It is our responsibility, as parliamentarians, both to uphold human rights and to spend public money wisely. Even at this late stage, amendment 5 is a lifeline that could allow us to achieve both objectives.

In conclusion, I return to another point that Mr Wallace made in his lecture. He referred to a conversation with Donald Dewar in which he suggested that it would have been a good thing if the Executive had lost more votes in the chamber, as the rejection of legislation that was inadequate would have sent a powerful signal. He did not recount Donald's reply, but I hope that members will send the right signal by supporting the amendment in my name.

I move amendment 5.

Mr Swinney: I am indebted to Des McNulty for the trouble to which he went in reading from the speech that Jim Wallace gave at the University of Glasgow. I had not managed to get round to reading it. It puts into context the criticism that Mr Wallace made of the SNP for reflecting that, after six years of devolution and all the legislation establishing numerous commissioners and ombudsmen, this is the moment for us to say no and to pause. Mr Wallace should perhaps be more consistent in what he says from one day to another about the lessons for political parties to learn.

I support unreservedly what Des McNulty has said in representing the opinions of the Finance Committee today. The committee—I would say unanimously, but for the exception of Mark Ballard—has become increasingly concerned about the spiralling costs of ombudsmen and the congestion and duplication that are entering their areas of responsibility. This is the moment at which Parliament can take the option that Des McNulty has offered us and reflect on the duplication and overlap of duties that have been created. The bill has had a tortuous parliamentary journey because it is not a piece of legislation with which members are comfortable or in which they have confidence.

We need to think again about the bill. I urge members to support amendment 5 to ensure that we deliver good legislation for the people of Scotland.

Margaret Mitchell: I support the amendments in the name of Des McNulty, which make sense, and I am grateful to him for highlighting the

inconsistencies in Jim Wallace's comments during the debate.

In voting for the creation of a commission, the Scottish Parliament has ignored the recommendation that was made by the Finance Committee. An alternative and better approach would have involved the Scottish public services ombudsman. The option that we now have simply means that, instead of a vast amount of the money that is available going to help people to fight individual cases or to promote human rights effectively, it will go on salaries, pensions and allowances, which is a shame and a disgrace.

Patrick Harvie: I want to respond to Des McNulty. I categorically did not suggest that not voting for the bill would lead to a dictatorship. Des McNulty's comments were an absurd overreaction to what I said, which was that some arguments that have been deployed against the provisions in the bill were more familiar from countries that are emerging from dictatorship, where Governments have behaved as though no one should hold them to account.

Des McNulty suggested that the Great Britain commission should be given the powers in question, but not even the UK Government supports that position. The Westminster legislation includes a specific prohibition on that commission dealing with devolved issues.

Amendment 5 would, in practice, close the door on the Scottish commission co-locating with the Great Britain commission by delaying its creation. The amendment therefore defeats the arguments that Des McNulty has made relating to cost savings. Let us get on, pass the bill, create the commission, save money by preventing future costly court cases and promote a human rights culture.

The Minister for Justice (Cathy Jamieson): I acknowledge the work of the Finance Committee, which has been led by Des McNulty. John Swinney and others have also taken a close interest in governance and accountability issues. I do not want to ignore all the debates that have taken place and all the arguments that have been made because valid points have been made in them. That is recognised by ministers, including the Minister for Finance and Public Service Reform, with whom I have already discussed the matter.

It is important to recognise that our public service reform agenda aims to accelerate the pace of reform and to secure improvements right across the public services. Improving accountability is important and it is right and proper that we closely scrutinise the activities of every body with public funds at its disposal. If there are gaps in accountability and governance arrangements, we

will strongly support measures to address those. Indeed, we are currently working with the Scottish Parliamentary Corporate Body to consider opportunities for shared services and co-location, for example.

If the amendments in the group were agreed to, the Parliament would be required to appoint a person to compile a report on the costs of the commission and the scope for minimising overlaps with other bodies' remits. I think that we have dealt with such issues in other amendments.

Mr Swinney: Notwithstanding the minister's comments on the Government's public service reform agenda, does she acknowledge that, since devolution, the Government has presided over an expansion in the number of public sector bodies, commissioners and ombudsmen? The Finance Committee has made the entirely reasonable proposition that there should be a moratorium until we decide how effective our governance arrangements are. If the Government supports that proposition, we could progress on a much more unified basis than I suspect we would otherwise do.

Cathy Jamieson: I hear what Mr Swinney is saying and, as I said, I recognise the work that the Finance Committee has done, which we need to consider. The bodies and positions that we have created have been created for genuine reasons and with the best interests of the people of Scotland at heart. Members of the Scottish Parliament believed that creating a children's commissioner and a public services ombudsman, for example, represented a way of progressing an agenda that would deal with injustices and inequalities in society. It is acknowledged that, in the future, we will have to consider the range of commissioners, ombudsmen and organisations to ensure that we are still getting the best value for money and to ensure that public money is being spent wisely and is getting results.

As a result of concerns that were raised by the Justice 1 Committee, we have made a number of changes to the bill. The bill now requires the commission to consult on a strategic plan and then to publish it. The commission must also submit an annual budget proposal for Parliament's approval. Its annual accounts will be subject to the scrutiny of both the Parliament and the Auditor General for Scotland. It will be required to ensure that it does not unnecessarily duplicate the work of other statutory bodies. We have also lodged amendments that will require the commission to have regard to the desirability of sharing services in order to make the best use of resources.

Karen Gillon: The minister will be aware of a concern that I expressed at stage 2. In the past, the Parliament has been held hostage and has had no option but to approve further budgets for

organisations such as Scottish Opera and Scottish Enterprise. Will the minister assure me that, as a result of the amendments that we are passing today, it will be clear that no budget will be able to overrun, leaving the Parliament with a bill for which it had not set a budget?

Cathy Jamieson: The Scottish Parliamentary Corporate Body will be responsible for appointing the commission. If the bill is passed, a clear message will go out from the Parliament that it expects the spirit of the bill, as well as the letter of the bill, to be adhered to. There is cross-party support for the idea that all public money should be spent wisely and only after careful scrutiny. Later, we will come to amendments in the name of Mary Mulligan that will give the corporate body more ability to scrutinise.

Karen Gillon makes a valid point. If a budget has to be approved in advance by the corporate body, it will be incumbent on any organisation that receives public money not to go outwith its budget.

I understand what Des McNulty is trying to achieve with amendments 5 and 100A, but I do not think that they are necessary to ensure full and careful scrutiny. It is unlikely that he will seek to withdraw his amendments, but I will still ask him to do so, based on the assurances that we have offered today and the other amendments that the Executive has lodged. I have also assured him about conversations that have already taken place with the Minister for Finance and Public Service Reform.

Des McNulty: As recently as Tuesday, new figures were produced that assumed that salaries and office costs connected to the bill would be paid on a part-year basis. However, the functional expenditure has not been adjusted accordingly. Even at this late stage, with the focus on finance, there is an elementary error—one of a number of errors—in the last-minute calculations of the minister.

Amendment 5 would require the SPCB to trim costs substantially where there are savings to be made, rather than pressing on regardless with a budget that does not stand up to scrutiny. Even if the amendment is defeated, I hope that the SPCB will still trim the costs, because that is its job and its obligation.

Not enough attention has been paid to crucial issues. Those issues relate not only to the human rights commissioner but to every other commissioner, because almost identical problems have arisen with every other commissioner. The Parliament must grow into its responsibilities. In elections, we have been given responsibilities by the people of Scotland. We should not give those responsibilities away lightly but should do so only

when it is absolutely necessary. The case has not been fully made for Mr Brown's proposals.

16:15

The amendments in my name allow us a last-gasp opportunity to ask ourselves whether we have got this right before we drive ahead with the fixed model that the Executive has, politically speaking, continually sought to impose on us. The issue is for the Parliament as a whole to consider. As a responsible Parliament, we cannot have processes that lead to this kind of legislation being introduced in this kind of way, especially when the legislation aims to set up an independent commission that should have the support and endorsement of the whole Parliament. A key element should be that everyone buys into the creation of such bodies.

I do not believe that the way in which the bill has been introduced and the controls that are to be put in place are satisfactory. I say that with great sadness, because I think that we could have done better and I hope that we will do better in future. We will do better by being more fundamental in the way in which we look at these issues.

I will press amendment 5.

The Deputy Presiding Officer: The question is, that amendment 5 be agreed to.

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 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)
 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)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 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, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)

Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

Murray, Dr Elaine (Dumfries) (Lab)

The Deputy Presiding Officer: The result of the division is: For 37, Against 73, Abstentions 1.

Amendment 5 disagreed to.

Amendment 6 moved—[Robert Brown]—and agreed to.

Section 2—General duty to promote human rights

Amendments 7 to 12 moved—[Robert Brown]—and agreed to.

Section 4—Information, guidance, education etc

Amendments 13 to 19 moved—[Robert Brown]—and agreed to.

Section 4A—Monitoring of law, policies and practices

Amendments 20 to 22 moved—[Robert Brown]—and agreed to.

Section 14—Power to co-operate etc with others

Amendments 23 to 26 moved—[Robert Brown]—and agreed to.

The Deputy Presiding Officer: Group 3 is on the activity of the commissioner and duplication of work by any other person. Amendment 27, in the name of Pauline McNeill, is the only amendment in the group.

Pauline McNeill: Amendment 27 is a probing amendment on the provision that requires the commissioner to

“seek to ensure, so far as practicable, that any activity undertaken by the Commissioner under this Act does not duplicate unnecessarily any activity undertaken by any other person”.

Given that the Executive has asked Parliament to agree to amendments that will result in the creation of a commission rather than a commissioner, we should now be prepared to drill down into the detail of that. It is vital that the

provision in section 14 exists, because there is no point in creating a commission for human rights if it will duplicate the work of anyone else. I emphasise that duplication should refer not just to the work of other bodies and commissions but to the work of the committees of the Parliament.

Amendment 27 seeks to remove the word “unnecessarily”. I think that the provision is too loosely worded, because it would allow the commission itself to determine whether it is duplicating the work of someone else. I would prefer to delete the word “unnecessarily”. I hope that ministers will endorse the message that the idea of duplication extends to the Parliament’s committees. If a parliamentary committee were conducting an inquiry into an issue of human rights, I would be concerned if the commission for human rights took up the issue at the same time. We must set down clear lines of demarcation if we are to go down this road.

Although amendment 27 is a probing amendment, I look for strong assurances from ministers that the provision means that there should be no duplication. The message to any commission or commissioner in the future should be that they are expected to abide by that principle in relation both to other commissions and to the Scottish Parliament.

I move amendment 27.

Stewart Stevenson: It is rather unclear whether we should support or reject the amendment. An argument for rejecting it is that creating an absolute inhibition on duplicating work by deleting the word “unnecessarily” would slow down and make cautious a commission that, if we are to have one, must be outward looking and confident that it will not be open to legal challenge. I say that particularly because the phrase that is used is “any other enactment” rather than “any other enactment of the Scottish Parliament”. Deleting the word “unnecessarily” might prevent the Scottish commission from looking at issues that the GB commission for equality and human rights is considering. There are potential difficulties in relation to that. I will listen to what the minister, as advised by her civil servants, has to say on the matter. Another speaker from the SNP may take a different view. That reflects the difficulties of considering at this late stage the deletion of one word in a provision that is an important fulcrum of the bill. At the moment, I am minded to oppose the amendment.

Mr Swinney: It is evident that SNP members, like members from other parties, are not all singing from the same hymn sheet today. I would be grateful if the minister would clarify what she envisages by the word “unnecessarily”, which is not a terribly precise parliamentary term and is subject to enormous misinterpretation—even, dare

I say it, duplication of opinion. We must be absolutely clear about what standards have been applied and what we envisage by the inclusion of the word in the bill. In the spirit of the debate, I am minded to support Pauline McNeill, because it is essential that we avoid duplication with functions that are performed by other bodies. I am concerned that the wording of the provision as it stands is not sufficiently clear to allow us to take an informed decision. I look forward to getting clarification that will assist us in the matter.

Margaret Mitchell: I am minded to support the amendment in Pauline McNeill’s name. However, before committing myself to do so, I would welcome clarification of the point by the minister and an indication of whether the amendment would cause any unnecessary bother.

The Deputy Presiding Officer (Murray Tosh): Robert Brown is the minister who will respond to the points that have been made.

Robert Brown: Despite having many other magical abilities, I have not undergone a sex change.

I thank Pauline McNeill for raising the important issue of avoiding duplication, which is at the heart of the original provision in section 14. The Executive is strongly of the view that we do not want to see duplication of function between the bodies. Nevertheless, there are areas in which there will be commonality of interest. In an excellent contribution, in which he rightly referred to the issue as being at the fulcrum of the debate, Stewart Stevenson made the point that arrangements may be put in place for the Scottish commission to work in partnership with the GB commission, for example. I remind the chamber that the structure of the strategic plan arrangements is designed to ensure that the relationship between the Parliament and the commission is linked to the commission’s work plan. That is an important backdrop to the debate.

There will be situations in which work by one body is done in co-operation with another, or in which one body contributes to the work of another. I take Pauline McNeill’s point that parliamentary committees, which are democratic bodies, will be central in that connection. We certainly do not anticipate that the Scottish human rights commission will conduct a parallel inquiry without being invited to do so by the committee concerned.

It is essential that we deal with the issue of duplication but, as Stewart Stevenson pointed out, amendment 27 will make things too rigid and simply make it difficult for the commission to carry out its functions against the background of the strategic plan and its various agreements with other bodies on areas of activity. For example,

removing the word “unnecessarily” would mean that, even if the commission thought that a certain activity was necessary to allow it to fulfil its functions, it would have to ensure that it did not carry it out. I realise that that point is somewhat on the fringe, but we in the Executive and many other people certainly feel that duplication must be avoided. Indeed, I hope that the message that comes out of this debate is that, under the arrangements that we seek to introduce, we do not expect the work of these bodies to overlap.

With that reassurance, I hope that Pauline McNeill will withdraw amendment 27.

Pauline McNeill: I wanted to probe the issue because I felt that the Parliament needed to be clear about what was meant in section 14. The provision is helpful because, normally, there should be no duplication in the commission’s human rights work. In that respect, the strategic plan will help, because it will allow us to see the commission’s forward plan.

I simply want to ensure that, in making any judgment on this provision, a future commission can read the *Official Report* and see clearly that the Parliament’s will on this matter is that it does not expect any duplication to occur. I am pleased that the minister mentioned the committees of the Parliament, because it is an important point. I do not expect a future commission to carry out a parallel report on a human rights issue that the Parliament has already decided to explore. As I have received some clarity on this issue, I seek to withdraw amendment 27.

Amendment 27, by agreement, withdrawn.

After section 14

The Deputy Presiding Officer: Group 4 is on power to assist on claims or legal proceedings. Amendment 28, in the name of the minister, is the only amendment in the group.

Robert Brown: At stage 2, Robin Harper raised the issue of giving the proposed commission grant-making powers. I said at the time that I would look at the matter, because the wording in the bill was somewhat ambiguous. We have decided not to follow Robin Harper’s suggestion for a specific outline of the commission’s grant-making potential, because we feel that it was never intended that it would make such grants. However, after further examination of the matter, we decided to lodge amendment 28, which will make it clear that the commissioner should not be involved in individual casework. We reached that decision after the second consultation, and the strand has run through our work on the matter.

The cost of supporting individual cases can be very high and the experience of other jurisdictions, not least the Northern Ireland human rights

commission, suggests that such an approach does not necessarily promote or raise awareness of human rights issues efficiently or effectively. Of course, existing mechanisms in Scots law allow individuals to defend their rights through the courts with, where appropriate, the help of legal aid and assistance. The commissioner should not provide financial assistance to individuals in one legal area.

There is no particular and explicit provision that allows the commission to support individual cases, but there is a risk that some of the more general powers could be interpreted together in a way that would suggest that such a power exists. As a result, amendment 28 seeks to make it clear that the commission has no such power. Instead of being saddled with meeting the costs of individual cases, it should direct its resources at broader promotional and awareness-raising work.

I accept that, in some cases, the commission’s input might be useful. However, the bill already contains provisions to allow the commission to make focused interventions in civil cases in which human rights arise. That will be a more efficient and effective use of the commission’s resources than would becoming entangled in individual litigation. As a result, I hope that Parliament will accept the logic behind amendment 28 and support it.

I move amendment 28.

Marlyn Glen (North East Scotland) (Lab): I accept the clarification in amendment 28 that the SCHR has no power to provide direct assistance. However, will the minister confirm that the amendment will not prevent the SCHR from publishing general guidance on how human rights can be upheld, including information to that effect? For example, will it be able to provide to a victim of an alleged human rights breach by a public authority information on how to claim compensation in court by referring that person to, or sending them, such general guidance?

16:30

Patrick Harvie: I echo Marlyn Glen’s remarks. I look forward to hearing the minister’s response. The commission should not be prevented from publishing hypothetical cases, for example, for the education of the general public.

We believe that, in time, the commission should have the power to involve itself in individual cases. However, we accept that that is clearly not the will of Parliament, so we are willing to accept the commission with its promotional role. Nevertheless, we urge all political parties, as time goes on and as the commission establishes itself in civic society, to look again at the role that it could be given in the future regarding individual cases.

Robert Brown: In response to Marlyn Glen's valid point, although we are obviously not supporting the use of the powers with individual cases, there is a clear signposting role for the commission. Therefore, publication of advice and guidance on where people can get additional information and distribution of leaflets could come entirely under the commission's central function. We anticipate that it would wish to take on that sort of role.

I recognise Patrick Harvie's position on the matter but, as he acknowledged, it is not a position with which the Executive agrees. It will no doubt be the subject for debate on another day.

Amendment 28 agreed to.

The Deputy Presiding Officer: Group 5 is on consent for human rights action by the Great Britain commission for equality and human rights. Amendment 29, in the name of Pauline McNeill, is grouped with amendment 35.

Pauline McNeill: My proposals cover an important aspect of this afternoon's debate—they deal with provisions in the UK Equality Act 2006 on the commission for equality and human rights. Section 7(4) of that act provides that, with the consent of the Scottish commissioner, the Great Britain commission may use the powers of judicial review on devolved issues.

Amendment 29 states how that consent may be exercised. Under the amendment, it cannot just be used for a devolved issue, and it should be contained in the strategic plan that must be presented to Parliament. Amendment 35 would require that any intention of the Scottish commission to grant consent to the GB commission be flagged up to the Scottish Parliament in advance in the strategic plan. The Justice 1 Committee asked for clarity on that point—indeed, it asked for clarity from stage 1. I feel that this has been a vital constitutional issue to deal with, but it has not been addressed since the matter was first raised.

The Justice 1 Committee also raised the matter with the Department for Constitutional Affairs. Its response was that the provisions were never designed to be a back door by which the Scottish commissioner could use the power of judicial review, which will not be granted by the bill. There are several reasons for that. First, that would be contrary to the legal principles of Scots law, in that a victim who sues over or claims a breach of their human rights must do so themselves. We do not allow third parties to do that.

It is important that we clarify how the consent that can be given by the Scottish commission to the GB commission would be exercised. There is nothing in the bill that gives any direction to a Scottish commission as to the reasons or criteria

according to which it would exercise the power. It seems odd that the GB commission can exercise the power of judicial review on a devolved issue upon the consent of the Scottish commissioner when it is accountable to Westminster, but not to this Parliament. I have a problem with that. In any case, the power should be used sparingly, which is, I believe, why it was put there. That is the position, as I understand it, of the Department for Constitutional Affairs.

I seek clarity on the matter. There will, of course, be costs involved, but it is not clear who would pay the costs of a court case. I guess that it would be the GB commission, if it was exercising the powers—albeit that it would be doing so with the consent of the Scottish commission. However, that is not clear.

If an issue is significant enough to warrant a court case because there has been a breach of human rights, I see no reason why there should not be advance planning in that regard. The Scottish commission could indicate in the strategic plan that it presents to Parliament its intention to give consent to the GB commission on an issue to do with human rights. Given that any court action would be likely to consider issues that fall within the responsibilities of the Scottish Parliament, I simply suggest that we should be told about that.

My proposal would in no way interfere with the independence of either commission. It would simply ensure that elected members were aware that action was being taken in respect of human rights.

In a briefing note on amendment 29, it is suggested that the inclusion of information in the strategic plan would be a problem, because the plan will be produced only every four years. However, the bill makes provision for the strategic plan to be amended. If the Scottish commission wanted to give consent to the GB commission on an important matter that involved a devolved issue, nothing would stop it from amending the plan to indicate its intention to act.

I want confirmation that the Scottish Parliament would be aware that consent had been given to the GB commission, which is responsible to Westminster, and that it is expected that the power be used sparingly. I hope that the minister will confirm that there is no intention to provide a back door to judicial review powers for the Scottish commission. I would like to see a memorandum of understanding that sets out roughly how consent is expected to be exercised. I hope that the SPCB would see that memorandum in advance, so that we could all be clear about how the consent would be used. That is what amendment 29 is about.

If I get the answers that I seek on the matters that I have identified, I might be prepared to seek to withdraw amendment 29.

I move amendment 29.

Stewart Stevenson: We support amendments 29 and 35. If amendment 29 is not agreed to, we will still support amendment 35.

The issue illustrates the considerable difficulties in which we find ourselves as different legislatures try to ensure that their systems work harmoniously. The Scottish Parliament's involvement in the proposals to establish the commission for equality and human rights, some of whose responsibilities will apply north of the border, was sufficiently minimal to create the difficulties that the Justice 1 Committee encountered when it visited London during the early stages of its consideration of the bill.

Under the Scotland Act 1998, it would have been possible for Westminster simply to have given us the powers that we would need to create an integrated and holistic environment for the consideration of equality and human rights. Such an approach would have offered a useful way forward and would have avoided the difficulties at the interface between the bill and the Westminster approach, which was being considered before our bill was introduced. Amendments 29 and 35 try to address those difficulties. We support them.

Karen Gillon: I also support amendments 29 and 35. I seek from the minister the assurances that Pauline McNeill seeks, particularly in relation to judicial review and the transparency of the process. I remain to be convinced by the minister that Parliament should not agree to the amendments, because the approach that Pauline McNeill proposes would provide transparency.

How would use of the power be intimidated to Parliament if not through the process that amendments 29 and 35 would provide for? How could MSPs be held to account for decisions, in the way that the UK Parliament will hold the GB commissioners to account? There is ambiguity in that regard, so the minister must clearly set out his expectations. The e-mails that I received this morning from people who oppose amendments 29 and 35 suggest that the issue is far more serious than Parliament initially appreciated. I would welcome clarification from the minister.

The Deputy Presiding Officer: I call the minister. We do not have very long, minister.

Robert Brown: I am grateful to Pauline McNeill for lodging amendment 29, which raises important issues. The amendment to the Equality Bill that gave the GB commission power to raise cases at judicial review in relation to human rights issues was lodged at a late stage. It was not the UK Government's original intention to give the GB commission such a power. We are aware of the potential difficulties that the provision could pose, so we discussed with the UK Government at an

early stage how best to address that. As a result of those discussions, the Parliamentary Under-Secretary of State for Women and Equality stated on the floor of the House of Commons that section 7 of the Equality Act 2006 should be read as requiring the CEHR to seek the consent of the Scottish commission before instituting legal proceedings on a devolved matter. I suppose that that is, at that end of the day, probably okay.

The issue then turns on the proposed memorandum of understanding, which is central. The UK Government and the Scottish Executive agreed at the outset that the GB commission and the Scottish commissioner or commission should enter into a memorandum of understanding that sets out their respective roles, to be supported by close on-going co-operation. There was common ground on the Scottish commission's taking the clear lead on promoting human rights on devolved policy matters, while the GB commission would act on reserved matters. One incidental issue with Pauline McNeill's amendment 29 is that it proceeds not on that basis, but on a geographical basis.

The GB commission is therefore not expected to take any action on devolved human rights matters, except when that might be appropriate in connection with its reserved human rights or equality activities. The clear understanding of the Scottish ministers is that any such action should be incidental to those main activities and should not impact materially on the responsibility of the Scottish ministers, the Scottish Parliament or the Scottish justice system. The GB commission's Scotland office and Scotland committee will advise the GB commission about its activities in Scotland, including its liaison with the Scottish commission. The Scotland committee is to be chaired by a GB commission member who has special knowledge of Scotland and whose appointment will be agreed with the Scottish ministers. That is an element of reinforcement. The committee will be required to include information on its activities in Scotland in its annual report and to submit copies of that report to the Scottish Parliament. That is a joining of the links.

Pauline McNeill: I need to have the issue clarified. Does the minister envisage that the power to go to judicial review could be used by the GB commission in Scotland on a Scotland-only issue? I understand that that is not supposed to be the power.

Robert Brown: Absolutely not. As I was at pains to say, that could be done only incidentally to a more general matter.

The Scottish commission will be accountable to this Parliament for its activities, not least the giving of consent to such an action. The requirement for an explanation of that consent deals with the

accountability and information issues. The method of conveying to Parliament the intention to give consent should be agreed in the protocol.

Those are important assurances, but I want to give a bit of further reassurance.

The Deputy Presiding Officer: Quickly.

Robert Brown: The Scottish Executive is, and will continue to be, involved closely in the work on the protocol. We will ensure that agreements are in place. Against that background, and given the technical deficiencies of amendment 29, I hope that Pauline McNeill will accept our reassurances and be prepared to seek to withdraw it.

The Deputy Presiding Officer: Ms McNeill, I am afraid that there is no time for you to speak. I ask you simply to say whether you wish to press or withdraw amendment 29.

Pauline McNeill: That is unfortunate, as the issue is crucial, Presiding Officer.

The Deputy Presiding Officer: Yes—but I am bound by the timetable. Do you wish to press or withdraw?

Karen Gillon: Presiding Officer, will you accept a motion without notice to extend the time for this group by five minutes?

Alasdair Morgan: What have you got to lose, Presiding Officer?

The Deputy Presiding Officer: The time on the next group is what I have to lose. I am not prepared to exercise that discretion. I ask Pauline McNeill to say whether she wishes to press or withdraw amendment 29.

Pauline McNeill: I seek to withdraw amendment 29.

The Deputy Presiding Officer: Do members agree to Pauline McNeill withdrawing amendment 29?

Members: No.

The Deputy Presiding Officer: In that case, the question is, that amendment 29 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
Brownlee, Derek (South of Scotland) (Con)
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)
Fraser, Murdo (Mid Scotland and Fife) (Con)

Gibson, Rob (Highlands and Islands) (SNP)
Grahame, Christine (South of Scotland) (SNP)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
Lochhead, Richard (Moray) (SNP)
MacAskill, Mr Kenny (Lothians) (SNP)
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)
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, John (Ayr) (Con)
Stevenson, Stewart (Banff and Buchan) (SNP)
Swinney, Mr John (North Tayside) (SNP)
Watt, Ms Maureen (North East Scotland) (SNP)
Welsh, Mr Andrew (Angus) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
Baillie, Jackie (Dumbarton) (Lab)
Baird, Shiona (North East Scotland) (Green)
Baker, Richard (North East Scotland) (Lab)
Ballance, Chris (South of Scotland) (Green)
Ballard, Mark (Lothians) (Green)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
Byrne, Ms Rosemary (South of Scotland) (Sol)
Canavan, Dennis (Falkirk West) (Ind)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Eadie, Helen (Dunfermline East) (Lab)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Finnie, Ross (West of Scotland) (LD)
Gillon, Karen (Clydesdale) (Lab)
Glen, Marilyn (North East Scotland) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
Gorrie, Donald (Central Scotland) (LD)
Harper, Robin (Lothians) (Green)
Harvie, Patrick (Glasgow) (Green)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Jackson, Dr Sylvia (Stirling) (Lab)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Lyon, George (Argyll and Bute) (LD)
Macdonald, Lewis (Aberdeen Central) (Lab)
Macintosh, Mr Kenneth (Eastwood) (Lab)
Maclean, Kate (Dundee West) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
May, Christine (Central Fife) (Lab)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
McCabe, Mr Tom (Hamilton South) (Lab)

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

ABSTENTIONS

Fox, Colin (Lothians) (SSP)

The Deputy Presiding Officer: the result of the division is: For 32, Against 73, Abstentions 1.

Amendment 29 disagreed to.

Section 4B—Strategic plans

Amendments 30 to 34 moved—[Robert Brown]—and agreed to.

16:45

The Deputy Presiding Officer: Amendment 35, in the name of Pauline McNeill, has already been debated. Ms McNeill, do you wish to move amendment 35?

Pauline McNeill: No.

Amendment 35 moved—[Stewart Stevenson].

The Deputy Presiding Officer: The question is, that amendment 35 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Brownlee, Derek (South of Scotland) (Con)
 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)
 Fraser, Murdo (Mid Scotland and Fife) (Con)

Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 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)
 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, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)

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

The Deputy Presiding Officer: The result of the division is: For 32, Against 72, Abstentions 0.

Amendment 35 disagreed to.

Amendments 36 to 40 moved—[Robert Brown]—and agreed to.

Section 5—Power to conduct inquiries

Amendments 41 to 48 moved—[Robert Brown]—and agreed to.

Section 6—Restrictions as to scope of inquiry

Amendments 49 to 53 moved—[Robert Brown]—and agreed to.

Section 7—Evidence

Amendments 54 to 59 moved—[Robert Brown]—and agreed to.

Section 8—Places of detention: powers of entry, inspection and interview

Amendment 60 moved—[Robert Brown]—and agreed to.

Section 9—Report of inquiry

Amendments 61 to 65 moved—[Robert Brown]—and agreed to.

Section 10—Confidentiality of information

Amendments 66 to 71 moved—[Robert Brown]—and agreed to.

Section 11—Power to intervene

Amendments 72 to 82 moved—[Robert Brown]—and agreed to.

Section 12—Annual report

Amendments 83 to 88 moved—[Robert Brown]—and agreed to.

Section 13—Publication of reports

Amendments 89 to 91 moved—[Robert Brown]—and agreed to.

Section 15—Protection from actions for defamation

Amendments 92 to 94 moved—[Robert Brown]—and agreed to.

Section 18—Interpretation

Amendments 95 and 96 moved—[Robert Brown]—and agreed to.

After section 18

The Deputy Presiding Officer: Before I call amendment 97, in the name of Mary Mulligan, which is grouped with amendments 99, 129, 130, 133, 135, 138, 151, 154 and 155, I direct members' attention to the pre-emptions and point out in particular that amendments 129 and 130 are direct alternatives and that the second will therefore replace the first. The pre-emptions are given in the groupings document.

Alasdair Morgan: Will you explain that?

The Deputy Presiding Officer: I do not have time.

Mrs Mary Mulligan (Linlithgow) (Lab): Amendment 97 responds to a discussion that many members have had on co-location of the SCHR. The amendment would allow the Scottish Parliamentary Corporate Body to determine the initial location of the commission's office. There are two reasons why co-location should be supported, the first of which is financial. There is an opportunity for co-location to lead to sharing of administrative costs, which will allow the majority of the budget to be spent on the true business of the commission. At this stage, I have to admit that I favour co-location with the GB body—the CEHR. The more important point on co-location is that it will provide a one-stop shop for people approaching either of the human rights bodies, which would benefit the public, help to overcome confusion about which commission covers which element of human rights and allow those bodies to complement each other and work closely together.

Amendment 97 deals with the practical difficulties of co-location that could arise due to the

different timings of the establishment of the CEHR and the SCHR. It would allow the corporate body to fill that gap in timing and to ensure that Parliament's wishes were carried out.

I understand the proposal in Margaret Mitchell's amendment 129. The committee discussed the idea, but the practical reality is that the Scottish public services ombudsman is located here in Edinburgh and there is a commitment to locate the CEHR in Glasgow. We have to take a practical decision on where the SCHR should be located, if indeed it is to be co-located. On balance, there are more advantages to the SCHR being co-located with the CEHR, so I will not support amendment 129.

Amendment 99, in my name, is a procedural one that would exclude from the general provisions the new section that is proposed in amendment 97.

I move amendment 97.

Margaret Mitchell: Amendment 129 provides for the commission's office to be co-located with that of the Scottish public services ombudsman. That would offer value for money and end the uncertainty about where the commission's office will be located. Mary Mulligan's amendment 97 would not achieve that. I recommend my amendment 129 in the interests of providing value for money, ending uncertainty and encouraging co-operation and dialogue between the two bodies.

Amendment 135 stipulates that the commission's staff must be drawn from the staff who are employed by the Scottish public services ombudsman, who are experienced in dealing with complaints against public bodies, including complaints that have a human rights aspect. Again, value for money is paramount and there would be considerable savings on pensions, salaries, social security, advertising and allowances. The provision would encourage the two organisations to work closely together and to draw on the experience of the Scottish public services ombudsman's staff in handling complaints.

Pauline McNeill: Amendment 130 would give the SPCB the power to determine the location of the commission's office. We have heard that there is a case for the commission to be co-located with either the Scottish public services ombudsman or the GB commission. At stage 1, the committee said that a decision should be made on either of those two options.

Amendment 130 would provide that the SPCB determine the commission's final location, whereas Mary Mulligan's amendment 97 would provide that the SPCB determine the commission's initial location. I am happy to agree to Mary Mulligan's amendment as long as the

minister acknowledges that the SPCB will be required to give final approval if there is a change of location in the future. On that basis, I will not move amendment 130.

Robert Brown: I welcome amendments 97 and 99, which were lodged by Mary Mulligan. They are sensible amendments that will allow the Scottish Parliamentary Corporate Body to prepare for the establishment of the commission; in particular, they will allow the SPCB to discuss with the implementation team for the GB commission the possibility of co-locating the two bodies. There is a commitment to identify suitable premises for the Scottish office of the GB commission in early 2007, which is perhaps before members of the Scottish commission can be appointed. It would be disappointing if the opportunity to discuss co-location with the GB commission was lost because of the timing of the appointments process. Amendments 97 and 99 would allow the SPCB fully to consider the options and to provide support.

I understand the rationale behind Pauline McNeill's amendment 130 and her request for an undertaking on the commission's final location, but they are unnecessary. Paragraph 10(1) of schedule 1 states:

"The Commissioner's determination of the location of the Commissioner's office premises is subject to the approval of the Parliamentary corporation."

In effect, the commission will need the SPCB's approval if it wants to move from its initial location. Amendment 130, under which the SPCB would be responsible for deciding on the location, is therefore made redundant by Mary Mulligan's amendments 97 and 99.

Margaret Mitchell's amendments 129 and 135 take us back, as she said, to earlier arguments about the Scottish public services ombudsman and revisit an issue that we discussed at considerable length at stage 2. We have moved on in the decision-making process, but I will make an important point that has been lost. If the commission is co-located with the Scottish public services ombudsman—which is perfectly possible—we would have to identify whether there was space in the ombudsman's office, what the costs would be, what the arrangements would be, and whether there were implications for the ombudsman. That is not the kind of thing that Parliament should directly and immediately determine, and I believe that there are flaws in the argument that Margaret Mitchell has allowed herself to get into. Such matters ought to be decided by the SPCB, in accordance with need and in accordance with the statute that directs the SPCB. Margaret Mitchell's amendments would prevent the commission and Parliament from making other arrangements that might be more practical and efficient.

I turn to the Executive amendments. Amendment 133 will remove paragraph 10(2) of schedule 1, which is made redundant by amendment 138. The purpose of amendment 138 is—in response to views that were expressed during committee debates at stage 2—to allow the commission to share services with other organisations, and to require the commission to consider the desirability of entering into such arrangements. Amendment 138 will ensure that the commission will have proper regard to making the most efficient use of its resources, not just in terms of location but in exploring options for sharing premises, staff, services or other resources with other public bodies. Amendment 155 will insert a new subparagraph that will require the commission to include in its budget proposal a statement that it has complied with its duty, under amendment 138, to consider the options for sharing services. Amendments 151 and 154 are consequential amendments that will change the wording of paragraphs 13(2) and 13(3) of schedule 1 to include the phrase “use of resources”.

The Executive's amendments are worthy amendments that will widen the direction and focus of the SPCB's powers in connection with the commission, and they respond to the concerns that were quite properly expressed by the Finance Committee, the Justice 1 Committee and others during the course of the bill's consideration. I recommend that they be accepted by Parliament.

Stewart Stevenson: I take it from the minister's speech that the Executive accepts amendments 97 and 99.

Robert Brown *indicated agreement.*

Stewart Stevenson: That is helpful. It makes the debate on the group much clearer, so I need not detain Parliament further.

Members: Hear, hear.

The Deputy Presiding Officer: I invite Mary Mulligan to wind up.

Mrs Mulligan: Amendment 97 will allow for co-location—I said earlier that I favour co-location with the CEHR. However, whatever the option is, I am not sure why Margaret Mitchell thought that there were no savings to be made from co-location, regardless of where she thought it would be, and I am not sure why she is not supporting my amendment. There are problems in co-locating with the SPSO, the practical difficulty being that that body is already established. How could we fit another body into its offices? I hope that, given the reassurances that she has heard, Margaret Mitchell will find herself able to support my amendments.

Amendment 97 agreed to.

Section 19—Short title, Crown application and commencement

Amendment 98 moved—[Robert Brown]—and agreed to.

Amendment 99 moved—[Mrs Mary Mulligan]—and agreed to.

SCHEDULE 1—SCOTTISH COMMISSIONER FOR HUMAN RIGHTS

The Deputy Presiding Officer: Amendment 100A, in the name of Des McNulty, has already been debated with amendment 5. Mr McNulty, do you wish to press amendment 100A?

Des McNulty: No.

Amendment 100A moved—[Stewart Stevenson].

The Deputy Presiding Officer: The question is, that amendment 100A be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
Aitken, Bill (Glasgow) (Con)
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
Brownlee, Derek (South of Scotland) (Con)
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)
Gibson, Rob (Highlands and Islands) (SNP)
Grahame, Christine (South of Scotland) (SNP)
Hyslop, Fiona (Lothians) (SNP)
Lochhead, Richard (Moray) (SNP)
MacAskill, Mr Kenny (Lothians) (SNP)
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)
McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
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)
Stevenson, Stewart (Banff and Buchan) (SNP)
Swinney, Mr John (North Tayside) (SNP)
Watt, Ms Maureen (North East Scotland) (SNP)
Welsh, Mr Andrew (Angus) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
Baillie, Jackie (Dumbarton) (Lab)
Baird, Shiona (North East Scotland) (Green)
Baker, Richard (North East Scotland) (Lab)

Ballance, Chris (South of Scotland) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 34, Against 70, Abstentions 0.

Amendment 100A disagreed to.

Amendments 100 to 104 moved—[Robert Brown]—and agreed to.

17:00

The Deputy Presiding Officer: Group 7 is on commission finance and accountability issues. Amendment 105, in the name of Pauline McNeill, is grouped with amendment 157.

Pauline McNeill: Both amendments are about overspend and financial accountability. Amendment 105 would amend schedule 1 so that it would be clear that the commission is independent of the Parliament, the Scottish Executive and the corporate body in exercising its powers, except when it overspends on its budget.

Amendment 157 deals with what would happen if the commission overspent its budget, and provides that, for the remainder of the financial year in question, the corporate body would be able to direct the commission to ensure that it remains within its budget.

In creating any commission, all members are concerned that if we lay down a budget and give a commission powers, we expect it, broadly speaking, to remain within that budget. I was concerned when I read in the last week or so that the commissions that we have already created have come back to the Parliament for sums of money totalling almost £6 million.

It would not interfere with the commission's independence if we took the view that if we give it a million pounds and it spends more than that, the corporate body should be able to issue directions to ensure that, apart from anything else, there is no liability. Again, I am looking for assurances.

I realise that there is a pretty great onus on the corporate body. I hope that its members understand that many MSPs' support is dependent on the corporate body having powers and financial control. That places an onus on the corporate body, but it is necessary. We are accountable for the money that we spend, and we need to tighten the system up as far as possible.

I hope to get some assurances from the minister, and it might be helpful to hear a contribution from a member of the corporate body to confirm that it accepts that the will of Parliament is that it should have such powers and should exercise them in the way that Parliament intends.

I move amendment 105.

Stewart Stevenson: It might be good news for Parliament generally.

I used to work for a gentleman called Peter Burt, who will shortly report to ministers on local

government finance. When he was boss of a bank, he had an excellent saying about expenditure: "We have very deep pockets but very short arms."

Amendments 105 and 157 address precisely that issue. Although there might be £31 billion in the Scottish Executive budget and we are debating something with an approximate cost of £1 million, we have to be careful to draw legislation so that it does not give unfettered financial power to an external body to put its deep hand in our sometimes rather shallow pocket.

Pauline McNeill's approach in amendments 105 and 157 is useful and, if properly observed by the commission, will mean that it has the discipline not to exceed the budget that it is given. If it does exceed it, that will compromise its independence, which neither it nor we will want. I am minded to support the amendments.

Karen Gillon: I will certainly be supporting amendments 105 and 157.

It is important to remind ourselves what schedule 1 says. It says that the SCHR should prepare a budget; that if that budget changes it should prepare a revised budget; and that even if it exceeds that budget, the additional money can still be paid to it. At some point, the Parliament has to exercise some financial control. That has not been the case on a number of occasions: it has happened twice with Scottish Opera, once with Scottish Enterprise—I hope for the last time—and with the commissioners. On such occasions, the Parliament has been left with no option but to pay further moneys to bodies that have overspent their budgets. That is simply unacceptable.

Today, we have an opportunity to do something about that, to learn the lessons of the past and to make changes for the future. Amendments 105 and 157 offer a way forward, so I urge the ministers to accept them. We can have financial accountability without encroaching on the independence of commissioners. It is not the commissioners but we who will be judged by the Scottish people on how our budgets are used. We should not be held over a barrel by anyone, so I urge members to support amendments 105 and 157.

Patrick Harvie: I will be brief. I take seriously the arguments on financial accountability that Pauline McNeill and Karen Gillon have made, but I hope that amendment 105 will be withdrawn. If we are talking about a serious proposal on financial accountability, I can think of no reason why the proposed commission for human rights should be treated any differently from the other bodies. We should consider a proposal on all the various commissions and commissioners separately from the bill.

Karen Gillon: The position that we are in now is different to the positions that we have been in

the past. We have the Finance Committee report and we are creating a new body, so let us get things right now, so that we do not have to make changes in the future. That is what amendments 105 and 157 are about; they are not about singling out a particular body. We need to learn the lessons of the past.

Patrick Harvie: If the member is correct to say that changes will have to be made to existing bodies, those changes will have to be made anyway and it will not be any more complex to change the arrangements for the commission for human rights at the same time.

Mr Swinney: The Scottish Parliamentary Corporate Body has been put in a difficult position by legislation that the Parliament has passed. When the SPCB has sought to exercise legitimate financial constraints on the activities of ombudsmen and commissioners, it has, in effect, been accused of questioning and seeking to jeopardise their independence. The same accusation has been levelled at the Finance Committee when it has expressed similar reservations.

Although no one is questioning the commissioners' independence, no body can be given a blank cheque that allows it to do what it wants. Financial controls must be in place so that we, as elected members of the Parliament who are responsible for a proportion of the public finances of Scotland, can be answerable to our electorate for the decisions that we take. Pauline McNeill's amendments 105 and 157 are right for the bill. Karen Gillon was absolutely right—we are considering the Scottish Commissioner for Human Rights Bill, not a bill to set up a consolidated fund for ombudsmen. As the Finance Committee suggested, we should get things right in the bill before we start on the other bodies.

And another thing—we should also ensure that the Parliament sends the corporate body a clear message of encouragement that demonstrates that members welcome the direction in which it is travelling.

Robert Brown: This is an important issue. I appreciate and agree with Pauline McNeill's concerns that the corporate body should be able to exercise proper control over the commission's use of public funds. In a former existence as a member of the corporate body, I had some dealings with such matters, which were not too far removed from the building in which we are sitting. I have more of an appreciation of some of the issues and pressures involved than do many other members.

The budget is the budget. No member would expect the commission or, indeed, any other body to go over its approved budget. The issue with the

existing commissioners has been not so much their going over budgets as their making requests for budget increases in subsequent years which, although important, is a different issue.

Amendments 105 and 157 are not necessary to allow the corporate body to maintain oversight of the commission's spending. Paragraph 13 of schedule 1, to which Karen Gillon referred, already provides that the commission's annual budget will be subject to the corporate body's approval. Paragraph 13(4) states that the corporate body is not required to pay any expenses incurred by the commission that are not included in the approved annual budget, which is as it should be. That automatically gives the corporate body leverage over the activity of the commission in the unlikely event that it exceeds its budget. That is unlikely because we have a structure of accountable officers and financial procedures, which enable both the commission and the corporate body, which receives figures from the commission, to be aware of what is taking place.

I agree entirely that there is a need for mechanisms to ensure proper scrutiny and control of public funds, but they have to be proportionate. The current provisions give the corporate body the necessary degree of control over the commission's budget and expenditure, whereas Pauline McNeill's amendments 105 and 157 would give it considerable powers of direction over all aspects of the commission's activity. That might not be what is intended, but that is what the amendments would provide, even if the commission went fractionally over its annual budget allocation.

Karen Gillon: Given all that the minister has said, what is the point of paragraph 13(5) of schedule 1? In what circumstances would it be used and in what circumstances would the corporate body—without the provisions in Pauline McNeill's amendments—have the authority to say to a commission, "No, you cannot have that money," without being completely vilified in the press and accused of somehow undermining the independence of a parliamentary commission?

Robert Brown: The issue is not the press but the power of the corporate body. Paragraph 13(4) states expressly that nothing in the bill requires the parliamentary corporation to pay any expenses incurred by the SCHR that exceed the budget. That is absolutely clear. Paragraph 13(5) provides for an exceptional procedure. I cannot envisage circumstances in which it is likely to be used, but it provides for circumstances that might arise.

Members should bear in mind the fact that the corporate body is the trustee of this Parliament. If it became necessary, the Parliament could dismiss the members of the corporate body and give directions to it on the way in which to operate its

services. Ultimately, the Parliament has the whip hand. The corporate body acts in the interests of the Parliament. I say respectfully that the current arrangements allow it all necessary powers to do so. I hope that members will accept that on rereading schedule 1.

Pauline McNeill: It is clear that members of the Parliament who will be supporting the bill expect that the corporate body will be able to take financial control where necessary without it being seen to be interfering in any way with the independence of the commission which, for me, is fundamental.

I agree with Patrick Harvie that the rules should apply to all commissions, but I also agree with Karen Gillon. I have learned lessons from the way in which I have voted in the past, and I will not act in the same way again. If I am to vote to pass the bill, I must have the assurance that financial control will be exercised through the corporate body, which represents the Parliament. I hope that the will of Parliament is noted.

The minister said that there are levers to ensure that where there is overspend we do not have to sign off the budget. If I were to withdraw amendment 105, I would have to put a bit of trust in that.

Parliament must pay attention. It must focus on the implementation of the commission and, beyond that, it must scrutinise not just the commission but every other body that we have created to ensure that they do what we intended them to do. If we are concerned about finances spiralling out of control, we should be able to do something about it without it being seen as in any way trying to interfere with a body's purpose, as Karen Gillon said.

On that basis, and on the balance of what I have heard, I seek Parliament's permission to withdraw amendment 105.

The Deputy Presiding Officer: Do members agree to the member's request that amendment 105 be withdrawn?

Members: No.

The Deputy Presiding Officer: Therefore, the question is, that amendment 105 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
Aitken, Bill (Glasgow) (Con)
Brocklebank, Mr Ted (Mid Scotland and Fife) (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)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 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)
 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, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Frances (West of Scotland) (SSP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)

Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 37, Against 71, Abstentions 0.

Amendment 105 disagreed to.

Amendments 106 to 128 moved—[Robert Brown]—and agreed to.

Amendments 129 and 130 not moved.

Amendments 131 to 134 moved—[Robert Brown]—and agreed to.

Amendment 135 moved—[Margaret Mitchell].

17:15

The Deputy Presiding Officer: The question is, that amendment 135 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 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)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 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)
 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)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)

McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 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)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 34, Against 71, Abstentions 0.

Amendment 135 disagreed to.

Amendments 136 to 156 moved—[Robert Brown]—and agreed to.

The Deputy Presiding Officer: Does Pauline McNeill wish to move amendment 157?

Pauline McNeill: No.

Amendment 157 moved—[Stewart Stevenson].

The Deputy Presiding Officer: The question is, that amendment 157 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 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)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)

Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 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)
 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, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)

Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 38, Against 69, Abstentions 0.

Amendment 157 disagreed to.

Amendments 158 to 163 moved—[Robert Brown]—and agreed to.

Schedule 2

INQUIRIES: SUPPLEMENTARY PROVISION AS TO EVIDENCE

Amendments 164 to 174 moved—[Robert Brown]—and agreed to.

The Deputy Presiding Officer: That ends consideration of amendments.

Scottish Commission for Human Rights Bill

The Deputy Presiding Officer (Murray Tosh):

The next item of business is a debate on motion S2M-4920, in the name of Robert Brown, that the Parliament agrees that the Scottish Commission for Human Rights Bill be passed. I advise members that we are behind the clock and I am not sure that I will be able to call any member in the open debate; however, I will do my best.

17:21

The Deputy Minister for Education and Young People (Robert Brown):

Human rights are at the heart of any civilised society, but the European convention on human rights is, rightly, written into the very fabric of the legislation that established the Scottish Parliament. As we come to the end of the legislative process, I ask members to reflect not just on the nuts-and-bolts issues of management, budget, office and accountability that have been rightly prominent in the debate—perhaps too prominent—but on the purpose of the Scottish human rights commission.

The Scottish human rights commission is about embedding high standards of human rights and public ethics into the policy and practice of public authorities—councils, quangos, bodies that deliver public services and government. Human rights considerations have already changed many things that we took for granted in our courts system and our general democracy, including temporary sheriffs; public appointment procedures; the need for the prosecution to explain and justify some of its decisions; the treatment of mental health detainees; the position of victims; and many others. Sometimes, those changes have been made following review by Government; sometimes, they have been made following the representations of committees; and, sometimes, they have been made as a result of legal action.

I will make two central points. First, changes that are forced by legal or other action are almost always more expensive than changes that are planned in advance. Secondly, as MSPs we can pass perfect laws, but 95 per cent of the challenge is in their implementation on the ground through the practice and standards that are achieved by local government and others in carrying through the legislative intent. Many of the points that were made in the previous debate echoed that. We know, from the recent Amnesty International Scotland report, as well as from a host of other reports by the National Audit Office and others, that there is a widespread lack of focus by Scottish public authorities on human rights that still require to be recognised and complied with in practice.

That is the challenge that we face, and it is why the bill has been produced.

The Executive started to consider establishing a human rights commission for Scotland in 2000. When the Parliament first held a debate on human rights, in that year, the Conservatives and the Scottish National Party joined in calls for the establishment of such a body—a body that was pretty much in the format that is currently being presented to Parliament. If members do not believe that, they should read the *Official Report* of that debate, as I have done since Roseanna Cunningham's earlier intervention.

Mr John Swinney (North Tayside) (SNP):

Does the minister not accept that there have been a number of material changes in the architecture and the supervision of governance in Scotland in the years since that debate and that perhaps, on occasions, political parties might be better respected if they changed their minds when the world around them changed?

Robert Brown: I am pleased to accept that recognition of the fact that the SNP has changed its mind on the matter. That was not something that we got from Roseanna Cunningham earlier. The point is that there has been a change of view by some people on the matter.

It is also odd how Margaret Mitchell has been keen to airbrush out of her version of history the strong statements that were made at that time by David McLetchie, Lord James Douglas-Hamilton and others.

Margaret Mitchell (Central Scotland) (Con): Will the minister take an intervention?

Robert Brown: No. I have already taken an intervention, and I think that we know what the member would say.

I have been disappointed by the apparent lack of emphasis that the major Opposition party, the Scottish National Party—which, curiously, describes itself as a modern social democratic party—puts on promoting human rights.

Margaret Mitchell: Will the minister take an intervention?

The Deputy Presiding Officer: The minister is not going to give way.

Robert Brown: Since 2000, we have held two public consultations. The responses to those consultations showed widespread support for the proposal to establish a commission. That support was reiterated during the bill's progress. Our proposals are widely supported across the spectrum of civic society in Scotland.

I see Fergus Ewing saying something. Does he want to intervene?

Margaret Mitchell: Will the minister take an intervention from me?

Robert Brown: No. I know what Margaret Mitchell will say. [*Interruption.*]

The Deputy Presiding Officer: Order.

Robert Brown: I thank the Justice 1 Committee for its hard work in thoroughly considering the bill and everyone else who has contributed by giving evidence or by other means.

During the process, we have listened to what has been said and made significant changes to our proposals, particularly to the architecture and environment within which the commission will operate. The Justice 1 Committee's scrutiny was rigorous—occasionally even torrid—but that committee did its job with diligence and the bill has benefited immeasurably from its work, as bills have often done.

The changes to our proposals include the requirement for the Scottish commission for human rights to publish and consult on a strategic plan; the establishment of a commission instead of a single commissioner; the duty to consider sharing offices and services with other bodies, such as the forthcoming Great Britain commission for equality and human rights; and the explicit requirement for the commission's budget to be approved by the Scottish Parliamentary Corporate Body. Those arrangements go much further than the arrangements for existing parliamentary commissioners and ombudsmen. It was proper to make those changes, and the process has, by debate, tested arrangements that will be extended to the earlier bodies in due course.

Accepting Mary Mulligan's amendment 97 means that the corporate body will be given the flexibility to make advance arrangements in relation to the commission's office—that includes the possibility of co-locating it with the Great Britain commission—and to take the necessary time to develop appropriate and cost-effective administrative arrangements to support the commission's functions.

Those issues are important. However, in considering them, we must not lose sight of what the SCHR will be for and what it will be expected to do. Individuals can get the full benefits of human rights only if they know what those rights are. Similarly, public authorities must know what those human rights are so that they can respect them and not allow misunderstandings about them to get in the way of delivering effective services. Experience has shown that making services human rights compliant brings wider benefits as a result of improved quality. To put things in another way, the issue is raising public satisfaction with public services, saving resources by doing things in a better and unchallengeable way that respects

individual citizens, and establishing more soundly the rights of people who are often left behind and whose human rights are not well protected. The amendment at stage 2 to the commission's general duty to focus on the human rights of those whose rights are not otherwise sufficiently promoted was important.

The commission's work programme is for it to develop, but it might include supporting vulnerable older people, young people in care homes, migrant workers, people in deprived or rural communities or people with limited financial rights or powers. That is what the SCHR will be about. By working to achieve a society in which everyone's human rights are respected and in which public bodies are the leaders in good practice, the SCHR will help us to achieve the modern, confident and inclusive Scotland that we all want.

I move,

That the Parliament agrees that the Scottish Commission for Human Rights Bill be passed.

17:28

Stewart Stevenson (Banff and Buchan) (SNP): Des McNulty's amendment to the Executive's motion was not selected for debate—members can read it in the *Business Bulletin*. That amendment sought to restrict the amount of money for the Scottish commission for human rights in relation to functional costs. I do not want to worry about whether we should be debating that amendment, but I hope that if the bill is passed at 6 o'clock, we will find a way of controlling the balance of the commission's expenditure.

Following all the work that has been done and the considerable period in which the proposal has been considered, we are left with a fundamental dichotomy that I cannot solve. The bill is about the promotion of human rights within public institutions, but Scottish National Party members want a bill that protects the individual human rights of the citizens of Scotland. That is a very different thing. Human rights can be compromised by, for example, commercial companies. On other occasions, human rights can actually be promoted and supported by commercial companies. For example, one of our major banks flouts the law that requires people who open bank accounts to have an address. The bank opens accounts for the sellers of *The Big Issue*, who are, by definition, homeless. My point is that human rights issues go far beyond simply the public bodies, and the effects can be positive or negative.

Individuals should be at the heart of our concerns in relation to human rights, but this bill simply does not focus on individuals. Public institutions already have duties in relation to

human rights. The case has been made that they are not properly exercising those duties, and we have heard a number of Government speakers criticising the performance of public bodies—be they local authorities, parts of the health service, or whatever.

We are in a curious position. We are seeking to create a bill whose purpose is to compensate for the human rights deficiencies of public bodies; however, the overall human rights performance of those public bodies is probably better than that of private bodies and companies, and that of public companies and individuals. We should instead be focusing on the human rights of individuals. If we had put the people of Scotland at the heart of the bill, SNP members would have been able to support the bill at 6 o'clock. However, as it stands, the bill is not worth salvaging. It will simply create a post for someone who will book advertising space and go into public authorities of one sort or another around Scotland to try to persuade them to up their game.

Patrick Harvie (Glasgow) (Green): Does the member acknowledge that, out there in civic Scotland, people across the entire human rights field support the creation of the commission? Even though they share some of Mr Stevenson's concerns about the bill's limitations, they see that it has value.

Stewart Stevenson: In so far as they have contacted me—quite a number have done so—my constituents have entirely different concerns from those who are employed in the business and who have campaigned for the commission. I say that as someone who has been a member of Amnesty International. Through inadvertence, I do not happen to be a member at the moment, but that is not because I do not support the work that Amnesty International does. I do support it, and other human rights bodies have had my support as well.

There is a fundamental difficulty about putting on the statute book a bill that does not deliver what is on the title of the tin. We have to go back and think again. I and my colleagues do not expect to support the bill at 6 o'clock.

17:33

Margaret Mitchell (Central Scotland) (Con): I begin by thanking the clerks for their patience and perseverance in coping with all the proposed alterations to this difficult bill. The fact that the Justice 1 Committee rejected the general principles of the bill at stage 1 indicates the concerns over the bill's provisions. The bill has taken over a year to go through the parliamentary process, from the Justice 1 Committee to its stage 3 hurdle today.

Mike Pringle (Edinburgh South) (LD): Will the member take an intervention?

Margaret Mitchell: I am sorry, but I do not have time.

I cannot pretend to be other than hugely disappointed that the function that the bill will confer on a commission will not be given to the Scottish public services ombudsman. In failing to do that, we have lost an opportunity to complement the SPSO's current role, which is to investigate maladministration within public authorities and to merge that role with an awareness-raising and promotional role. I firmly believe that giving the new function to the SPSO would have been a much more effective way of ensuring that the function was carried out, as the SPSO, by virtue of her current role in dealing with complaints, is already well aware of where there is a need to promote and raise awareness of human rights in public authorities and bodies. In addition, value for money would have been achieved and the savings that would have been made from the commission's proposed £1 million budget could have been ploughed into the voluntary sector to allow organisations with expertise and experience in promoting and fighting for the human rights of the various vulnerable people whom they represent to take up individual cases, which the commission will have no power to do.

The Executive has tinkered at the edges by making suggestions that it estimates will reduce the costs of establishing the commission—suggestions about advertising for new members, pensions, social security provision, allowances and salaries—but the fact remains that the £1 million could have been far better used to promote and protect human rights.

I will touch on two amendments that were agreed to at stage 2. The first is the amendment that removed the requirement to give notice before inspecting a detention centre. That was clearly sensible. Conversely, the other amendment, to which the minister referred, created a provision that would in effect prioritise the promotion of some human rights. Any promotion should take place case by case and on its merits, as it is to be hoped that the human rights of every group in society are equally important. Instead, the amendment sends the unacceptable message that all human rights are equal, but that some are more equal than others. How depressing it is that the bill suggests that shades of "Animal Farm" are alive and kicking in Scotland's devolved Government. Not surprisingly, we will not support the bill.

17:36

Marlyn Glen (North East Scotland) (Lab): I am pleased to have the opportunity to speak in the

debate, as I am and have been from the beginning supportive of the bill, which establishes the Scottish commission for human rights. Like Margaret Mitchell, I thank the Justice 1 Committee's clerks for supporting us through the bill process at the same time as doing all the other work that the committee has taken on.

The new commission for equality and human rights was established under UK legislation that was deliberately drafted to leave a gap in the promotion of human rights in relation to devolved matters. The SCHR will fill that gap, to reflect our different legal framework in Scotland.

The commission's function will be to promote awareness and understanding of and respect for human rights. The SCHR will be a promotional office, but individual complaints might prompt it to conduct an inquiry into an issue. The courts will remain the place where any decision is made on whether human rights have been breached.

We in Scotland are lucky enough to enjoy much more than the basic level of human rights, but a body such as the commission is still needed here. In our consideration of the detail of the bill, we should not forget that. We need a commission to assist public authorities to comply with their obligations under the Human Rights Act 1998; to promote a human rights culture so that people know their rights and responsibilities; to monitor compliance with current law and practice; and to help voluntary organisations and public authorities to assist their clients to assert their rights more effectively.

The recent report "Delivering Human Rights in Scotland: A report on Scottish Public Authorities" by Amnesty International Scotland pointed out the need for such assistance. Jim Wallace quoted that report and the deputy minister mentioned it. I mention the report again because it contains some positive points. It provides examples of good practice, including that of Angus Council, Renfrewshire Council, South Lanarkshire Council and Tayside police. Tayside police have a detailed policy document that outlines the four principles of legality, necessity, proportionality and transparency in police procedures. A Scottish commission will encourage all bodies to follow such good practice.

I restate my support for the review of all the commissions and commissioners in Scotland that was established recently. The bill recognises that no overlaps should occur—we have discussed that today—but we need to re-examine the remits, locations and finances of all the bodies. I look forward to its being done quickly.

While we have been pausing to consider the bill, a great deal of work has been going on to establish the Great Britain commission for equality

and human rights. It is important that we remember the bigger picture. This week it was informative to hear the views of Welsh Assembly members who met the Equal Opportunities Committee. They are looking forward to the establishment of the CEHR and are pushing for the Welsh commissioner to be appointed as soon as possible. We should put our energies into ensuring that the Scottish commissioner is among the first tranche of appointments that are made through the public appointment process. The Scottish human rights commission must be set up at the same time, so that we can have a comprehensive service that covers both devolved and reserved issues.

I look forward to the debate in Scotland being refocused to consider broader issues of human rights. I support the bill.

The Presiding Officer (Mr George Reid): I regret the fact that, despite the extended time for consideration of the bill, there is no time for open debate. We must conclude by 18:00, so we move straight to closing speeches.

17:40

Mike Pringle (Edinburgh South) (LD): I, too, express my thanks to the clerks for the great job that they have done on this difficult bill. I am extremely supportive of the bill, as are all my Liberal Democrat colleagues. It fulfils a commitment that we gave in the 2003 election campaign—that is why it was in the partnership agreement.

I will set the record straight for Margaret Mitchell. The Justice 1 Committee did not reject the general principles of the bill. At the end of the committee's stage 1 report, three options reflect the views of different members of the committee. I favoured option 3, which was that we supported the general principles of the bill.

The bill has not had the easiest passage through stages 1 and 2. I pay tribute to the minister, who guided the bill through the process. He was willing at all times to discuss any aspects of the bill with committee members—formally or informally, and collectively or individually. That offer was on the table throughout the passage of the bill.

Human rights are the basis of social justice. When they are breached we all suffer, but the poor and the powerless suffer most. Human rights should be the drivers for public services that we all want to develop and improve, such as the protection of children, empowering adults with incapacities, raising standards in care services and much more. The aim must be to ensure that the right balance is struck between the rights of individuals and the interests of society. That is why we need the bill.

The bill will establish a Scottish commission for human rights, which will be responsible for all the basic human rights that I have just mentioned. I believe that it is vital that we have here in Scotland a person who is appointed specifically to address the human rights of Scots in Scotland. The suggestion that the role could have been taken by the Scottish public services ombudsman was a serious attempt to downgrade the importance of this very important office.

I very much welcome Mary Mulligan's excellent amendments. We all agreed that the commission's office should be located with the new body that the Westminster Government plans to set up. That will deliver considerable operational and cost benefits. The UK body will be located in Glasgow, and it is sensible that the Scottish commission should also be located there. That will give the added advantage that the general public and organisations will have to go to only one place to raise a human rights issue, whether or not that issue is devolved; they will be directed to the right office, with no inconvenience. I understand that the Scottish Executive has maintained close contact with UK officials on the issue, and the proposal is a very sensible way forward.

The commission's general duty will be

"to promote awareness and understanding of, and respect for, human rights"

in relation to devolved matters. It will be able to conduct inquiries and to intervene in civil court proceedings. It will also have the ability to request information in support of inquiries and the right of entry to places of detention. As Margaret Mitchell said, a sensible amendment at stage 2 clarified that point.

The new commission will address the increased need for advice and help in the area of human rights. I see the role as a reactive one and as one that will develop. I agree with Patrick Harvie, in particular, that as time passes the commission's responsibilities will increase and it will get more teeth. I hope that that is the case and I will welcome it when it happens. I have much pleasure in supporting the bill.

17:44

Bill Aitken (Glasgow) (Con): This has not been a good day for Liberal ministers. This morning, we saw the hapless George Lyon being hung out to dry by his Labour master and filleted by Mr Swinney and Mr Brownlee. This afternoon, Mr Brown must feel that the support that he has received from Labour members has been, to say the least, tepid. In fact, to call it lukewarm would be a gross exaggeration.

Having listened to the contributions of Labour members such as Pauline McNeill and Des

McNulty, I do not think that I am exaggerating when I say that if they had been left to their own devices, this bill would not have been passed—and, indeed, nor should it be passed. Quite frankly, it is unnecessary. In a Parliament and with an Executive that have been party to setting up more tsars than there were in the Romanov dynasty, this commissioner is surely a tsar too far.

There cannot be any members in the chamber who are not deeply concerned about either collective or individual human rights. Although I have fallen out with the Minister for Justice over the years, even I do not think that she is into torturing people, either personally or by proxy. I do not know, though; that is probably not what her husband would tell me.

The human rights situation in Scotland might not be perfect, but the current systems can deal comfortably with human rights cases. After all, what is the purpose of parliamentary committees and individual MSPs if not to do everything possible to provide assistance on human rights? Surely not one of us would refuse to come to the assistance of individuals or bodies who we felt had had their human rights seriously prejudiced.

Patrick Harvie: Does Mr Aitken seriously dismiss the research that shows that two thirds of public bodies in Scotland admit either that they do not understand their responsibilities under human rights law or that they have not yet taken any steps to meet them? If he accepts that finding, does he not also accept that there is a place for a body with a specific human rights focus to promote understanding of such matters?

Bill Aitken: No. There is no place for this body, because, as members have pointed out time and again, its functions could either be carried out within this parliamentary structure or, as Margaret Mitchell suggested, be absorbed by the Scottish public services ombudsman. That is a fact of life.

Scotland has a very good human rights record. The only people outside the Parliament who are in favour of this legislation are the human rights lobby and those who are acting out of self-interest. Another £1 million that could be used better elsewhere is going down the drain.

It is really not good enough for Mr Pringle to suggest in an intervention on Margaret Mitchell that the Justice 1 Committee did not discard the bill. It simply could not reach agreement on it; indeed, it was split three ways on the matter, with no majority view on any of the proposals. Certainly, the view that Mr Pringle has expressed again today was decidedly in the minority—which is hardly a shining endorsement of the procedures.

Once again, the Liberal tail is wagging the Labour dog. This legislation should not go on the statute book.

17:48

Mr John Swinney (North Tayside) (SNP): We should pass legislation in this Parliament only if there is an unanswerable case for doing so and if it reflects a real need to tackle a significant problem in our society. Much has been made of reports that numerous local authorities and public bodies are not honouring their human rights obligations. However, every piece of legislation that the Parliament enacts must be compatible with the Human Rights Act 1998. If public bodies and statutory authorities are not fulfilling their statutory duties, I, as an MSP, want to know why those who are responsible for supervising them are not cracking the whip. Why is the Scottish Executive giving money to public authorities that are not fulfilling their statutory duty? Why is that not part of the carpeting of the chief executives of those organisations or the chief executives of local authorities? The problem is that nobody in this country gets carpeted for failure to deliver on their statutory duties. Everybody just covers up for the failure to deliver on various areas of policy.

One of my biggest concerns about the bill is that there is not an area of activity in which the role could not be performed by the Government or by public authorities delivering on their functions; any remaining outstanding questions could be addressed by reconfiguring the congested architecture of governance that we in this Parliament have created.

The lines of argument that the deputy minister has used at committee and in the chamber to try to persuade the Parliament to support the bill have been appalling in two respects. First, he has derided the fact that my party has a different perspective today about the need for a human rights commission from what we had in 2000. However, we take a different approach because the architecture of government in Scotland has changed in the intervening six years. There are more commissions and ombudsmen than there were back in 2000 when we made the comments that Mr Wallace read out earlier. If we did not reflect on that and change our position and attitude because the situation has changed, but instead steamrollered on regardless, what would the public think of what we are doing in this place?

The decision is being taken today not because the Government won the argument. The Government did not win in the face of Des McNulty's arguments, Pauline McNeill's arguments or some of the other arguments that have been made. The bill will go through because of the commitment that was given three years ago by the two parties in the partnership agreement; nobody—I concede that there are some exceptions on the back benches—is prepared to reflect on the fact that the world has changed in

the intervening period and that something different needs to be done.

We are continuing on these tramlines because we set off on them and we will deliver the human rights commission regardless of whether Scotland needs it. A million pounds is going down the pan. *[Interruption.]* I cannot hear what the Deputy First Minister is shouting from a sedentary position, but if he wants to intervene I would be happy to hear from him. I see that he has gone back to signing his letters.

I turn to the second point on which the deputy minister has failed to make a convincing argument. When he was challenged about what the commission would do, he cited the example of a human rights concern in the state hospital in Carstairs and argued that it was a case that the human rights commission could resolve. He inadvertently forgot to tell the Parliament that the issue has been resolved before the human rights commissioner has been established. That raises a serious question about whether such a commission is required now that this devolved Scotland has 16 parliamentary committees, a parliamentary chamber and so many ombudsmen that I cannot even remember how many there are. All those bodies can scrutinise the policy areas and tackle the problems that exist in our society.

The arguments that the Government has made today have been very poor. I pay tribute to the members of the partnership Administration parties who have had the courage to challenge some of its arguments with well-thought-out and considered amendments. I hope that Parliament will agree as one to review the architecture of the ombudsman structure in Scotland. We have created a congested environment and we must resolve the issue sooner rather than later.

17:53

The Minister for Justice (Cathy Jamieson): When I look back to 2000—at that stage I was a back bencher listening to the debate that took place—I do not think that I could have imagined that I would be standing here today without there being some consensus across the chamber. There certainly seemed to be a degree of consensus at that stage, among the SNP and the Tories as well as among Labour and the Liberal Democrats, in favour of the general principles of a human rights commission.

We have heard arguments about governance, architecture and structure. However, I cannot get my head round Mr Swinney's saying that times have to change and that we must move on and consider costs when, at the same time, the SNP has not been honest with the electorate about the

true costs of independence. The SNP will have to face that issue.

There has been a great deal of discussion on the bill and members of my party have raised relevant and important points in the Finance Committee and the Justice 1 Committee and during today's proceedings. I thank them for their contributions. Because of the scrutiny that has been given to the bill, we have listened and made changes, as we said during the debate, to ensure that we get the best possible value for the public purse. Indeed, we are open to considering how best to improve accountability in the future.

I come from a background of making practical arguments for improvements to human rights. I have argued for the right to a decent house, the right to a minimum wage, the right to an education for our children, the right to health care, and the right of older people to have warm homes. In particular, in my work for what I would describe as a human rights organisation, I argued for the right of young people in care to be properly looked after. Something that stuck with me from all my years at Who Cares? Scotland was the comment of a young person, who said, "There is no point in having rights if you don't know you have them and you don't know who to go to if you feel they aren't being properly recognised." That comment goes to the heart of the need to promote human rights in Scotland. We need to be constantly vigilant to ensure that every public body ensures that everyone's rights are protected.

Stewart Stevenson: First, the minister talked about the need for an individual to have somewhere to turn to. The bill will not allow individuals to turn to the proposed new commission. How does she respond to that? Secondly, she referred to the right to a warm home. That is an issue for the commercial fuel supply companies that cause problems, which is outside the scope of the bill. The minister has condemned the bill in her own speech.

Cathy Jamieson: I have in no way condemned the bill. I was describing my support for the Executive's work in a range of areas to deliver social justice for ordinary people in Scotland. Social justice should be the focus of the Scottish commission for human rights. The member said that individuals would have nowhere to turn for assistance, but the commission will be able to flag up issues, provide guidance and information and direct people to the correct place to receive help, whether that is the court or another organisation.

We tightened up the bill to ensure that there will be no unnecessary duplication and we made it clear that the commission's work will not replace the work that should go on in the Parliament.

I talked about the people who suffer the most

disadvantage. The bill is not an academic exercise. It is not just to do with an intellectual aspiration to promote human rights; it must make a difference to ordinary citizens in ordinary houses in ordinary streets in Scotland. Those citizens need to know that human rights matter and that we care enough about their rights to take action to promote and protect them.

The bill places an onerous responsibility on the Scottish Parliamentary Corporate Body, as we heard during this afternoon's proceedings. That is right and proper. The SPCB will have to take decisions about the commission's location and the scrutiny of the commission's budget and it will have to ensure that the commission acts in accordance with the will of the Parliament. We heard the will of the Parliament clearly today and I would be surprised if a future parliamentary corporation or commissioner did not follow it.

I thank everyone who participated in the debate. I know that some people are fundamentally opposed to the bill and have found the issue difficult and challenging. We have faced a challenging process as we tried to achieve the best possible governance and do what is necessary. I hope that I can leave members with the thought that the commission has to make a difference to ordinary people. It is our responsibility to ensure that the will of the Parliament is carried out. I ask members to support the bill.

Decision Time

18:00

The Presiding Officer (Mr George Reid):

There are seven questions to be put as a result of today's business.

The first question is, that amendment S2M-5063.1, in the name of Tom McCabe, which seeks to amend motion S2M-5063, in the name of John Swinney, on the Scottish Executive budget review, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (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)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)

Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 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)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 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)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 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)
 Robison, Shona (Dundee East) (SNP)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

The Presiding Officer: The result of the division is: For 62, Against 52, Abstentions 0.

Amendment agreed to.

The Presiding Officer: The second question is, that motion S2M-5063, in the name of John Swinney, on the Scottish Executive budget review, as amended, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 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)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (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)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton North) (Lab)
 McMahon, Michael (Hamilton South and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 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)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (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)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 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)
 Robison, Shona (Dundee East) (SNP)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

The Presiding Officer: The result of the division is: For 65, Against 51, Abstentions 0.

Motion, as amended, agreed to.

Resolved,

That the Parliament notes that preparation for the 2007 Spending Review, including the provision of advice to Scottish Ministers by the Budget Review Group, is ongoing and further notes the Scottish Executive's intention to

publish a comprehensive suite of documents including the completed Howat review as part of the Spending Review package.

The Presiding Officer: The third question is, that amendment S2M-5055.3, in the name of Richard Baker, which seeks to amend motion S2M-5055, in the name of Jim Mather, on the financial powers of the Parliament, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Butler, Bill (Glasgow Anniesland) (Lab)
 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)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (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)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)

Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gorrie, Donald (Central Scotland) (LD)
 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)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 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)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Neil, Alex (Central Scotland) (SNP)
 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, 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)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

The Presiding Officer: The result of the division is: For 47, Against 69, Abstentions 0.

Amendment disagreed to.

The Presiding Officer: The fourth question is, that amendment S2M-5055.1, in the name of Derek Brownlee, which seeks to amend motion S2M-5055, in the name of Jim Mather, on the financial powers of the Parliament, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

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

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 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)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)

Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 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)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 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)

The Presiding Officer: The result of the division is: For 17, Against 99, Abstentions 0.

Amendment disagreed to.

The Presiding Officer: The fifth question is, that amendment S2M-5055.2, in the name of Jeremy Purvis, which seeks to amend motion S2M-5055, in the name of Jim Mather, on the financial powers of the Parliament, be agreed to.

Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
Brown, Robert (Glasgow) (LD)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Finnie, Ross (West of Scotland) (LD)
Gorrie, Donald (Central Scotland) (LD)
Lyon, George (Argyll and Bute) (LD)
Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
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, Iain (North East Fife) (LD)
Smith, Margaret (Edinburgh West) (LD)
Stephen, Nicol (Aberdeen South) (LD)
Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
Wallace, Mr Jim (Orkney) (LD)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
Aitken, Bill (Glasgow) (Con)
Alexander, Ms Wendy (Paisley North) (Lab)
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)
Brownlee, Derek (South of Scotland) (Con)
Butler, Bill (Glasgow Anniesland) (Lab)
Byrne, Ms Rosemary (South of Scotland) (Sol)
Canavan, Dennis (Falkirk West) (Ind)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Cunningham, Roseanna (Perth) (SNP)
Curran, Frances (West of Scotland) (SSP)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
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)
Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
Fox, Colin (Lothians) (SSP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gibson, Rob (Highlands and Islands) (SNP)
Gillon, Karen (Clydesdale) (Lab)
Glen, Marilyn (North East Scotland) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Goldie, Miss Annabel (West of Scotland) (Con)
Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
Grahame, Christine (South of Scotland) (SNP)
Harper, Robin (Lothians) (Green)
Harvie, Patrick (Glasgow) (Green)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)

Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
Jackson, Dr Sylvia (Stirling) (Lab)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Johnstone, Alex (North East Scotland) (Con)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Lochhead, Richard (Moray) (SNP)
MacAskill, Mr Kenny (Lothians) (SNP)
Macdonald, Lewis (Aberdeen Central) (Lab)
Macintosh, Mr Kenneth (Eastwood) (Lab)
Maclean, Kate (Dundee West) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Mather, Jim (Highlands and Islands) (SNP)
Matheson, Michael (Central Scotland) (SNP)
Maxwell, Mr Stewart (West of Scotland) (SNP)
May, Christine (Central Fife) (Lab)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
McCabe, Mr Tom (Hamilton South) (Lab)
McFee, Mr Bruce (West of Scotland) (SNP)
McGrigor, Mr Jamie (Highlands and Islands) (Con)
McLetchie, David (Edinburgh Pentlands) (Con)
McMahon, Michael (Hamilton North and Bellshill) (Lab)
McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
McNeill, Pauline (Glasgow Kelvin) (Lab)
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)
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)
Robison, Shona (Dundee East) (SNP)
Scott, Eleanor (Highlands and Islands) (Green)
Scott, John (Ayr) (Con)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Stevenson, Stewart (Banff and Buchan) (SNP)
Sturgeon, Nicola (Glasgow) (SNP)
Swinney, Mr John (North Tayside) (SNP)
Tosh, Murray (West of Scotland) (Con)
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)

The Presiding Officer: The result of the division is: For 18, Against 98, Abstentions 0.

Amendment disagreed to.

The Presiding Officer: The sixth question is, that motion S2M-5055, in the name of Jim Mather, on the financial powers of the Parliament, 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)
 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)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)
 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)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)

Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (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)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 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)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Presiding Officer: The result of the division is: For 51, Against 65, Abstentions 0.

Motion disagreed to.

The Presiding Officer: The seventh question is, that motion S2M-4920, in the name of Robert Brown, that the Parliament agrees that the Scottish Commission for Human Rights Bill be passed, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)

Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Frances (West of Scotland) (SSP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (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)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 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)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 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)
 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)
 Neil, Alex (Central Scotland) (SNP)
 Petrie, Dave (Highlands and Islands) (Con)
 Robison, Shona (Dundee East) (SNP)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

The Presiding Officer: The result of the division is: For 74, Against 41, Abstentions 0.

Motion agreed to.

That the Parliament agrees that the Scottish Commission for Human Rights Bill be passed.

Clydesdale Parks

The Deputy Presiding Officer (Trish Godman): The final item of business is a members' business debate on motion S2M-4811, in the name of Karen Gillon, on Clydesdale parks. The debate will be concluded without any question being put.

Motion debated,

That the Parliament welcomes the decision by the Heritage Lottery Fund to award over £1.3 million to help renovate Castlebank Park and Delves Park in Lanark; congratulates South Lanarkshire Council on its ambitious proposals to significantly improve access, interpretation and learning opportunities at the two historic parks; believes that restoration of the 18th century walled garden, the reinstatement of the glasshouses and the development of a multi-sports play area will attract many new visitors and increase community involvement in local history, gardening and other activities, and looks forward to the parks playing an important role in celebrations such as Lanimer Day, the medieval fayre and other special events in the future.

18:10

Karen Gillon (Clydesdale) (Lab): I thank all the members who signed the motion and I welcome to the chamber community representatives and councillors and staff from South Lanarkshire Council, who were involved in drawing up the successful bid to the Heritage Lottery Fund and who will take the project forward in the years ahead.

I am proud to represent Clydesdale, which is without doubt one of the most beautiful parts of Scotland. It has a rich cultural heritage and vibrant communities. It is also home to the fantastic world heritage site of New Lanark. In recent years, the royal burgh of Lanark has developed a series of events that complement our fantastic Lanimer day celebrations, which are famed far and wide. Last year, the town played its part in the symbolic return of the spirit of William Wallace, and in August it hosted a medieval fair that focused on the connections with Wallace. In November, the town will be filled with the sounds, smells and shopping opportunities of a traditional Christmas market. It will be a great family day out and people can help the environment by not flying off to a continental market abroad but coming to Lanark instead. Everyone is welcome.

The ambitious plans for the parks came about after detailed and thorough consultation with the community and other stakeholders. Castlebank park, Delves park and Castle hill cover more than 20 acres. The project has at its heart Castle hill, which was the site of Lanark castle, which dated to around 1100, and is where William Wallace's uprising began in 1297. The project is envisaged as a butterfly, with Castle hill as its body and the two parks as its wings.

There was considerable concern in the local community that these valuable resources were falling into disrepair. The terraced gardens were declared dangerous and closed to the public in 2002. The path network, especially in Delves park, was deteriorating and unsafe and the last remaining derelict glasshouses were removed for public safety.

Through letters and articles in the *Lanark Gazette* and the *Lanark & Carlisle Advertiser*, the community expressed its concern and desire for change and improvement. It is to the community's credit and the credit of the council, which responded, that we are here today. The community has driven forward a genuine partnership with South Lanarkshire Council and the final plan demonstrates effective local consultation and innovative working across council departments and the community to deliver a creative park regeneration project.

The project has five key elements at its heart. The first element is the conservation and restoration of the parks and gardens, including replacing and restoring the walls and gardens and reinstating the paths and steps, thus enhancing the visitor experience and bringing people back to the park in greater numbers.

The second element is the provision for heritage and horticultural interpretation. That will enable people fully to appreciate the history of the designed landscape, the house and the role and purpose of the gardens. It will bring the gardens and the history to life and enable people to keep coming back and to have different experiences each time they do.

There will also be a range of new public facilities and features. These will be living parks. With the new putting green, tennis courts, five-a-side area, play area, cafe and garden shop, there will be facilities for old and young alike. That will ensure that the life of the parks is developed.

Perhaps one of the most exciting aspects of the development is the provision of new education and training facilities. In assessing the bid, the Heritage Lottery Fund committee considered that the application put forward a coherent and integrated package for the three sites. The committee agreed that the proposals would significantly improve access and interpretation at the sites and that the applicant had developed a large number of imaginative educational opportunities. It particularly commended the new post of educational gardener, which will provide a strong educational focus through the development of displays, tours and practical sessions. The Heritage Lottery Fund committee agreed that that would bring the garden's history alive for the general public, and it welcomed the proposals to grow local varieties of fruit and vegetables.

The community learning that will be at the heart of the project will be further enhanced by what is perhaps the most exciting aspect of the project—the development of the stable yard and cafe to provide training for adults with learning difficulties. That will be done with additional funding to the tune of £450,000 from South Lanarkshire Council's social work department. The stables area will be developed to provide workshop space for arts and crafts, pottery and cards, and there will be a small shop where products will be available for sale. The project will also develop a cafe that will enable training to take place, as well as providing a service to the public. The replacement of the greenhouse and garden area also offers further opportunities for adults with learning disabilities to gain meaningful training and work experience up to Scottish vocational qualification level. In a rural constituency such as mine, having quality community-based training available to adults with learning difficulties is essential. It only helps to enhance understanding and to integrate those people in the community, not just in Lanark but further afield.

The final strand of the bid is community involvement and the development of events. As I have said, both parks are already of high importance to the social and community fabric of Lanark and are used annually for the events that I mentioned. They are also home to two community gardens that have been created in the past four years. The parks project will enable that development to be enhanced and to go on to provide further inspiration for new developments.

The project demonstrates how parks are important to people and how local culture can help sustainable development. It is a significant project and I congratulate both the Heritage Lottery Fund and South Lanarkshire Council on putting their money where their mouths are, to the tune of £2.8 million. The project brings together the Parliament's priorities for sustainable rural communities, regeneration and lifelong learning.

Perhaps most important, the project is about people. It is about people being involved in the development and planning of the project and in learning and volunteering, and about people enjoying the landscape and culture around them. Clydesdale is, without doubt, a beautiful area. I invite the Minister for Tourism, Culture and Sport to come and see that beauty for herself, to hear more about the vision, to walk through the park and understand how it is going to be developed, and perhaps to consider how we can combine this fantastic new project with the equally attractive visitor location of New Lanark, to ensure that people in Scotland and beyond can share with the people of Lanark the fantastic facilities that are on their doorstep.

18:17

Chris Ballance (South of Scotland) (Green): I congratulate Karen Gillon on securing the debate. She has eloquently described the benefits of the park, and our parks and public open spaces are valuable community assets. I join her in welcoming the fact that South Lanarkshire Council and the community have secured this significant investment for Castlebank and Delves parks. Too often, we forget the importance of informal open space—green spaces that are open to anyone at any time—and of places where children can go to play at short notice and without going far from home, and where joggers and dog walkers can find a focus for their outdoor activities.

However, although the investment that we are celebrating today is welcome, we must recognise that there is a need for positive action to support and protect other parks and green spaces throughout South Lanarkshire. The good fortune that is being enjoyed by these parks contrasts all too starkly with what has happened at Holmhill wood community park, in one of the most urbanised and deprived parts of South Lanarkshire. At Holmhill, despite a strong and sustained community campaign, permission was given to build the new high school right on top of three football pitches and the much-loved park. Was that really the only possible site? Did South Lanarkshire Council do everything that it could in that case to safeguard its green spaces? It was only five years ago that the council trumpeted the investment of more than £1 million in the development of that park.

Karen Gillon has described the projects that are planned for the Clydesdale parks. Holmhill was also used for events such as craft fairs and children's entertainments. Access to green spaces should not be a lottery, be that a postcode lottery or the one whose support we are welcoming this evening. As the Executive notes in its current consultation on green spaces,

"our greenspaces are essential to the health and wellbeing of the people and the planet."

I agree. I hope that South Lanarkshire Council shares those values and will seek to protect and enhance all green spaces in its care and not just its formal parks. In particular, I urge it to resist the remorseless advance of the developers, who care not a jot for the green spaces.

Karen Gillon, Alasdair Morgan and I attended a public outreach event in Larkhall on Monday. It was a packed house, and members of the public made clear the community's call for green space and their anger at South Lanarkshire Council's failure to protect it locally. We know the value of Castlebank and Delves parks and it is great that their future now seems assured. However, until a complete and full audit of all green spaces across

South Lanarkshire is conducted to enable us to assess the true value and extent of such irreplaceable community assets, the danger will be that, bit by bit, our green spaces will be parcelled up and sold for development.

I do not find that acceptable and I do not think that the people of South Lanarkshire will find that acceptable. Although I am happy to support Karen Gillon in celebrating the achievement and congratulating those involved in the community and council, I do not think that that is the whole story with the council.

18:21

Derek Brownlee (South of Scotland) (Con): We should congratulate Karen Gillon on introducing the debate and doing what a good constituency MSP should do in reminding us all of the many attractions and virtues that lie within her constituency.

I lived in Lanark some years ago but, as I was a three-year-old at the time, the finer points of some of Lanark's attractions were perhaps more lost on me than they might be today. Karen Gillon was right to remind us of the rich culture and history that surround the burgh. We are often in danger of forgetting some of the attractions that lie in parts of Lanarkshire and focusing too much on the attractions of the bigger cities.

The nature of members' business debates is that it is rather difficult to find a lot with which to disagree. That is not necessarily a bad thing, particularly given the elements of disagreement that we have had today in the chamber, but Chris Ballance raised some interesting points about the broader issues and the importance of green space. It made me wonder how many other Lanarks there are, with the same problems. How many other places are confronting similar challenges and what opportunity could there be for initiatives and innovative practices developed in Lanark to be spread more broadly across the country to benefit towns in similar circumstances? The minister can perhaps address that later.

I suspect that one difficulty is to repeat across the country all the great effort that goes into such achievements, so I wonder whether the Executive can facilitate that. A host of organisations is always involved in such matters, but it would be interesting. Perhaps the minister could reflect on that if she takes up Karen Gillon's offer to visit Lanark in the near future.

It is also worth remembering some of the benefits that lottery funding has brought us. The lottery has not been without its critics or problems, but in many parts of the country lottery funding has transformed the environment and people's opportunities to lead a better quality of life. After

all, that was one of the main objectives of the lottery when it was set up. We should also use this opportunity to reflect on the benefits that the lottery has brought to many places in Scotland.

I do not want to say a great deal more other than to congratulate both those involved in the renovation and Karen Gillon on reminding us all of the many virtues of her constituency. Perhaps the minister will be kind enough to address the points that I made.

18:25

The Minister for Tourism, Culture and Sport (Patricia Ferguson): I join Chris Ballance and Derek Brownlee in thanking Karen Gillon for giving us the opportunity to debate an important subject that is of particular interest to South Lanarkshire. The debate has been interesting and I add my congratulations to South Lanarkshire Council and everyone who has recognised the value of the historic parks at Castlebank and Delves and worked tirelessly to ensure that they will be preserved for future generations.

Public parks are an important part of the historic environment and play a role in social history. Karen Gillon is correct to identify her constituency as being one of the most attractive in the country and as having a famous history. The park at Castlebank lies in the buffer zone around the world heritage site at New Lanark and its renovation will help to preserve the setting of that internationally recognised industrial and cultural complex.

The renovation of the parks at Castlebank and Delves is another example of the benefits that investment by the Heritage Lottery Fund provides to Scotland. Well over 2,000 projects have secured more than £454 million in awards and Scotland has received some 12 per cent of all the awards that have been made throughout the United Kingdom. It may be of interest to Mr Brownlee to learn that many other parks and public open spaces throughout Scotland, whether large or small, are being restored with support from the Heritage Lottery Fund. Examples include Glasgow green, the Mid links in Montrose and Baxter park in Dundee. To date, £24.2 million has been spent specifically on park projects in Scotland.

Parks should be valued as places of relaxation, exercise and enjoyment. I am delighted that our agency, Historic Scotland, is working closely with the Heritage Lottery Fund on projects that involve parks. As well as supporting each other and working with local authorities, the two bodies contribute to the project funding packages, share specialist expertise and play to their strengths. The results of such collaborations are quality

public spaces that are fit for the 21st century but which retain their historic character and distinctiveness.

I particularly welcome the Heritage Lottery Fund's recently launched parks for people scheme, which will build on the success of previous schemes, and I look forward with confidence to more Scottish projects being successful in years to come.

Even when the Heritage Lottery Fund is not involved, Historic Scotland supports projects that fall within its funding remit, especially when key historic buildings form the focus of parks. I have already mentioned Baxter park in Dundee, where funding from the Heritage Lottery Fund supported the landscape work and Historic Scotland focused its support on refurbishment of the pavilion. The tournament bridge in Eglinton country park and the Dalzell estate in Motherwell are other examples of where Historic Scotland has provided support to historic parks.

Scotland's parks, both historic and modern, are important for a range of reasons that lie close to the Executive's key objectives. From the viewpoint of the economy, parks add to the range of quality places that tourists can visit and encourage them to stay longer in the neighbourhood of headline destinations such as New Lanark. I was struck by what Karen Gillon said about the attractiveness of Castlebank and Delves parks as visitor destinations. They sound like perfect examples of the attractions that are joining our green tourism business scheme in growing numbers. I look forward to hearing of them applying to join that scheme and receiving accreditation in due course.

In a less direct but nonetheless significant way, quality public spaces project a confident civic image, which in turn supports investment in economic regeneration. However, for me it is local people's need for and use and appreciation of our historic parks—and parks in general—that make projects such as those at Castlebank and Delves so important.

Physical and mental well-being is supported by energetic exercise or gentle strolling, by access to fresh air and simply by relaxing in pleasant surroundings. In that context, I am particularly pleased that the Heritage Lottery Fund requires all applicants to take thoughtful account of maximising all-needs access to our great parks.

The Scottish Executive has of course long recognised the multiple benefits of public open spaces, both formal and informal. This August, we published a consultation draft of a new Scottish planning policy on physical activity and open space.

Chris Ballance: Given the Executive's support for and recognition of the importance of green

spaces throughout Scotland, does the minister agree that we need an audit of what we have before we lose too much more of it?

Patricia Ferguson: I am going to come to a point shortly that might help Mr Ballance with that.

The planning policy will highlight the many advantages of ensuring that quality public spaces are not just retained but planned in new developments and will help to set minimum standards.

Many of Scotland's councils recognise the benefits of green space, with many parks and squares forming the subject of ambitious renovation proposals. Those benefits are increasingly being set in context through comprehensive surveys of green space. I know of excellent examples of that in Edinburgh and in Ayrshire and I am sure that there are many more examples throughout the country.

I welcome Karen Gillon's motion and congratulate sincerely all those involved with the project as well as those at local, council and national level who share and support this renewed vision of Scotland's parks—great and small, historic and modern—as key public assets at the heart of everyday life.

Karen Gillon was kind enough to invite me to visit the parks in question. As she knows, I am always delighted to visit Lanark. As soon as my diary permits, I will be happy to accompany her to the parks, so that I can discuss in more detail with those responsible all the aspects of the project as it goes forward and so that I can see some of the work that is being done.

Meeting closed at 18:32.

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