

# **MEETING OF THE PARLIAMENT**

Thursday 23 November 2006

Session 2

£5.00

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## Scottish Parliament

*Thursday 23 November 2006*

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

### **Airdrie-Bathgate Railway and Linked Improvements Bill: Preliminary Stage**

**The Deputy Presiding Officer (Trish Godman):** The first item of business is a debate on motion S2M-5168, in the name of Phil Gallie, which asks Parliament to agree to the general principles of the Airdrie-Bathgate Railway and Linked Improvements Bill.

09:15

**Phil Gallie (South of Scotland) (Con):** This is my worst nightmare: I am having to speak in a consensual debate.

The Airdrie-Bathgate Railway and Linked Improvements Bill Committee and I believe that the proposal for the project is sound, but before I talk about some of the key aspects of the committee's report, it might be useful if I set out some background to the bill. The bill's main purpose is to reopen the rail link between Airdrie and Bathgate with a double-track electrified railway following the original railway line. Improvements are planned to existing railway lines between the west of Glasgow and Edinburgh via Airdrie and Bathgate. New stations will be built at Caldercruix and Armadale, and the stations at Drumgelloch and Bathgate will be relocated. A cycle path along the former railway will also be relocated. Further consideration of that is needed—no doubt Alasdair Morgan will refer to that.

In addition, there are the linked improvements, including the relocation of a vehicle storage yard in Bathgate, which currently occupies the site that has been identified for the relocation of Bathgate station. A new railway rolling stock maintenance depot will also be created adjacent to the site of the new Bathgate station. Improvements to the existing railway are included, such as the redoubling of sections of line, line electrification and signalling work.

Briefly, the bill promoter sees the railway as being the best way to achieve six objectives. It will improve direct access to labour markets for people living in the Airdrie to Uphall corridor and stimulate economic growth by improving connectivity to and from the area. It will assist in the delivery of social inclusion through enhanced public transport

opportunities and it will increase the number of people using public transport with improved access into the national rail network. It will offer a public transport alternative to the M8, thereby reducing road congestion and environmental impacts, and it will provide an alternative to the Edinburgh to Glasgow main line service, thereby reducing peak time congestion.

The projected capital cost of the railway at 2010 prices—the year in which it is intended that the railway become operational—is £342 million.

I thank everyone who engaged in our consideration of the detailed written and oral evidence and assisted in broadening our understanding of the proposal. We approached the task with an open mind and sought to ensure balance, fair representation and participation. I also thank my fellow committee members for their 100 per cent attendance record and their commitment in carefully scrutinising the proposal. I also record appreciation of the work of the clerking team, which was led by Fergus Cochrane.

The committee identified what we believed to be the key aspects of the proposal and pursued them through written and oral evidence. Those issues centred on the scheme's objectives. I believe that, as a result of our detailed scrutiny of the proposal, we have identified genuine improvements that will bring further benefits to the communities that will be served by the railway. Those improvements will be elaborated on during the debate.

I would like to address the economic and social aspects of the railway, local bus services, station provision and accessibility and connectivity. Alasdair Morgan, in closing, will touch on other issues including patronage, relocation of the cycle path, the draft code of construction and noise and vibration policies, and he will talk about how we expect the bill to progress at consideration stage, should the motion be agreed today.

On economic and social inclusion, there is undoubtedly a lack of adequate public transport along the line of route. There are low rates of car ownership in some areas, which increases difficulties that are related to people's mobility. A lack of proper transport links can stifle local economic performance and can, due to difficulties in recruitment, be a hindrance to businesses expanding. The committee sees the railway as a way to widen the labour pool for employers as well as a way to widen opportunity for individuals. At present, certain places may not be attractive to businesses that seek to locate in the Airdrie and Bathgate areas. The committee believes that the railway will prove attractive to such businesses and that it will improve accessibility and connectivity for potential employees.

The committee believes that the railway can assist in economic and social regeneration. There

is a lack of access to wider educational options, such as night schools, due to poor public transport provision. The committee sees the railway as a way to increase such opportunities; for example, it will enable people to travel into Glasgow for further education evening classes.

There is a need to increase economic growth in the areas between Edinburgh and Glasgow. The committee sees the railway as a way to assist in the economic development of Edinburgh, Glasgow and the areas that lie in between them. The projections for North Lanarkshire are for a decline in population. However, as a result of the railway, the population figures could grow by 1,900 in West Lothian and 1,000 in North Lanarkshire, according to information with which we have been provided.

The railway is likely to help local economies to grow, and to improve the social fabric of towns and villages. The committee believes that the railway can assist in increasing population along the railway corridor, thereby leading to an increase in local spend and a stimulated demand for improved local services, such as shops and leisure facilities, which will create local jobs.

It was suggested that the railway could generate 1,500 jobs in the area. A view was registered that that projection was perhaps not optimistic enough—the committee believes that evaluation to be somewhat on the low side. It is projected that the overall long-term economic benefits will be more than £300 million.

When we think about the railway, we must also think of other transport facilities. We felt that it was important that local bus services should also be addressed. At present, there is a lack of adequate bus services in the area.

We recognise that, because of lack of mobility that results from inadequate public transport links, it will be difficult for people who do not have a local station to access the railway. We were made aware of the current poor bus provision, particularly after 6 pm and at weekends. For example, without a car and with no direct bus, it could take a person in Caldercruix more than two hours to travel the 16 miles to Livingston, and they would have to use three buses to do so. The railway would provide a direct service between those two points.

The promoter has identified key objectives and benefits that the railway could bring. However, we believe that such objectives and benefits will be properly achieved only through the railway's full integration with local bus services. Without improvements and commitments on the provision of proper bus services, the objectives might not be met in full and the benefits will not be available to all. Even with a local station, it is important that proper integrated bus services be made available

to take passengers to and from stations. Without that, the objectives of the railway scheme will not be achieved in full.

Consequently, the committee has sought firm guarantees on the standard and provision of bus services that will properly integrate with the railway. We need to make the railway fully inclusive for local communities and to maximise local patronage. A commitment must be given to long-term provision and funding of buses—if necessary, through bus quality partnerships or quality contract schemes. We are looking for more than vague promises on that.

We felt that there was a lack of early planning from the local authorities involved and Strathclyde Partnership for Transport on the long-term provision of bus services. It is now up to the promoter, the local authorities and SPT to work together constructively to identify where and how services can and will be improved. How much that will cost and where the funding will come from must be identified.

The promoter has committed £1 million to bus services. Such funding is welcome, but both local authorities feel that that amount will be insufficient to provide adequate bus services. We remain unsure how the money would be allocated and over what period and we have sought clarification from the promoter about that. We cannot realise the potential of the railway or secure its purported benefits without improvements to bus services, so we await the further information with interest.

Our report highlights the fact that economic development and social regeneration are at the heart of why the railway should be reinstated. The recognition that the railway could bring tangible improvements to people's day-to-day lives and will improve access and connectivity locally, regionally and nationally underpins the need for proper and easy access to it.

We gave much thought to having stations at Blackridge and Plains, for which those communities expressed demand—local members passionately gave reasons why those stations should be provided. I welcome the fact that the minister wrote to tell us that the Scottish Executive would consider such stations in the future. That eased the committee's path, because the committee could have divided on the issue, given the timescale against which we were asked to examine the bill. I am pleased that, for the moment, we have Tavish Scott's commitment. We look forward to receiving more information on that.

We also addressed accessibility and connectivity. Public transport connectivity between towns and villages in the area and more widely into Glasgow and Edinburgh is poor. I make the personal point that it would be great to have

crossrail in Glasgow, which might provide links for Ayrshire. However, that is not a committee view but a personal observation. Perhaps I am abusing my position.

It is important to improve station accessibility by enhancing local bus services and cycle paths. The railway can improve accessibility to wider employment, further education and leisure options, but only if the accessibility of stations is improved.

The railway will join existing gaps in the network between Drumgelloch and Bathgate. The committee believes that the route will have a wider impact by opening up a 60-mile stretch of railway. The committee is aware of the potential to improve wider network access through the integration of new lines such as the Borders railway, which will open up access throughout southern and central Scotland.

The committee has, in view of the other railway schemes that are coming on track, indicated that there is a need for close attention to be paid to timetabling issues. The committee recognises the importance of timetabling to integrate the Airdrie to Bathgate railway properly and fully with other railway schemes and acknowledges the importance of careful and informed planning by the Scottish Executive and others in progressing the project along with other railway and tram projects.

The committee believes that the railway is not solely about the provision of local transport links between Airdrie and Bathgate or access out of those areas into wider areas, but about access into those areas from Glasgow, Edinburgh and beyond.

As I said at the start of my speech, through our scrutiny of the bill, the committee has identified ways in which the scheme can be enhanced and how its benefits can be more readily achieved and widely distributed. Physically, the railway is for the communities of the Airdrie to Bathgate railway corridor, but its benefits will go far beyond those areas. To ensure the railway's success, deliver on its objectives and bring about its purported benefits and improvements to people's lives, it is vital that it is truly acceptable to all.

On the committee's behalf, I move,

That the Parliament agrees to the general principles of the Airdrie-Bathgate Railway and Linked Improvements Bill and that the Bill should proceed as a Private Bill.

09:31

**The Minister for Transport (Tavish Scott):** I sympathise with Phil Gallie on having to finish with words such as

"it is truly acceptable to all."

In seven years of reading the *Official Report*, I do not think that I have ever read Mr Gallie say that. However, I commend the way in which he expressed the committee's views and the smooth manner in which he threw several passes—dodgy or otherwise—to Alasdair Morgan to deal with in his summing-up. Phil Gallie shows great ability, which I am sure his party's front benchers will recognise one day.

I thank Mr Gallie and the committee for their work so far on Parliament's behalf. They considered much evidence at the preliminary stage and should rightly be commended for their efforts. Like Mr Gallie, I thank people who took much time to provide written evidence and who appeared as witnesses. I enjoyed my afternoon with the committee to consider aspects of the bill.

We fully support the bill's general principles and the construction of the Airdrie to Bathgate railway project—a commitment in the partnership agreement. The project is a core aspect of the transport infrastructure plan, which involves spend of more than £1 billion per annum, 70 per cent of which is on public transport.

The reasons why we support the bill and are committed to funding the Airdrie to Bathgate railway are clear. We do so for many of the reasons that Mr Gallie outlined fairly. Promotion of sustainable economic growth is the Government's central aim, and transport infrastructure and our railways have an important role in delivering that aim.

The Airdrie to Bathgate railway will put in place a necessary public transport connection to the key economic centres of Glasgow and Edinburgh. Three distinct rail services run between Glasgow and Edinburgh: the express main-line Edinburgh to Glasgow service, which has a journey time of 50 minutes and four trains per hour; an hourly service via Shotts, with connections for passengers who live in Lanarkshire and Midlothian; and an intercity service from Glasgow Central station to Edinburgh, which stops at Motherwell and Carstairs and has a journey time of 59 minutes.

As Mr Gallie said, the Airdrie to Bathgate railway will allow people in North Lanarkshire to take a direct service into Edinburgh, which will include a stop at Edinburgh Park, and will allow people in West Lothian to have a direct connection to Glasgow that they do not have at present. I, too, was informed by the committee's deliberations and the written evidence, in which an argument was made about the ability of our main economic centres in Glasgow and Edinburgh to access new areas with people who have skills that are needed in some industries. That was another strong argument for improved public transport services.

**Alex Neil (Central Scotland) (SNP):** I agree with every word that the minister has said, but I draw his attention to the contempt with which the senior management of Network Rail in Scotland has treated my constituents in Airdrie—particularly those who will be affected by compulsory purchase. Network Rail's chief executive refuses to discuss those cases with me, although I represent those people at their request in their dispute with Network Rail. Will the minister give Network Rail's senior management a loud and clear message that, in the process, it is important to treat the people who are affected properly and fairly?

**Tavish Scott:** Obviously, I would be happy to look into that matter. I cannot envisage circumstances in which the promoter would want to avoid sensible and constructive meetings with members of the Scottish Parliament in carrying out their duties in representing communities and individuals. Such meetings are part of the process of ensuring that the railway infrastructure project is successful. It is important that the promoter deals properly with local people's views if uncertainty or concern exist. I take Mr Neil's question seriously. I met Network Rail's senior management yesterday, but will pursue the matter that he has raised and ensure that the appropriate connections are made.

The Airdrie to Bathgate railway will give people in North Lanarkshire a direct service into Edinburgh, including into Edinburgh Park, and will significantly improve public transport opportunities for the large population that resides in communities along the route, which will benefit the local and regional economies and the national economy. The promoter has estimated that there will be £679 million in benefits to Scotland and that 1,500 jobs will be created in the local area. The Government recognises that the economy changes over time and that our transport infrastructure must reflect those changes. People must be able to get quickly, safely and reliably to where they want to work and where they want to learn. The bill will mean that they will be able to do so.

The promoter has given evidence that the railway will offer a public transport alternative to travel on the M8 and that it will help to reduce the rise in road traffic congestion. The railway cannot by itself halt the rise in car use, but it will provide people with a genuine choice, provision of such choices being a central theme of our transport policy. The proposals show the Executive's commitment to putting in place sustainable public transport alternatives to cars.

In its preliminary stage report, the bill committee rightly commented on the need to increase access to reliable public transport for people along the route. Mr Gallie mentioned the proposals for new

stations. Evidence that was provided to the committee showed that there is also a case for constructing new stations at Blackridge and Plains. Our commitment should mean that stations can be constructed at Blackridge and Plains while the main route is being built.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** That development is to be welcomed, but people in the affected communities may face losing their homes as a result of compulsory purchases. The minister will be aware that there is a disparity between the approach that is taken in England and Wales to home-loss payments and the approach that is taken in Scotland. That disparity is affecting my constituents in the Borders as a result of the Waverley Railway (Scotland) Act 2006 and could affect capital schemes in the future. Will the minister ensure that he will work closely with his colleague the Minister for Communities to ensure that no such disparity exists?

**Tavish Scott:** Mr Purvis has made an important point. I understand that he recently met the Deputy Minister for Communities to discuss that matter with respect to this and other capital transport projects. We are considering the appropriate level of home-loss payments for Scotland and will consider making proposals in due course if a change is required. I assure Mr Purvis and other members that the Minister for Communities and the Deputy Minister for Communities are actively considering the matter. It is important that we achieve clarity on it as this and other bills proceed through Parliament.

There will be no additional Executive funding for any additional works. That is important. What I am saying is consistent with what I said in the autumn to the Airdrie-Bathgate Railway and Linked Improvements Bill Committee, of which Mr Gallie is a member. The budget will remain capped at £299.7 million at 2006 prices. Such an approach is important for all our capital transport projects in which pressures exist.

In its report, the bill committee made it clear that it wants the railway service to be fully integrated with other forms of transport, especially buses and cycles. That is an important point, which members—Alasdair Morgan in particular—discussed in the evidence-taking sessions. The Executive recognises the importance of joined-up public transport journeys to the railway's success and can potentially provide financial support through bus development funds or grants for demand-responsive bus services. We will work with operators, local authorities and regional transport partnerships to engage fully on that matter; indeed, meetings will take place as early as Monday to discuss positive ways forward in that respect.



The benefits of the proposed rail link represent considerable value for money. It has been estimated that it will result in £679 million in benefits to the economy as a whole. It will cost £299.7 million at today's prices, and will lead to an expected outturn cost of between £300 million and £375 million, depending on the rate of industry inflation. That means that there will be a cost-benefit ratio of 1.81. To put that another way, for every £1 in costs, there will be £1.81 in benefits.

As with all major transport projects, Transport Scotland must ensure that the project is on time and on budget. The release of Government money will depend on a continually robust business case. I outlined to Parliament on 16 March the process that is involved. The promoter, with Transport Scotland's support, is also discussing with North Lanarkshire Council and West Lothian Council their contributions to the project.

The railway will provide a reliable and sustainable public transport link to our major economic centres. It will mean that new stations will be introduced and it will improve accessibility for local people in their areas. It is an essential element of the Government's £3 billion capital investment programme in transport and rail infrastructure in Scotland, so I ask members to support the motion and to agree to the general principles of the bill.

09:41

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** I will continue in the spirit of consensus that Phil Gallie set at the beginning of the debate. I hope that members of all parties will condemn the absurd remarks that have been made by Andrew Mackinlay, who is an Essex member of the United Kingdom Parliament who suggested yesterday that Scottish people should pay a £1.50 toll to travel to England. That shows—certainly in his case—that middle-aged men from Essex can be really stupid.

I commend the Airdrie-Bathgate Railway and Linked Improvements Bill Committee's work on the bill. The Scottish National Party fully supports the proposed line.

The Bathgate to Edinburgh line was reopened in the 1980s. Despite initial scepticism, it has proved to be one of the most popular and profitable routes in Scotland. Perhaps it needs double-tracking—indeed, that has been signalled as an early part of the works on the project that we are discussing—and platforms on the line have already had to be lengthened as a result of overcrowding. The current Helensburgh line will be extended across to Edinburgh. Although Bathgate is popular, the new station at Armadale is expected to be even busier than the station at Bathgate.

West Lothian is the fastest-growing county in Scotland—Fiona Hyslop will talk about that later. It has lots of overspill from Edinburgh, and there is extensive house building in the Armadale and Whitburn area.

The bill is intended to ease M8 congestion, but the route will not be the fastest end-to-end route between Glasgow and Edinburgh. The journey will take 75 minutes, which is plainly much longer than a journey on the main line would take. As other people have said, the new line will have more of an impact on commuting journeys from North Lanarkshire to Edinburgh and from West Lothian to Glasgow. As a result, it could be said that the bill will bring together the east of Scotland and the west of Scotland. People who live in West Lothian and work in Glasgow will find it much easier to get to work by rail; it is virtually impossible for such people to get to work by rail at the moment. Likewise, people who live in North Lanarkshire and work in Edinburgh will be able to travel to Edinburgh by rail. That is the most significant idea in the bill, and should be warmly welcomed.

Fiona Hyslop made a submission on the bill, gave evidence as a witness in Airdrie and attended the committee meeting in Whitburn. Mary Mulligan MSP and Karen Whitefield MSP, both of whom have formally objected to the bill and made the case for a Blackridge station, will speak later. They also gave evidence in Airdrie. It is right to pay tribute to everyone who has made the case that they have made.

The SNP believes that there is an extremely strong case for having a station at Blackridge. I am the SNP's transport spokesperson and have discussed the matter with our finance spokesman. As a result, I can say that the SNP supports having a station at Blackridge and, unlike the Executive, we can say right now that we would be prepared to contribute national funding for that station.

The costings of the pledge that we make today—[*Interruption.*] I see that it causes jocularly among some members of the Liberal party. It is extremely important that the people of West Lothian, which is the fastest-growing county in Scotland, are not denied the benefits of the new rail line. If we do not accept the case to establish new stations when we build the line, how much more will it cost when somebody suddenly realises years later that it was folly not to have constructed those stations? [*Interruption.*] The apparent hilarity among the Liberals is not particularly edifying.

I understand that the official line is that a Scottish transport appraisal guidance exercise is to be conducted at Blackridge, which I support. It is obvious that Plains should also be the subject of a STAG appraisal. The SNP believes that it is necessary to give a clear lead on the matter and

this is another occasion when we do not hesitate about or shirk from so doing.

With Mr Davidson, I had the pleasure of being one of the participants in a hustings debate organised by Spokes this week. It would be remiss of me not to press the case for the cycle path upon which the committee commented. The economic benefits of the cycle path have been mentioned by the minister and we generally support its case.

The minister touched on the wider transport picture, on which I will share two reflections. As we look towards the next decade in Scotland, all of us, even the Greens who I am pleased to see have finally arrived in the chamber for the debate, wish to see more expansion of rail services. However, there is a threat to that expansion, as has been outlined by some Labour back benchers from Edinburgh, who do not appear to be here this morning. Without the Waverley phase 2 upgrade, the parts of the Scottish rail network that depend on Waverley will be at full capacity early in the next decade. Should all the current plans go ahead, it would not be possible or easy to extend the Airdrie to Bathgate line to North Berwick.

Unless we follow the SNP line—which I have suggested to the Minister for Transport—of pledging ourselves not to proceed with a highly expensive and unnecessarily risky scheme to create a tunnel under the runway and two bridges to provide the capital city with a connection to its airport, we will be unable to afford what we really require, which is to upgrade Waverley in phase 2 and expand hourly train paths from 28 to 32. If we do not do that, I and industry experts believe that the rail network in Scotland will be at full capacity early in the next decade. That is why the SNP would scrap the Edinburgh airport rail link, as set out by the Executive, consider with Network Rail a surface station option and proceed with Waverley phase 2. Unless we do that we will not see expansion of the rail network into the next decade. The SNP will set an exciting and appealing manifesto at the next election, including provision for a station at Blackridge on the Airdrie to Bathgate line.

09:49

**Mr David Davidson (North East Scotland) (Con):** I thank the committee for its diligence in producing an excellent report, as well as all those who contributed to it. We support Phil Gallie's motion on behalf of the committee. I am not particularly worried that Phil Gallie appears to be consensual occasionally. As long as he is in line with our front bench, it is lovely.

The development of our transport infrastructure is vital to Scotland. If we do not do that, we will not grow the economy or give people employment

opportunities. More than that, if we are to take the environment seriously, we have to ensure that people can travel in an environmentally friendly way whenever possible at an affordable price.

There is no argument that the area of Scotland that will be served by the new line has been deprived—the local economy in Lanarkshire is 17 per cent below the Scottish average—and that much of the problem is about access to work. However, the problem is wider than that. The railway system can provide safe access to work, education and training, and allow people to make trips to the major centres of health delivery in Glasgow and Edinburgh, as well as provide social benefits.

The minister mentioned population growth. Growth in construction is welcome, but we must have the infrastructure to support house building, and we cannot spend everything in one day. The minister must listen to the demands and requests of the MSPs who serve the area, including Lord James Douglas-Hamilton on my right, to look again at the Blackridge and Plains station options. It is not just about the speed of the service between A and B; it is about connecting the people who live between A and B and enabling them to go in either direction. The more people we can get on to the train, the more we will be able to relieve some of the congestion on the M8, as the minister said.

It is all very well having rail lines, but we must ensure that they connect to other public transport systems, particularly buses. The committee highlighted its concerns about Network Rail's approach to that problem. New stations at Blackridge and Plains would bring relief to current Edinburgh to Glasgow rail traffic but, more important, we have to sort out a high-speed rail link between Edinburgh and Glasgow and improve travel times.

I am puzzled by the SNP's late turnaround to support our suggestion of having a surface station for the Edinburgh airport rail link, as opposed to the tunnel option. That major airport must be connected with all parts of Scotland wherever possible, and a surface station at Turnhouse would provide that. It would also provide a connection for Fife with the Airdrie to Bathgate line.

**Tavish Scott:** Purely for clarity—because I had not readily appreciated this—will the member confirm that he is saying that the Tory policy is not to support the Edinburgh Airport Rail Link Bill either?

**Mr Davidson:** No, that is not what I am saying. As we have said all along, our preferred option for EARL is to have a surface station at Turnhouse, because the tunnel is a very expensive option—

but there we go; I welcome the minister to the debate.

Fergus Ewing was absolutely right when he spoke about Waverley. If we do not expand Waverley all the way, as has been discussed, it will slow up the trains, which will stack up trying to get in and out of the station. Eventually, perhaps in eight to 10 years, we will need to consider building a second Waverley station with a new route in and out of Edinburgh if rail services continue to go the way they are going.

As Fergus Ewing said, he and I attended a Spokes meeting recently. It seems that cycle route 75 on the national network will suffer as a result of the Airdrie to Bathgate line. The minister could intervene to ensure that Network Rail makes adequate provision to replace the path. I hope that he will consider another plea from the cycling community to install adequate storage for cycles at all stations, because that would be a great help to many people.

The minister mentioned the cap on funding, which is helpful, because we have to manage projects, but I hope that there is some flexibility in his budget to provide stations at Blackridge and Plains.

The interconnection of a large part of Scotland with the national transport network has to be a good thing, and we support it. However, I am a wee bit concerned about what appears will be another two years' delay to finish the project. Perhaps the minister will inform us in his winding-up speech why the project will take longer and whether it means that there will be an opportunity to revisit the Blackridge and Plains options. There is no doubt that it would be cheaper to build those stations as the line is constructed rather than bolting them on afterwards, because of the health and safety issues when working on station platforms as trains are passing.

We generally support the committee's proposals and we hope that the bill will have a fair wind in the chamber. If we are going to build the line, we need to ensure that we do it properly and adequately and that all the areas that could possibly be served by the railway system are also connected to other public transport systems.

There is little doubt that the central part of Scotland, between the two end points of the railway line, has been neglected by public transport systems for some time. I say again to the minister that he must ensure that he plans the project in conjunction with the communities that are being served. He should perhaps encourage the business community to re-examine investment in the area when the transport system is improved.

We support the work of the Airdrie-Bathgate Railway and Linked Improvements Bill Committee and the bill. We wish it fair passage.

09:55

**Bristow Muldoon (Livingston) (Lab):** Before I focus on the bill, I will upset the consensual politics that we have heard.

I will first address Fergus Ewing's comments on population growth in West Lothian. I agree that West Lothian is a phenomenal success at the moment. In my view, that is testimony to the successful economic policy that Labour in government is pursuing and to the success of West Lothian Council at a local level, which is a Labour-controlled council that was recently recognised as the United Kingdom council of the year.

Fergus Ewing again showed the SNP's lack of ambition for Scotland, and in particular its lack of ambition for Scotland's capital city by way of its continued lack of support for EARL. I suspect that Fiona Hyslop feels a little less comfortable on that issue, given that half of her press releases are from her home in Linlithgow and the basis of the SNP's policy is to deny Linlithgow the economic opportunities and growth in tourism that the link between Linlithgow and Edinburgh airport would bring.

**Fiona Hyslop (Lothians) (SNP)** rose—

**Bristow Muldoon:** Just so that Phil Gallie does not feel left out, I say that I welcome his support for the crossrail project in Glasgow, which Labour will take forward. The project will be addressed in the policy documents that we will discuss at our conference in Oban this weekend. My advice to Phil is that if he wants the project to be delivered, he should vote for John Duncan, the Labour Party candidate for Ayr, at next year's election.

**Alex Neil:** I have a simple question: is Bristow Muldoon's constituency one of the 14 that Labour will lose, according to a report in *The Herald* this morning?

**Bristow Muldoon:** *The Herald* would have more credibility if it published independently commissioned polls by System Three rather than polls commissioned by the SNP. I am fairly confident that when the people of Livingston and the whole of Scotland know how ruinous the SNP's policies will be, they will reject them yet again.

I will move on to the Airdrie to Bathgate railway project. The existing Bathgate to Edinburgh railway is one of the phenomenal railway successes of the past 20 years. I recognise the role that West Lothian's two former members of Parliament—Robin Cook and Tam Dalyell—played in making the case for that railway and the contribution that it would make to the economic regeneration of West Lothian. I recognise that the line was introduced during the period of

Conservative government but, before the Conservatives get carried away with that, I think that West Lothian would rather have had the railway without the 20 per cent unemployment that we suffered at the same time under the Conservatives.

The railway has been a phenomenal success. It originally started as an hourly service, but it is now a half-hourly service for most of the day. Capacity has recently been expanded as a result of longer platforms and longer trains. About 600,000 journeys per year are now made on the Bathgate to Edinburgh railway line. It is a phenomenal success and has brought great economic benefit to West Lothian.

The Airdrie to Bathgate project will further expand capacity for the existing line through twin tracking, which will bring the dual benefit of services every 15 minutes between Bathgate and Edinburgh and improved operational reliability of the existing line, which suffers from a single-track section.

The bill's objective to re-establish the Bathgate to Airdrie part of the line, which has been missing for around 50 years, will produce benefits for other areas of West Lothian and North Lanarkshire, including improved access to the Glasgow labour market for people in West Lothian and improved access to the Livingston and Edinburgh labour markets for people from North Lanarkshire.

The demand from people in North Lanarkshire to work in West Lothian was brought home in the unfortunate circumstances of the Motorola closure, when it became clear that a third of the Motorola workforce came from North Lanarkshire. Creating greater opportunities for people from North Lanarkshire to work in Livingston and Edinburgh will produce benefits. The line will also produce benefits in giving young people from both West Lothian and North Lanarkshire greater access to the further and higher education opportunities that exist in Scotland's two largest cities.

On social inclusion, by providing better public transport the railway line will address the fact that many people in the communities that it will go through do not have access to private cars. It will also provide better links with the national rail network.

The committee's preliminary stage report states that the projections for alleviating congestion are a little bit disappointing. I agree, but in the light of the success of the Bathgate to Edinburgh line there is a good case to be made that the current projections for alleviating congestion are probably underestimates. I believe that the scheme will move more cars off the M8 than is currently projected, but only time will tell.

I commend my colleagues Karen Whitefield and Mary Mulligan for campaigning to get stations at

Blackridge and Plains on the agenda. Unlike David Davidson, I was listening to the minister and heard him commit to those two stations. From my understanding of the minister's letter to the committee, I believe that before the line reopens those stations can proceed under the powers that the Transport and Works (Scotland) Bill will give the Executive. I can inform the Parliament that those stations will be committed to in Labour's policy documents, which will be presented to our conference tomorrow.

The project already has a strong base case ratio of 1.81, but I believe that that will be exceeded. However, even on that basis the project is worthy of support. Labour unequivocally supports the project and we will ensure that it is delivered over the course of the next four years.

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

We come to the open debate. There is no time limit on speeches this morning, which makes my role in proceedings somewhat redundant.

10:01

**Fiona Hyslop (Lothians) (SNP):** I put on record my thanks to the Airdrie-Bathgate Railway and Linked Improvements Bill Committee. It has provided a robust examination of the case and its report is rounded, but also pointed in many areas.

I remind the Parliament that people—some of whom might not live to see the railway opened—have campaigned for the railway line for many decades. We should thank those who have kept the pressure on in West Lothian and Lanarkshire to ensure that the line is reopened.

As Phil Gallie made clear in his opening speech, there is a sound case for the project. The base case ratio of 1.81 makes it a sound investment. The benefits of the project are manifest. However, we should remind ourselves that it is not necessarily about providing an end-to-end solution from Glasgow to Edinburgh, so journey time should not be a major consideration, although it certainly is an issue in relation to profitability. However, 74 minutes compared with 50 minutes is a big difference. I remember that when Croy station was opened on the current Glasgow to Edinburgh line, it was a surprise to many that not only was commuting extensive between Croy and Glasgow, but it was extensive between West Lothian and Croy and Falkirk and Croy.

We must remember that the world does not begin and end in Glasgow and Edinburgh: there is a great deal of vibrancy in the parts in between. The committee's report notes that the local chambers of commerce made the point that although the areas between Glasgow and Edinburgh

"should be the hub of economic growth, many were economically and socially neglected."

There is a great deal of potential in the area and a great deal of optimism that it can be successful. Page 11 of the committee's report notes that

"West Lothian Chamber of Commerce remarked that local small businesses are being constrained from growing into medium size enterprises due to the difficulty in recruiting people able to travel to work in the area."

We are looking at a solution to untap potential, which is welcome.

It is argued that the line will reduce congestion on the M8 by 10 per cent, but I agree with Bristow Muldoon that that might be an underestimate. Significantly, house-building growth and business growth have major implications. I do not know whether the Minister for Transport will have an opportunity to examine the heartland development in Whitburn, which will make a major and significant change to the area. Indeed, approval has been given for another exit off the M8. Obviously, there is concern about additional exits and entrances on the M8, so the decision shows the importance that is being attached to that economic development, and it adds to the case for a Blackridge station, in particular, because there is such development in the area. Even the Whitburn development alone will make a big difference.

People in West Lothian have lived in hope for some time that the solum would be preserved, so it is convenient and beneficial that that will be the case, because otherwise the development would have been more difficult. The committee is right to say that the displaced cycle routes must be replaced with alternatives that satisfy cyclists. It is important that we ensure that a good replacement for the cycle route is provided.

The report makes it clear that it is essential that there is adequate capacity at Waverley and it makes some pointed remarks about access into Edinburgh, which must be considered. As a daily commuter from Linlithgow to Edinburgh for more than 11 years, I say to Bristow Muldoon that Linlithgow commuters would much prefer to have a reliable service to Edinburgh five days a week than a direct service to the airport once a year, when they go on holiday. The railway system is creaking at the seams. There is a desperate need to ensure that we have a railway that is fit for purpose.

**Bristow Muldoon:** Will the member give way?

**Fiona Hyslop:** Bristow Muldoon did not give way to me, so I will not give way to him.

It is important that the essential work that needs to be done on the existing lines and track is carried out, as the report says.

I turn to park-and-ride issues, which no one has mentioned. There is great potential for park and

ride. I have some concern that the main park-and-ride development will be at Uphall. We should consider as possible locations for park-and-ride developments Armadale—although the numbers there are perhaps not as big as they should be—and Blackridge.

The Airdrie to Bathgate line will offer potential for economic growth, but I want to focus on the case for a station at Blackridge. It would not be right for members of a community in the west of West Lothian to have trains hurtling through their village and not have a station. Frankly, I am disappointed that a proposal for a station at Blackridge was not in the bill in the first place.

**Cathy Peattie (Falkirk East) (Lab):** Fiona Hyslop and other members campaigned effectively for a station at Blackridge, for which there is a strong case, but I do not understand how the Scottish National Party can say that we cannot have trains running through Blackridge without stopping, but that there is not a strong case for a station at Plains, which is surrounded by pockets of deprivation.

**Fiona Hyslop:** We did not say that.

**Cathy Peattie:** Fergus Ewing did.

**Fiona Hyslop:** No, he did not.

It was useful that the committee gave everyone a fair hearing. The preliminary stage report—to which the committee signed up unanimously—states:

"The Committee acknowledges the arguments made for these additional stations, for example, the social case for a station at Plains and the stronger economic case put forward for Blackridge."

I agree with that and I am glad that Cathy Peattie does, too.

As well as a strong economic case, there is a good practical case for a station at Blackridge. As anyone who is familiar with the geography of Armadale and Blackridge will know, for many people in Armadale a station at Blackridge would be nearer and quicker to get to than a station at Armadale. If the Armadale station proves more popular than the station at Bathgate—we have heard how popular the existing Bathgate to Edinburgh line is—having another station at Blackridge would allow a spread of use between Armadale and Blackridge.

The popularity of the Bathgate to Edinburgh route cannot be overstated. The twin tracking of that stretch of line is essential. At the moment, trains must stop at Uphall and Livingston North, which is completely unacceptable. First ScotRail acknowledges that there are issues with those delays. I am glad that twin tracking can start soon.

**Jeremy Purvis:** Before we move off the subject, I assume that the SNP favours additional national

funding for stations at Blackridge and Plains, but is the member saying that the bill should be amended at consideration stage to provide for those stations? If so, that would delay the whole project.

**Fiona Hyslop:** I would have liked stations at Blackridge and Plains to have been included in the initial proposal. The problem is that they were not. The committee is not responsible for the late introduction of the bill by the promoter. The position that we are in is unfortunate. It is deeply worrying that the current Government is saying that no additional funds will be provided to build those stations. The idea that they can be built from savings that are made while the line is constructed is of concern. That is why a national contribution is necessary to ensure that they are delivered.

It is disingenuous to say that those savings will come from bus routes, because the committee acknowledged that the amount of money that it is predicted will be needed for bus links is probably an underestimate. Bus links will still be needed to Armadale, so the idea that £500,000 will be available to fund a station at Blackridge is not realistic. That sum is probably not sufficient to fund the bus services that might be needed elsewhere in the county. Many hard decisions still need to be made.

I am disappointed that there is no commitment to stations at Blackridge and Armadale in the bill. The Transport and Works (Scotland) Bill will, if passed, allow them to be provided for subsequently, but the Airdrie-Bathgate Railway and Linked Improvements Bill represents an opportunity for Labour and the Liberal Democrats to deliver them now. Those parties may want a second chance after May, but that is for voters to decide.

The line is important, not just as a strategic transport link but as a link for individuals. Several years ago, when the Motorola plant in Bathgate was still open, I listened to one of the managers talk about the problems with the transport links. He said that he had a group of apprentices who came from North Lanarkshire, only one of whom could drive—he came from Airdrie. He drove his colleagues to work at Motorola, but he failed to pass his exams to proceed with the apprenticeship, which meant that all four apprentices had to give up work. That is a salient reminder that the building of the new line will benefit individuals: it is not just about trains and strategic links. If we can provide hope, opportunity and life chances to people such as those young men, we will be doing a good job.

10:11

**Karen Whitefield (Airdrie and Shotts) (Lab):** I am delighted to be able to speak in today's

debate. Along with my colleagues Mary Mulligan and Bristow Muldoon, I have been campaigning for the reopening of the Airdrie to Bathgate rail line since 1999. Last night, I read over the *Official Report* of the members' business debate that I secured in April 2001, and it was evident from the maiden speech of the then Deputy Minister for Transport and Planning that we still had some way to go to convince the Executive that the project should be funded.

It has been a long and difficult journey, and I will not believe that it is over until I am sitting on the train as it departs from—preferably—Plains station on its way to Edinburgh. Of course, whether I will be coming to Edinburgh to work or just to shop will be a matter for the electorate to decide in May.

I begin by thanking the officers of North Lanarkshire Council and West Lothian Council, both of which have been involved in promoting the project for many years. Both councils provided strong evidence to the committee during preliminary stage. I also thank my colleague Councillor Tommy Morgan for his strong support for the inclusion of a station at Plains in the proposals. Members will not be surprised to learn that I will deal with that subject in more detail later in my speech.

Local politicians are rightly concerned about the detail of the bill, but that should not blind us to the fact that the reopening of the Airdrie to Bathgate rail line, along with other major transport projects, represents the most substantial investment in public transport for a number of generations. That investment in public transport is one of the most significant achievements of the Executive and the Parliament. The scale and ambition of the achievement is such that when I started to campaign for the reopening of the line in 1999, I was told by most people that it was a great idea, but that I should stop dreaming. I am glad that the Labour-led Executive has had the imagination and the commitment to think big on public transport.

That said, it is appropriate that I now put on my constituency hat and turn to the issues affecting Airdrie and the surrounding villages. I have raised two objections to the bill. The first relates to the absence of a proposal for a station at Plains and the second is about car parking spaces for Airdrie station. Following the Executive's very strong reassurances, I intend to withdraw those objections to ensure that the bill passes through the Parliament as quickly as possible and construction of the line can begin. However, I want to say a few words about both issues.

I listened carefully to Fergus Ewing's comments. I welcome his consensual approach, which I know he sometimes finds difficult to take.

**Alasdair Morgan (South of Scotland) (SNP):** He is just misunderstood.

**Karen Whitefield:** I also welcome his acknowledgement of the cross-party campaign for a station at Blackridge. I was pleased to support my colleagues in that campaign, because the case for that station is very strong. However, the case for a station at Plains is equally strong. This morning, the SNP made a commitment to provide national funding for a station at Blackridge, but I am disappointed that it did not make a similar commitment to the people of Plains. My constituents in Plains will remember that lack of commitment from the SNP.

I have agreed to withdraw my objection with regard to Plains station only after receiving a letter from the minister, assuring me that the case has been made for the station and that, after a feasibility study, the necessary process of consultation and STAG analysis will start as soon as possible in the new session with a view to introducing an order under the proposed transport and works legislation or using the relevant local authority powers, if that approach is more practicable. He states:

"This should enable the construction of the station to take place while the main route is being built."

I hope that that clarifies the earlier point made by the minister that David Davidson failed to understand.

I welcome the committee's comments about Plains in its report, which states:

"It is not acceptable that a project that has the stated aims of improving the economic and social wellbeing of communities in West Lothian and North Lanarkshire does so on a selective basis. We did not choose that aim, the promoter did and it must satisfy it in the totality. The evidence did not clearly show how the opportunities will be available to all those communities without the provision of stations at Plains and Blackridge."

I could not have put it better myself. I welcome the minister's commitment and, as I do not wish to delay the bill's progress, I will withdraw my objection in relation to Plains station.

However, the minister should be in absolutely no doubt that I and the people of Plains will hold him to his commitment. Indeed, I note that the committee also shares my desire for more flesh on the bones of that commitment. Its report states that it

"would welcome further detail on taking this matter forward e.g. when would consultation with local communities commence, when would the STAG process commence and be completed, will these stations become operational at the same time as the other stations provided for under this Bill?"

I share those views, but I am pleased that the minister has come to the correct conclusion that, if the people of Plains are to have some of the pain associated with the construction of the new line, it is only right and fair that they should also have some of the gain.

As for car parking provision at Airdrie station, I am convinced that the Executive and Network Rail are committed to working in partnership with North Lanarkshire Council to ensure that car parking at the new station is sufficient. After all, that will be important not only in making the new line a success but in preventing a lot of overflow into other retail parking in the town centre.

I want to mention those people who will be badly affected by the reopening of the rail line. We cannot understate either the considerable pain that a number of individuals and families will have to withstand as a result of this massive public investment or their willingness to accept that the project is for the greater good. Certain organisations, including the fishing club in my constituency, will also be affected.

Those individuals and organisations will be subject to compulsory purchase orders and I have been continually amazed by the very reasonable approach taken by most of them and by their ability to appreciate the line's benefits to the wider community. However, it is incumbent on Network Rail and Transport Scotland to ensure that every effort is made to make the process as painless as possible and to give every consideration to the disruption and impact on quality of life that those families will face over what will be a very difficult couple of years.

**Elaine Smith (Coatbridge and Chryston) (Lab):** I spoke in Karen Whitefield's members' business debate on this matter, because the line will hugely benefit my constituents in Coatbridge. However, although I very much welcome the project, does the member agree that the minister and the appropriate authorities must also consider car parking provision at the Coatbridge stations, which are busy at the moment and might well come under more pressure when the line opens?

**Karen Whitefield:** I have no doubt that the line will be a great success or that people in Coatbridge will want to access the new service. I hope that Network Rail will be happy to discuss the member's concerns.

I congratulate the members of and clerks to the Airdrie-Bathgate Railway and Linked Improvements Bill Committee. It is clear from reading the committee's report that the bill has been examined in a detailed and comprehensive manner. Of course, that is only right and proper, given the large amount of public money that will be spent delivering this project. However, I firmly believe that this will be money well spent. I look forward to the day when I can abandon my car and the frustrations of the M8's tailbacks and sit in comfort on a train travelling to Edinburgh from Airdrie, Plains or Blackridge.

I hope that all members support the committee's report and the motion.

10:22

**Robin Harper (Lothians) (Green):** Continuing the debate's consensual spirit, I congratulate the committee on the huge amount of work that it did and the very hefty document that it has produced. I particularly welcome its major conclusion that the line should go ahead.

Before I make clear my agreement with Fergus Ewing's comments, I must take issue with his comment that the Greens were late in arriving in the chamber for the debate. In fact, I was in the chamber before him. I suggest that he buys a pair of spectacles that gives him decent peripheral vision. Even Greens are allowed comfort breaks. That said, I must apologise to Mr Ewing for missing his words of wisdom at the beginning of his speech. I am sure that, if I agreed with them as much as I agreed with the rest of his speech, I would be able to say that I agreed with his entire speech.

As for the parts of Mr Ewing's speech that I was lucky enough to hear, I should make it clear that the Greens support the construction of a station at Blackridge. I take on board Jeremy Purvis's point that the passage of the bill would be delayed if an amendment were to be lodged.

**Karen Whitefield:** Will the member give way?

**Robin Harper:** Yes, although I did say that I take on board the problems that lodging an amendment would cause.

**Karen Whitefield:** The member said that the Greens support the plans for a station at Blackridge. Does that mean that they also support the proposal for a station at Plains?

**Robin Harper:** Absolutely. I will come to that after I have responded to Mr Ewing's observations.

I welcome Phil Gallie's emphasis on the fact that the line sits in a framework of other rail and tram projects. After all, it is important that the project forms part of a national rail plan and is not something that benefits only the area between Glasgow and Edinburgh.

That raises another issue. I have attended many meetings at the city chambers in Edinburgh during which the way the city sat within the city region was discussed. Similar discussions go on in Glasgow. The part of central Scotland that we are discussing this morning is being divvied up between the two city regions, but it also exists as an economic area in its own right. That point has been underlined by Bristow Muldoon. Many people employed by Motorola were from North Lanarkshire. People there would be better served by better transport links in central Scotland.

Recently, I had to borrow a car to get to a meeting in Cumbernauld. Travelling from

Edinburgh to Cumbernauld is an absolute nightmare—especially if the driver goes via Airdrie, where most of the road signs seem to have been removed as if there were a war on. At least, the road signs that I was looking for on that particular day seemed to have been removed.

Anyway, we were talking about railways. I should mention some important caveats to do with the way in which the line sits not only in a national rail framework, but in a walking and cycling framework. TRANSform Scotland has observed—

**Phil Gallie:** Robin Harper mentioned road signs. The serious issue of road signs was mentioned at a meeting of the committee, when a spokesman for a cycling organisation talked about making a similar journey to the one that Robin Harper undertook. He, too, had difficulty. Perhaps local authorities and others should consider such points.

**Robin Harper:** Yes—and if I were a younger man and still cycling regularly, I might have got from Edinburgh to Cumbernauld more quickly on my bicycle.

As I was saying, TRANSform Scotland has three major concerns. One concerns the potential impact on Glasgow suburban rail services, but as I do not really have a feel for those services I will not expand on that point. The second concern relates to rail freight access. That could be a very important issue and I hope that the Executive will note that TRANSform Scotland has raised it.

The third concern relates to whether sufficient attention has been paid to walking and cycling issues. TRANSform Scotland agrees with CTC Scotland and Spokes that high-quality cycling and walking routes to stations should be provided and that the new cycle route should be of at least as high a quality as the route that will have to be replaced.

Sustrans has said:

"All our experience from the past twenty years shows that where paths are created and designed for walkers and cyclists they will be used provided they are pleasant and attractive places to be. We contend that using the existing footways and roads will not provide such an environment. We therefore feel it is regrettable that so little has been done"

by the developers

"to accommodate those who would like to walk and cycle to stations."

I draw those points to the Executive's attention.

Sustrans goes on to give more detail, saying that it is a shame that

"cyclists and walkers seem to be expected to follow the path along the main street of the village of Plains and, for those travelling East-West, cross the busy A89 to continue their journey. Whilst the developer has written to assure us



that they will seek to acquire land to create a traffic-free path, we would have preferred they had automatically taken this decision and prepared the idea."

I ask the Executive to facilitate the acquisition of that land so that cyclists can avoid what would be quite a dangerous journey.

Sustrans then says:

"In conclusion, we do not consider that the developer has followed the hierarchy of use ascribed in Scottish Planning Policy 17 *Planning for Transport* (SPP17). This places pedestrians at the top of a pyramid of use, with cyclists next, then public transport, then commercial and private motor vehicles at the bottom. Throughout the process we have been left with the impression that the views of landowners and the need to keep costs down were of higher importance than the needs of walkers and cyclists, whether using national route 75 or getting to and from stations."

With those observations on cycling and walking, I will conclude. I congratulate the bill committee on its work and assure its members that the Greens will vote in favour of the bill.

10:30

**Mrs Mary Mulligan (Linlithgow) (Lab):** This is a great day for all who have campaigned long and hard for the rail link between Airdrie and Bathgate. I thank them all, and I thank all those who will support the bill today. In particular, I thank the members of the bill committee, ably led by Phil Gallie. They have taken a lot of time to listen to the arguments.

The M8 multimodal study identified the reopening of the rail link as a top priority. There were two main aims—to regenerate the communities along the line, and to encourage people to use public transport rather than their cars, thus reducing traffic congestion, on the M8 in particular, and benefiting the environment.

The Bathgate to Edinburgh rail line has been mentioned. We all know that, since its reopening back in the 1980s, the line has gone from strength to strength. At the time, reopening was a brave decision, taken by a Labour Lothian Regional Council despite many doubts that were expressed. However, the line was successful. Indeed, at times success brought problems as the trains became increasingly overcrowded. As Bristow Muldoon said, we have seen longer trains and longer platforms in the efforts to deal with those problems.

One outstanding problem is that of trains being cancelled in the section of line between Livingston North and Bathgate. However, the proposal that we are debating will allow work to start on dual-tracking that section, which will result in fewer cancellations and better journeys for my constituents.

Many of my comments could apply equally to people in communities in the Airdrie and Shotts constituency. However, as Karen Whitefield has already made such points much better than I could, I will restrict my comments to the effects on people in Linlithgow and West Lothian.

What will the new Airdrie to Bathgate link mean to my constituents? There will be a new station for Bathgate, which will be staffed. I impress on Network Rail, the bill's promoters, that it will be important to ensure that the new site continues to provide bus and taxi links. Also, because there is so much new build in Bathgate, as in other areas of West Lothian, there will have to be adequate space for car parking.

As has been mentioned, there will be a brand new station for Armadale. People sometimes forget that it was only after lobbying by Karen Whitefield and me, supported by the local authorities in West Lothian and North Lanarkshire and by local people, that stations were added to the bill proposal. Originally, the line was simply to be a link between Bathgate and Airdrie. As with the Bathgate station, there will be a need for bus and taxi links to Armadale station. Adequate car parking will be essential.

Finally, there is the question of the new station for Blackridge. I am glad that we are joined in the gallery by representatives of Blackridge community council and Greenrigg community council who have been active in making the case for the station. I am disappointed that the station is not part of today's bill, but there is some consolation. The minister's most recent letter to me and to the bill committee acknowledges the validity of the strong campaign that has been waged by the people of Blackridge and Greenrigg, and that of the people of Plains in Karen Whitefield's constituency.

The campaign revealed the economic and social benefits of having a station in Blackridge. Those benefits far outweigh any challenges that would be posed to train timetables. I understand that journey time affects the attraction of a train service, but that has to be balanced against the needs of the communities that live along the line. The committee acknowledged that.

I was pleased that the Parliament agreed to the general principles of the Transport and Works (Scotland) Bill at stage 1 yesterday. That bill could be used as the vehicle for the legislation that will be necessary for the Blackridge and Plains stations, allowing the work to be carried out alongside the building of the line. The minister confirmed that this morning. The minister said that the bill would have to deliver on budget, even with the new stations but, if he accepts the arguments for those new stations, he must accept the arguments for the costs to be provided. However, I

acknowledge that some of the money that is in the budget for the bus subsidies will not be needed as a result of the new stations and that the issue is to be explored further.

**Fiona Hyslop:** Does the member accept the evidence from West Lothian Council at the committee's meeting in Whitburn that the £500,000 that is on the table for bus subsidies will not be sufficient even to cover access to Armadale and Bathgate, let alone Blackridge?

**Mrs Mulligan:** As I said, there is a discussion to be had about the bus subsidies that are required. The fact that we will have new stations will free up some of that money, although we need to consider whether the amount is sufficient for the bus links to the other stations.

The work to build the line and stations will cause upheaval for local people, so, as Phil Gallie said, it will need to be handled sensitively. Lest there be any doubt, I point out that I support fully the full resolution of the cycle track issues.

**Elaine Smith:** Mary Mulligan mentioned some of the benefits to her constituents. Does she agree that one of the major advantages for them of this excellent Scottish Executive-funded project will be that it will be far easier for them to come to Coatbridge and enjoy the fabulous facilities there, such as the Time Capsule, Drumpellier country park and Summerlee Heritage Park, when it reopens?

**Mrs Mulligan:** I agree fully with Elaine Smith. Opportunities for people in Bathgate or other places in my constituency to go to Coatbridge should always be taken.

I acknowledge the great strides that the Scottish Executive has made in upgrading the infrastructure throughout Scotland, particularly the rail infrastructure. I am pleased that the Executive, unlike the SNP, has not restricted its ambition on the Edinburgh airport rail link. Shame on Ms Hyslop for not recognising that that line will provide not only for holidaymakers from Linlithgow, but for business users and for tourists who want to go there. That rail link will also provide the only possibility for a station at the ever-growing village of Winchburgh. Let us think about the wider issues.

I believe that the Airdrie to Bathgate rail link will prove to be the Scottish Executive's most successful project. The most important aspects are the opportunities that it will provide to the communities of Bathgate, Armadale, Blackridge and Greenrigg by bringing investment to West Lothian and allowing people to access jobs and to visit family, friends and social venues, even in Coatbridge. People in those communities feel that they have not always benefited from economic regeneration as fully as they should have done.

With the provision of the railway line, physical and practical obstacles will be reduced and opportunities will be there for people to take.

10:38

**Alex Neil (Central Scotland) (SNP):** I am sure that you will be glad to know, Presiding Officer, that I am happy to take interventions to assist you in managing the time this morning.

As other members have done, I express my support for the principle of the new rail link between Airdrie and Bathgate. As a host of speakers have mentioned—all of them, I think—the line will bring economic benefits, not only to North Lanarkshire and West Lothian, but to the wider central Scotland economy. It will also bring major environmental benefits, not least, we hope, by taking traffic off the M8. It will create social benefits, by widening the travel-to-work area for many people in West Lothian and parts of North Lanarkshire and, at the same time, it will expand social inclusion in those parts of Scotland.

As every member who has spoken has done, I congratulate the committee, under the excellent convenership of Phil Gallie, on its thorough work. I also congratulate Mr Gallie on his explicit introduction to the debate. I have only one major note of dissent, which relates to paragraphs 165 and 166 in the committee's report. I do not dissent from the committee's report, but I want to draw the attention of the committee, and of the independent assessor whom the committee will appoint, to the issues that arise between individuals, particularly in the Airdrie area, and Network Rail.

All members are keen to encourage a new attitude in public services. In days gone by, when the railways were a nationalised industry, the attitude was often, "Ye'll dae whit ye're telt and ye'll take it or leave it." One reason why we are all in favour of more consumer choice in our industries is to give consumers much more of a say than they had in the past.

**Elaine Smith:** I am curious to know whether that comment means that the member is in favour of renationalisation.

**Alex Neil:** I would be very relaxed about renationalisation, but that is not the issue at hand. The issue is the continuing attitude of Network Rail's senior management in Scotland towards individuals whose livelihoods, as Karen Whitefield rightly said, will be affected by the proposals. I draw attention to three examples in which the attitude that Network Rail has adopted and the contemptuous way in which it is dealing with those who will be affected adversely by the project is not in any way conducive to the proper conduct of Network Rail's business.

The first example is Hillend loch and the angling club there, which Karen Whitefield mentioned in passing. In its dealings with the angling club, Network Rail has been frankly less than honest and certainly discourteous; at times—I will choose my words carefully—it has touched on being economical with the truth. I hope that the minister, in his discussions with the senior management at Network Rail, as well as the committee and the independent assessor, will make it absolutely clear to Network Rail that the people who are involved, all of whom are in principle in favour of the railway line, deserve to be treated properly in the negotiations. The angling club, which is widely supported, should be given its proper place. It should not necessarily be given everything that it asks for, but at least it should be dealt with fairly and justly.

The second example relates to the people, particularly in Caldercruix, whose homes are the subject of compulsory purchase orders from Network Rail. I draw to the minister's attention the way in which Network Rail has dealt with the individuals concerned. We should remember that those people will lose their houses. They saved up for those homes and have worked hard to keep them, but they are willing to move and are not taking a nimby approach. However, the quid pro quo should be that they get a fair deal in return, which should mean not only fair financial compensation, but Network Rail dealing with them humanely.

As well as drawing attention to the immediate issue, I ask the minister to examine the whole process. Under the scheme, when a compulsory purchase order is put in place, the valuation is undertaken by a company that is commissioned by Network Rail. However, in all cases in which a compulsory purchase order has been put in place, an independent valuation should be conducted of the property that is the subject of the order. An individual such as the district valuer should conduct the valuation, rather than a company that is appointed by the organisation that is carrying out the compulsory purchase.

**Tavish Scott:** I take Mr Neil's point, but my understanding is that the district valuer is involved in that process. I am happy to write to Mr Neil in relation to any elements of the advance purchase and voluntary purchase schemes.

We made it clear in a debate on the capital transport programme—I am trying to remember which debate—that Network Rail and Transport Scotland had agreed an advance purchase scheme on 1 September. I would be happy to share that with Mr Neil, but I think that the answer to his question is that the district valuer plays the role that he mentions.

**Alex Neil:** With all due respect, Knight Frank,

not the district valuer, is acting on behalf of Network Rail. We need to look into who exactly has which role, because the people involved have been told to deal with Knight Frank, not the district valuer.

My third example concerns people who live in homes that are adjacent to where the line will be but which are not subject to compulsory purchase orders. The railway's impact on the value of their homes—not to mention the disruption that noise and other impacts of the railway will cause—will be severe, but Network Rail refuses to consider the possibility of compulsory purchase for those homes. People in that situation should have some right of appeal. There should be a process that is independent of Network Rail and allows them at least a fair hearing on whether their homes should also be the subject of compulsory purchase orders. It is not enough to accept that, if Network Rail says that it will not make a compulsory purchase order, those people will be left high and dry when the value of their homes falls substantially as a result of the decision. Something must be built into the process to make it much fairer for those people.

**Phil Gallie:** My understanding is that, should the general principles of the bill be agreed to today, objections will be heard when we move to the next stage. I presume that many of the individuals to whom Alex Neil refers have lodged objections. To that extent, they have the ball at their feet and they can raise the issue with the assessor if the bill progresses after today's debate.

**Alex Neil:** They will do so, but that does not invalidate the fundamental points that I am making. First, there is a major attitude problem in the senior management of Network Rail, which is reminiscent of the old days of the nationalised industry. That attitude needs to change. Secondly, matters of process outside the legislative process need to be addressed. In particular, we need to address the district valuer's role and the right of people who feel that they will be adversely affected by the railway line to get a fair hearing on the potential compulsory purchase of their homes. I do not believe that the independent assessor has the power under the current legislation to deal with such cases.

My drawing attention to those issues is not about invalidating the case for the rail line; it is about decency and treating people properly. We hear a lot about Big Brother and big Government. The matters that I raise are a good example of issues on which we can demonstrate that, when it comes to dealing with individuals, individual families and local organisations such as the angling club at Hillend loch, we are not like Westminster but care about those people as well as the big picture.

10:48

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** I not only endorse members' comments about other MSPs who have campaigned for the rail line but pay tribute to our consensual convener, Phil Gallie. I say to him that I suspect that less Churchill and more Polly Toynbee will be the order of the day. I liked the fact that he thanked us for at least turning up, which all members took on board.

I am happy to support the general principles of the bill. I thank the witnesses who gave evidence and, on behalf of other committee members, apologise to the witnesses from the cycling lobby. The difficulties that they had in coming to Airdrie have been mentioned. We were told erroneously that they were stuck in traffic but, in fact and as they pointed out to us, their train was late. Moreover, one of them got lost, so we thank the anonymous but helpful farmer who pointed him in the right direction.

As a supporter of the successful Borders railway campaign, the deputy convener of the Edinburgh Tram (Line One) Bill Committee and now a member of the Airdrie-Bathgate Railway and Linked Improvements Bill Committee, I am, in a small way, part of something significant: the biggest investment in public transport in Scotland in a generation. I point out that it is heralded by two Liberal Democrat ministers, which shows the significance of our ambition. Fiona Hyslop, who has left the chamber, will regret her comment that the people of Linlithgow would only wish to be connected to Edinburgh airport once a year for a holiday. That is not the Parliament's ambition, and it might well have been a slip of the tongue on her part.

**Alex Neil:** On a point of order, Presiding Officer. The member is saying—

**The Deputy Presiding Officer:** Wait a minute, Mr Neil. The procedure is that you say that you want to make a point of order and then wait until I call you.

**Alex Neil:** I will do as you say, and take as much time as you wish me to take.

Jeremy Purvis just said that Ms Hyslop is not in the chamber, but she has never left the chamber.

**The Deputy Presiding Officer:** That is not really a point of order, but I am sure that we all acknowledge that Ms Hyslop is here.

**Jeremy Purvis:** I apologise for not seeing her. Nevertheless, I am sure that she will regret her comment about her lack of ambition for the people not only of Linlithgow but of Scotland. It is curious to say that there is not enough money for the Borders railway, EARL or the Airdrie to Bathgate railway but—

**Fiona Hyslop:** Jeremy Purvis will be pleased to hear that I will not be choking, as I have now fetched a bottle of water.

I certainly have ambition for Linlithgow: I want the people of Linlithgow to be able to travel every day on a reliable railway that will help them to fulfil their obligations to arrive in Edinburgh on time for work; I want Waverley station to undergo phase 2 development; and I want a rail link from Edinburgh city to the airport. I just do not want the EARL scheme, because it is expensive and we could do far more with the money than the Liberal Democrats, with their limited ambition, have conceived of for Linlithgow and the rest of Scotland.

**Jeremy Purvis:** That was a vain and rather futile attempt by the member to correct her comments. I do not want to get bogged down in the matter, as she obviously is, but our ambition is for all parts of Scotland—whether West Lothian, my constituency in the Borders, Midlothian or anywhere else in Scotland—to be connected to our capital's airport. It is regrettable that Fiona Hyslop said that people would be able to connect to the airport only once a year.

Fergus Ewing commented on the proposal from Andrew Mackinlay, an Essex MP, for a toll on Scots travelling to England. I am sure that there will be cross-party condemnation of that ridiculous proposal, which is as ridiculous as the proposal from my SNP opponent in the coming election—the self-styled shadow minister for social justice—who wants poorly English people to be turned away at the border to prevent them from coming to Borders general hospital.

**Alex Neil:** On a point of order, Presiding Officer. Jeremy Purvis described Christine Grahame as a self-styled shadow minister; she is not self-styled but appointed by the leader of the party.

**The Deputy Presiding Officer:** Let us be clear that those are points of political contention. If you wish to intervene on Mr Purvis, you should try to do so. It will then be Mr Purvis's decision whether to accept the intervention. It is not my role to correct members on points of fact or detail.

**Jeremy Purvis:** The committee had to establish the facts on a number of key issues, namely, whether the reinstatement of passenger services between Airdrie and Bathgate would represent value for money, whether it would aid the development of the Lanarkshire and West Lothian economies, whether it would aid the economies of Glasgow and Edinburgh, whether it would be of net benefit to passengers to use the service for work, leisure or education, whether it would take traffic away from the M8 and local roads and whether it would benefit social inclusion and the environment.

Many members have commented on those matters. By and large, the committee received clear evidence on them. I will touch on the issues in turn, but first I will make a couple of more general points.

I was frustrated by the performance of some of the witnesses and the apparent lack of a close working relationship between the local authorities—North Lanarkshire Council and West Lothian Council—and the promoter. At times, I felt that we were not getting a clear picture of housing development figures and associated development in the region. We were told that there was close contact between the partners and that they had a good relationship, but the committee finally got agreed figures only through persistent questioning. The committee has asked for further clarification and determination in that area. It is not the role of the committee at preliminary stage to be the mediator or arbiter between what should be key partners with seamless partnership working.

We did not get a clear picture of planning for bus routes, particularly those that will feed the services. Regardless of the issues in respect of the proposed stations at Blackridge and Plains, Network Rail said that £1 million revenue funding would be provided for feeder bus services over the lifetime of the rail service. The committee welcomes that. In other capital programmes for rail, we see a similar trend of insisting on feeder services, which are particularly important for peripheral communities in rural areas and for people who do not have a car. We were struck by the high proportion of people in the area that the service will cover who do not have a car.

The local authorities, which one would have thought would have worked up outline plans for how bus services would connect communities to a brand-new £342 million railway, were feeble in answering our questions. They said that nowhere near enough money was being provided but could not explain how they reached that conclusion as they had done no work to demonstrate how feeder services to the stations would be developed. When pushed to explain why current bus services were so poor, they pointed to the uneconomic nature of running bus services in the evening and said that there were cross-border issues to overcome. It is embarrassing to have two neighbouring authorities cite cross-border issues as a reason why services are not being developed, because that really should not be an excuse.

Before the Parliament considers the bill at the final stage, I hope that we will see developments in the relationships between the two local authorities and between them and the promoter. The evidence from the member for Plains and from the community raised issues for the committee, which it considered carefully.

There are difficulties in balancing, on the one hand, the case for the railway line as presented by the promoter and the line's effectiveness as a quick, attractive alternative to other modes of transport that gets people out of their cars, which Mary Mulligan mentioned, and, on the other hand, the economic evidence on having stations at Blackridge and Plains. The evidence from the members for Plains and Blackridge was interesting. Reference was made to the case for having a station at Stow, as part of a separate but relevant railway project in my constituency that is close to my heart. The case for the Borders railway touched on many of the issues that Karen Whitefield raised in her speech. There are similarities between the two.

The case for a station at Blackridge was primarily about transport and economics. A station would help to move the growing workforce efficiently and speedily and would offer opportunities for West Lothian, although it would not necessarily stimulate economic development in the area. The case for a station at Plains was that, in addition to transport and economic benefits, it would bring considerable social inclusion benefits, which in my view strengthens the economic case. The dilemma of having to consider the cases was taken away from us when the Executive agreed to both stations.

I would have liked the promoter and the local authorities to have done more work on developer contributions. A possible compromise on or solution to the problem of the capital funding of the two stations would be to ask the local authorities and promoter to produce a more robust plan for developer contributions, given that there will be considerable development in the areas. The committee took considerable evidence on developer contributions and wants more work to be done in that regard.

It was difficult for us to get passenger forecasts for what we called end-to-end passengers, as opposed to those using the service within West Lothian and North Lanarkshire, but, overall, we considered that the line would be of net economic benefit not only for the local but for the wider economy and would offer considerable sustainability as well as social inclusion opportunities.

Overall, the line is a key project for Scotland. It will benefit West Lothian and North Lanarkshire and I have no hesitation in recommending that the Parliament support the bill.

11:00

**Cathy Peattie (Falkirk East) (Lab):** I support the general principles of the bill and thank Phil Gallie for his excellent convening of the committee.

The expansion of public transport is an essential part of the creation of a more environmentally friendly transport system. For many journeys, rail is the most environmentally friendly form of public transport, which means that in Scotland we are looking to expand or, should I say, reclaim our railway network.

My grandfather was a fireman and eventually drove steam trains. I remember him being really depressed at the fact that so many rail lines in Scotland were closing. He would be delighted that we are opening lines in Scotland and would believe that that was something to celebrate. I am sorry that I cannot tell him about it. In this respect, Scotland has been leading the UK, which would also have pleased my grandfather.

The bill seeks to reopen, after 50 years of closure, the 15-mile railway between Drumgelloch and Bathgate, which will provide a direct link between Helensburgh and Edinburgh.

Track investment south of the border is nearly all in platforms, line speed and capacity enhancements rather than in new track. This project is about new track as well as new rolling stock.

We should praise the local MSPs for their work in campaigning alongside communities for the rail line. It is great that we are discussing its future.

No matter how good the idea is, we need to scrutinise the proposals to ensure that they are viable and that due consideration is given to accessibility and to legal, social, environmental and economic factors. I thank the promoter, Network Rail, for its contribution to that process.

The project will cost nearly £300 million and will be funded by Transport Scotland. Besides reinstating track, it will double-track, electrify and upgrade the existing line between Edinburgh and Airdrie. It will also introduce two new stations at Caldercruix and Armadale, relocate stations at Bathgate and Drumgelloch and upgrade stations at Airdrie, Livingston North and Uphall.

Karen Whitefield, Mary Mulligan, Fiona Hyslop and others made a strong case for further stations at Plains and Blackridge. I was disappointed that Fergus Ewing was less enthusiastic about the proposed station at Plains and would like him to clarify his position, because I assumed that the SNP would support both stations, given that Ms Hyslop has been enthusiastic about them both. The issue is not just journey times but serving the communities that live alongside the railway line. Although the proposals for the additional stations are not part of the bill, I am pleased that the feasibility study will be carried out and I hope that the stations will be considered in the future development of the network and will be in place by the time the rail line has been opened.

The line will provide for four trains an hour in each direction between Glasgow and Edinburgh via Airdrie and Bathgate, with rail connections beyond.

The new stations will be compliant with the Disability Discrimination Act 1995, which of course is welcome. I am also keen for improvements to access to be made at all stations on the Edinburgh to Helensburgh line, to address people's mobility problems and provide safe and comfortable waiting areas.

It is also important that the enhanced park-and-ride option is available and, as Phil Gallie said, that there is good integration of bus services for the surrounding areas. I am not confident that the pricing for bus services that we have been given is realistic. Accessing bus services to and from the station will be vital for people, so the money must be there to ensure that that happens.

**Fiona Hyslop:** I appreciate the member's comments. Does she agree that it is unwise to assume that funding for buses can be reallocated to fund the proposed station at Blackridge? There are already too many question marks over the funding for buses.

**Cathy Peattie:** There are obviously issues, but I am looking for the proposed stations at both Blackridge and Plains to be funded. There needs to be additional funding for buses—I am not sure that the money that has been allocated is adequate. I also seek a stronger commitment to bus services in the long term; I am concerned that there will be bus services for a year or two but that they will be withdrawn later, as has happened in many areas. Indeed, during the committee's site visit, folk from Plains said that their local bus services had disappeared. If someone lives in a fairly run-down rural village, it is unacceptable that they cannot even get a bus to the hospital or the shops. I would like the necessary discussions to happen so that people have access to buses to and from the station. Likewise I hope that folk in Plains will not have to worry about bus services once they have a station in their community.

I thank everyone who gave evidence to the committee, both in the Parliament and when we were out and about in Airdrie and Whitburn. I recommend the bill to the Parliament and ask members to agree to its general principles.

11:06

**Mr Davidson:** Much praise has been heaped on Phil Gallie and his wonderful convenership. I say to members in all seriousness that, after almost eight years, it is only now that the Parliament is beginning to recognise the wonderful job that Phil Gallie does. People are warming to his forthright and ever-charming style.

**Fiona Hyslop:** It might have taken the Conservatives eight years to recognise that, but some of us have valued Phil Gallie's contribution from the start.

**Mr Davidson:** I am sure that he would enjoy a treat of a cup of tea and a chocolate biscuit afterwards.

I congratulate the Airdrie-Bathgate Railway and Linked Improvements Bill Committee on its excellent report, which covers a number of interesting issues. Bristow Muldoon always does a bit of political posturing—he advertised his conference this morning—but I remind members that Andrew Mackinlay, who came up with the idea of imposing a levy on people who cross the border, is a Labour member of Parliament, so I assume that such a levy is now national Labour policy.

That said, let us focus seriously on the proposal. To be fair, in the debate members have concentrated on the great opportunity that the bill presents. There are questions about the proposed stations at Blackridge and Plains, but those are about funding rather than feasibility. On funding, a commitment is required. If ministers respond to a feasibility study by saying that the case has been made, they must say how the project will be funded. They should not simply trail people along in expectation. There is a lot of work to be done on whether the stations will be funded through separate legislation, development gain, a loan package or whatever. There are ways of funding new stations and some councils have done so. In conjunction with other local authorities, the former Central Region funded Camelon station. We need to consider all the options for funding stations on the Airdrie to Bathgate railway.

I was surprised that Fergus Ewing did not mention Plains. He reiterated his rejection of the Edinburgh airport rail link, but I am sure that the SNP will come round to the idea in its election manifesto, which is bound to come along fairly soon.

**Karen Whitefield:** I am grateful to the Scottish Conservative party for supporting the proposed station at Plains, but perhaps Mr Davidson will point out to his colleague Margaret Mitchell that she supported a station at Blackridge but not a station at Plains. She will need to reassure her constituents in Plains that they have her support on the matter.

**Mr Davidson:** I will be delighted to encourage her to join the campaign for a station at Plains as well as supporting a station at Blackridge, about which she has been vocal.

Two or three technical issues arose in the debate, including carriage layout. SPT is concerned that the class 334 trains will carry 20

per cent fewer passengers, and there are concerns elsewhere in Scotland about the suitability of the rolling stock for different types of line, particularly commuter lines. Like other members, I am sure, I have been approached about the storage of bicycles, prams and buggies in railway carriages. It is important that the public have input on the design of the rolling stock. I note that the Minister for Transport is nodding and I know that the Executive seeks to make progress on the matter, but it needs to be dealt with urgently. Rolling stock does not simply appear; it must be designed, commissioned and leased. Given SPT's concerns, I hope that there will be rapid progress, and I say to the minister that we certainly wish to contribute to the work in any way we can.

**Robin Harper:** It is not just rolling stock and lines that are important. Does the member agree that we would be able to operate trains more efficiently and at greater speeds throughout the network if we spent money on installing the most advanced signalling systems, such as the ones in France? They are much safer and more foolproof than the semi-mechanical systems that we use. Thanks to advanced systems, underground trains in London are operated at two-minute intervals.

**Mr Davidson:** I was in Taiwan recently and spoke to the railway authorities there. Using modern signalling systems, they manage to operate four speeds of train on the track around the island. If they can do that there, I am sure that we could do it in Scotland.

Robin Harper was correct to point out in his speech that any rail project will have knock-on effects on other parts of the network. Most members mentioned the alignment of the cycle path. I was surprised by Mary Mulligan's comment about cash being moved from bus subsidies. There is a bit of work to be done on understanding how much these things cost.

Alex Neil made an interesting point about paragraphs 165 and 166 of the committee's report. He talked about the compulsory acquisition of homes and the attitude of Network Rail. Jeremy Purvis also mentioned the matter. We need to take a fresh look at the legislation on compulsory purchase orders and to evaluate the impact of the proximity of major infrastructure works. On the values that are used, we need to catch up with the rest of the UK, but we also need to be more sensitive. Major transport projects are valuable to Scotland, but objections flood in because they impact on people's lives and people feel that their views are disregarded. I ask the Executive to consider that at an early stage, not least when it makes a decision on the Aberdeen western peripheral route in the fairly near future.

The cycling lobby was mentioned by several members. The bill will have benefits for the

environment, the economy, local opportunities for individuals and communities, population growth, public transport links, access, and even disability, as Cathy Peattie said. Those things are vital parts of any transport system and its planning, and we need to put best practice into action as soon as possible. The Conservatives whole-heartedly support Phil Gallie's motion and we agree to the general principles of the bill.

11:13

**Fergus Ewing:** I begin by recognising the work that the committee has done. Of course, its work will continue, and we all welcome that. There is undoubtedly a consensus in support of the project, and it includes the Greens. I did not realise that Robin Harper was here, but I am always delighted when the Greens are here because we agree about so much in transport policy.

One of the truisms about creating new stations and rail routes is that, the greater the number of stations on a route, the longer the train journey takes. It is reasonable to point out that any rational, dispassionate analysis shows that the likely patronage on a route is determined to some extent by the length of the journey, which in turn is determined by the number of stations. We must take that factor into account.

We all recognise that the proposed line will not be a rival to, or significantly detract from, the main line between Scotland's two major cities of Glasgow and Edinburgh. The journey time between Glasgow and Edinburgh via Airdrie and Bathgate will be longer. We can see that the main benefits are likely to be not so much intercity as interregion and that it will become easier for people in the east to travel to the west and for citizens in the west outwith Glasgow to travel to the east. Conceptually, that seems to be the primary benefit from the bill.

**Bristow Muldoon:** Will the member give way?

**Fergus Ewing:** I am happy to give way, if I have time, Presiding Officer.

**Bristow Muldoon:** I agree that the main benefits from the project are in the movements east to west from West Lothian and west to east from North Lanarkshire, but the project will also produce benefits for the Edinburgh to Glasgow via Falkirk line. Some people who make intermediate journeys on that line but who live close to the Airdrie to Bathgate route will choose to use the new line. The committee report recognises that and mentions that 12 per cent of passengers are expected to transfer from the Glasgow to Edinburgh via Falkirk line, which will alleviate overcrowding and benefit people using that route.

**Fergus Ewing:** I am happy to agree once again with another member. Indeed, I commend the

work carried out by many MSPs from all parties in reaching this stage. I have mentioned the constituency MSPs and Fiona Hyslop, and I should also have mentioned Lord James Douglas-Hamilton, whose role was pointed out earlier by his party spokesman, David Davidson. A substantial body of work has been carried out on a cross-party basis by elected representatives to put forward the interests of people in the area. Mary Mulligan alluded to the fact that community representatives are present to listen to the debate.

It is fair to say that the main controversy has been on whether there should be additional stations. The SNP is happy to replicate precisely the commitments made by the minister today, but we believe that we can go further on Blackridge, as I have said already.

Let me put the issue in a wider context. We know that it has taken a long time to reach this stage. The Network Rail briefing points out that the project timeline began in 2001, which does not take into account the substantial political lobbying that took place before. The briefing takes us through the Scottish Executive's commission of the central Scotland transport corridor study and then the announcement in 2003—just before the election, as it happens—of the project. There was also detailed economic activity and location impacts analysis in 2004-05, environmental consultation from 2003 to 2006, and consultation with the public, local interest groups and stakeholders from 2003 to date. Given the length of time that it takes to establish any major project—plainly the Airdrie to Bathgate line is a major project for Scotland—if there are to be additional stations, we need to decide sooner rather than later which ones they should be.

We support the STAG appraisal for both stations, and it is true that the work must be done independently of the Executive. I have indicated that the SNP is committed to a station at Blackridge. That does not mean that—as has been suggested by some—we are not committed to the STAG appraisal of Plains or that we do not agree with the minister's commitment to further discussions. We are clearly committed to that. However, we believe that it is important not to delay decisions further, given the considerable time that it inevitably takes to introduce proposals.

The committee alluded to the fact that the location of the station at Blackridge would not necessarily be fixed.

**Karen Whitefield:** Will Mr Ewing explain why the SNP is willing to say that it would fund Blackridge station when, to me, it is evident that the economic and social cases for a station at Plains are greater? Why can he not simply say that both stations are required and commit to funding both?



**Fergus Ewing:** I have already made our position clear. We have exactly replicated the commitment that has been made by Karen Whitefield's party, so I presume that she is pleased about that. We are following the committee's recommendation, cognisant of the strong economic case in favour of a station at Blackridge.

As I pointed out, the key factor is that it takes a long time to create new rail routes. The time to decide what stations to have is not near the end of a project. My concern is that the absence of a commitment from the Labour-Liberal Executive today on a station at Blackridge may threaten its inclusion in the new line.

**Tavish Scott:** Desperate political posturing.

**Fergus Ewing:** The minister is giving a running commentary, as is his wont. Perhaps rather than giving a running commentary from a sedentary position, he could reply.

**Tavish Scott:** It is important to consider what I said in my letter to Mr Gallie and the two constituency members concerned. Mr Ewing should look at the facts and stop trying to invent a political argument when there is none.

**Fergus Ewing:** I hope that that means that the Executive is moving towards the SNP position of a commitment to Blackridge. I suspect that that is what is happening. I decided to home in on controversy—departing from my characteristic mode, I must say—and as the debate has developed, we have seen a shifting in position of the Scottish Executive towards the SNP position. One can almost sense the electoral fear that underlies that creeping but inexorable movement towards the SNP position, which I have set out today. I welcome the minister's movement towards it.

Perhaps I should point out—I do not know how long I have, but I am happy to oblige—that it is not difficult to make the modest spending commitment that the SNP has made to help the people of West Lothian achieve their potential, which Fiona Hyslop talked about in her excellent speech, when we have made the clear decision to say no to a project that is not in Scotland's best interests and does not represent the best value for money—the EARL project.

I am pleased to agree with the Green party that the project to spend £609 million on establishing a link between Edinburgh and its airport is not only hugely costly but unnecessary. A surface option would be much cheaper. It is much easier to invest in all our railway network in Scotland if we do not spend £609 million—and rising—on building a tunnel underneath a live runway and two rivers to establish a rail link between our capital city and its airport. Government is about taking tough

decisions. The SNP has indicated clearly how we would take one decision, on EARL, and we also believe that the Edinburgh trams project—one and a half trams now, rather than the network of three that was initially promised—does not represent value for money. We have demonstrated that we will create the financial capacity so that the whole of Scotland's rail network benefits, not just the fancy frills promised by the Executive.

**Bristow Muldoon:** Will Fergus Ewing not just admit the truth, which we all know, which is that the SNP's lack of support and ambition for Scotland's capital city is more to do with the fact that it completely lacks support in Edinburgh and failed to finish even second in any seat in the 2005 general election? Fergus should admit the truth—his comments are cynical politics.

**Fergus Ewing:** I do not quite see the relevance of those remarks to the Airdrie to Bathgate line. Perhaps Bristow Muldoon was simply rehearsing his speech for the conference in Oban next week. I am sorry, but I will not pay too much attention to his intervention.

The SNP believes that investment in the whole of the rail network in Scotland is what is important. If we want the next decade to be one in which more people travel by train, more capacity is provided on our rail network and those of us who are in Parliament debate the opening of other new railway lines, we need to make the right decisions now. We genuinely believe that, as a party that is ready and waiting for government next May, we have made the right decisions. We recognise that there is merit in most proposals, but government is about creating priorities and making tough decisions. We are often lectured—usually by the First Minister—for being prepared to be profligate with the public purse. In respect of the transport budget, the opposite is the case because the Labour-Liberal Executive seems to be thirled to the EARL scheme, which many believe may cost £1,000 million—

**The Deputy Presiding Officer:** Mr Ewing, you should finish now.

**Fergus Ewing:** Sorry, Presiding Officer. I did not realise how many more “10 minutes” I had.

In closing, I am happy to state that the SNP is delighted to support the Airdrie to Bathgate line, with the addition of Blackridge station.

11:26

**Alasdair Morgan (South of Scotland) (SNP):** Unfortunately, as so often happens in these debates, we cannot say that it has been standing room only in the chamber, but I hope that demand on the Airdrie to Bathgate line will quickly approach the point at which the new trains are

almost standing room only. However, the minister is committed to ensuring that people are not allowed to stand for more than 12 minutes on train journeys.

I am sorry that Phil Gallie was unable to spell out how the European convention on human rights is relevant to the bill, but I am sure that we will hear that at a later stage.

Given the success of the Edinburgh to Bathgate line, which members have mentioned, tribute should perhaps be paid to Chris Green, who has not so far been mentioned. As head of the Scottish region of British Rail when that line was reinstated, he went out on a limb, in management terms, to help to bring that about. The hope is that the reinstatement of the missing link will allow the whole line to be just as much a success as the Edinburgh to Bathgate section of it has been.

I will address other matters arising from our report that the committee convener was unable to refer to. On patronage, we were a bit disappointed about the lack of precision of the patronage forecasts. Given that £342 million of public money is involved, we need some certainty about the level of usage that the line will enjoy.

As the convener identified, improved bus links to increase passenger access are an issue. The committee believes that passenger numbers will be maximised only if good, convenient and direct access to stations is provided. To be frank, one reason why many lines were closed was that the stations were too far away from those who were expected to use them.

It is clear, however, that the existing population provides the railway with enormous potential. Some 1,900 properties are within 800m of the proposed stations on the new part of the line. The projection is that, by 2021, there will be a further 4,000 new dwellings in North Lanarkshire and double that number of new dwellings in West Lothian. Over and above that, the very existence of the railway could lead to further expansion in population and increased demand for houses.

The committee noted some considerable disparities between the projected figures for house building that we received from the promoter and those that we received from the local authorities. We have sought clarification of those disparities and of how close the proposed housing will be to the new stations. Clearly, those are important matters. However, we understand that a difficult balance must be struck in making house-building projections, given that planning permissions cannot be predicted in advance.

**Mr Davidson:** Jeremy Purvis mentioned earlier that there were difficulties of communication and partnership working between the promoter and the two local authorities. Did that come across to the

committee as a serious issue of which the Parliament should take note?

**Alasdair Morgan:** It was a bit of a curate's egg. There has clearly been a great deal of co-operation on some issues, but co-operation was less good on others.

The promoter forecasts a daily patronage of almost 4,000 and increased patronage levels on the wider route beyond Airdrie and Bathgate of just under 12,700. Clearly, the railway has tremendous potential to capture and expand on the existing number of passengers who travel between east and west. The question is whether, for people who already live on the M8 corridor, the new line might be used as an alternative to their existing journey mode.

Of course, the bill does not deal with the timetable that will be in place once the line is complete. As Fergus Ewing and others mentioned, the balance between overall journey time and the number of stations, or the frequency of stops at those stations, is an issue that needs to be considered. Simply adding in the missing link without changing the existing pattern of stops and services may not be attractive enough to passengers. The journey from Edinburgh to Glasgow on the line is currently scheduled to take 74 minutes. As well as that journey length, the many stops on the line—on certain sections, the trains will stop almost every mile—might be a disincentive to people, especially if they are on a longer journey.

**Fiona Hyslop:** Will the committee reflect on the fact that the section of the line where stations are less than a mile apart is the western part of the line, where the current line is an extension of the Helensburgh line? Will the work on timetabling consider that issue in particular?

**Alasdair Morgan:** I suspect that it would not be helpful to get into such arguments at this stage. I simply point out that difficult decisions will need to be made, in respect of both new and existing stations, about where the trade-offs should be made between the number of stops that the service should make, given the number of passengers who want to get on at those stops, and the total journey time. That will be a difficult decision. However, whatever decision is made, the journey time will certainly be faster than the time that is recorded in British Rail's timetable for 1949—which I always keep handy—when the fastest journey between Glasgow and Edinburgh via Bathgate was an hour and 23 minutes.

Another issue is the cycle path, which other members have mentioned. The existing national cycle network route 75 uses the track bed of the former railway. Sustrans believes that the new route for the cycle path will not be as good as the

current one but, quite frankly, that is hardly a surprise. Old railway lines always make the best kind of cycle route because they follow the flattest possible trajectory between two points. A perhaps more crucial point is that other lobbyists from the cycling fraternity believe that the new route does not maximise the potential to encourage cycle and pedestrian access to stations. That is an important point.

It is clear that the promoter has consulted both local authorities, Sustrans and other cycling bodies on the proposed new alignment of the cycle path. However, certain concerns were expressed about the adequacy of the consultation. Given that the realignment of the cycle track will cost £7.2 million—which is a lot of money for cycle tracks—we are not convinced that the way in which that expenditure is planned will meet the scheme's objectives of improving accessibility and connectivity. We are certainly not aware of any particularly innovative approach towards integrating cycle and pedestrian access to stations. We are also unaware of the level of potential usage of the cycle track. It is difficult to determine whether the opportunity has been taken to increase usage as no figures whatsoever are available for usage of the cycle track.

We urge the promoter to continue negotiation with all stakeholders from the cycling fraternity to bring forward practical route improvements to the cycle track. Given that about a quarter of passengers will arrive at the stations by foot or by bike, we believe that it is important to ensure that they are accommodated and that access is made as easy as possible for them.

**Robin Harper:** Does the member agree that if we are to encourage people to use the cycle tracks that are provided, it is crucial not just that the route of the tracks is right but that their quality is good?

**Alasdair Morgan:** As an occasional cyclist, I could hardly fail to agree with the member.

I turn to some issues that have not yet been mentioned—the code of construction practice and the noise and vibration policy. The code of construction practice outlines the actions that the promoter will require contractors to take during construction and maintenance of the railway to minimise environmental and other impacts such as noise and dust pollution. The noise and vibration policy describes what the promoter will do to mitigate noise and vibration from the railway once it is operating. Both documents are of crucial importance to people who are directly affected by the railway.

It is obvious to the committee that the sooner an objector understands exactly what the promoter will do to reduce pollution from a construction

compound, for example, the sooner they will withdraw their objection. Previous private bill committees for rail projects have attached a great deal of importance to the documents, because they provide assurances and guarantees with regard to mitigating impacts of transport projects. Previous committees have given the documents statutory backing by amending the respective bills to allow the relevant local authority to enforce both documents, to the extent of being able to stop a development if there is non-compliance with either the code or the policy. We intend to amend the bill in a similar fashion.

The convener has written to the promoter on the matter. I repeat the point that was made in the letter—that the committee must be satisfied with the terms of the documents. We want to progress the bill efficiently and speedily through the parliamentary process, while giving full and careful consideration to it. However, time is tight if we are to complete consideration of the bill before the end of the session—so tight that we do not wish to embark on lengthy oral evidence hearings at consideration stage until we are content with the terms of both the code of construction practice and the noise and vibration policy. If hearings are extended so much that we cannot finish consideration of the bill, the time spent on those hearings will have been wasted. We trust that the promoter will not get us into that situation and will timetable our consideration of the documents accordingly.

The representations that have been made to us on the performance of Network Rail on the compulsory purchase of people's homes have been mentioned. Compulsory purchase is a once-in-a-lifetime event for many people and must be traumatic for them. Concerns have been expressed to us about lack of dialogue and timely communication on the part of Network Rail; Alex Neil echoed that point. The promoter needs to show sensitivity and understanding when dealing with such objections. A specific point was made about Network Rail's valuer, Knight Frank. It relates to the advance purchase scheme that involves a negotiation between Network Rail and the property owner. At this stage, such negotiations do not involve the district valuer. The bill contains provisions that deal with blight and situations in which only part of the property is being acquired. Many house owners have lodged objections that they can take forward at consideration stage, if they are not happy with what is happening.

In principle, the committee supports the bill. However, we have indicated clearly to the promoter and local authorities that we need to revisit a number of issues before we return to the chamber at final stage. The timetable for the bill is very tight; if the deadlines are not met, we will not

be able to deliver the bill before Parliament is dissolved. With continued forward planning, we will try to complete the stages of the bill before then. We hope that all other parties will work constructively with us. In fact, if the Parliament agrees to the general principles of the bill at decision time this evening, we will have our first committee meeting at consideration stage at 5.15. We are certainly not slacking.

Assuming that the Parliament agrees to the general principles of the bill today, oral evidence hearings will commence on 24 January. That date is fixed, leaving just nine weeks in which to settle objections. Two objections have been withdrawn since the bill was introduced in May. We anticipate that there will be more withdrawals, with greater frequency, prior to the commencement of oral hearings. I have great pleasure in supporting the motion in the convener's name.

## Question Time

### SCOTTISH EXECUTIVE

#### General Questions

11:40

#### Local Government Elections 2007

**1. Tricia Marwick (Mid Scotland and Fife) (SNP):** To ask the Scottish Executive when it will publish the regulations on the operation of next year's local government elections. (S2O-11190)

**The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon):** It is important that the local government election rules reflect accurately all the changes that are being introduced. A substantial amount of work has been done to ensure that that happens. We intend to publish them in time to allow effective preparation for and implementation of the changes.

**Tricia Marwick:** Is the minister aware that there is great concern among returning officers and other interested parties at the delay in publishing the regulations? Is he satisfied that sufficient time will be available for the administrative tasks that must be performed? Is it too much to hope that the delays mean that common sense has finally prevailed in the Executive and that he is really paving the way for an announcement that the local government and Scottish Parliament elections will not take place on the same day? If so, he will have my total support.

**George Lyon:** The answer to the member's last question is no. Representatives of returning officers and electoral administrators have been heavily involved in the drafting of the rules, which are required to be subject to the affirmative procedure and must be laid 40 days before they are due to come into force. We believe that sufficient time is available for the Parliament to debate them in full and for full preparation to be made in time for the elections.

#### Animal Welfare (EC Regulation 1/2005)

**2. John Farquhar Munro (Ross, Skye and Inverness West) (LD):** To ask the Scottish Executive whether it will seek any derogation for the Highlands from European regulation 1/2005 on the welfare of farm animals during transport. (S2O-11179)

**The Minister for Environment and Rural Development (Ross Finnie):** The Executive will seek to take advantage of the limited scope to derogate from the provisions in EC regulation

1/2005 for vehicles on road journeys of between eight and 12 hours. We will derogate from the following requirements: to have water constantly available to pigs; to install insulated roofs on existing vehicles; to maintain a vehicle temperature of 0°C or above when animals are being loaded; and to install forced ventilation, temperature monitoring and warning and satellite navigation systems.

**John Farquhar Munro:** I thank the minister for his reply, which does not answer the question, as the form of transport about which he was talking is different from the one that concerns me. I am sure that he is aware that the stock trailers that crofters and farmers have used for many years to transport livestock will be made illegal from January 2007, unless a derogation is obtained from the rule that sets a maximum ramp slope for such trailers.

Does the minister agree that the trailers have been used for many years without animal welfare problems, and that their load ramp slopes are flatter than many of the pastures on which sheep naturally graze? Will he do all that he can to win a derogation from the rule, in addition to seeking a derogation from the rule that will prevent many of my farming and crofting constituents from reaching the markets in Dingwall and Fort William without seeking prior authorisation, because of ill-thought-out mileage restrictions?

**Ross Finnie:** The new regulation makes no changes to journey time or length. My previous answer related to the same vehicles, simply a different part of them. There is no scope in the regulation for an absolute derogation and all new vehicles will have to be compliant when the law comes into force on 1 January. We are still in discussion with the Commission, but we believe that it will be possible to phase in the new ramp provisions. There is the possibility of allowing there to be no change over a five-year period, so that people in the relevant areas can phase in the provisions. I hope that that will be helpful to farmers in John Farquhar Munro's constituency.

**Mr Jamie McGrigor (Highlands and Islands) (Con):** The minister will have seen motion S2M-4916, in the name of my colleague, Murray Tosh, which welcomes the Scottish Executive's recognition of the cost of at least £42 million that farmers and hauliers may incur because of the new regulation and the need to balance correctly animal welfare benefits and the costs of compliance.

Given that Scotland already has a very good reputation for animal welfare and that quality meat assurance schemes demand a high level of competence, will the minister take a pragmatic approach and ensure that new rules that are necessary are fit for the purposes of the Scottish crofting and farming industry, especially in the

remoter areas of the Highlands and Islands, where distances and climatic conditions are such that the new rules might not be appropriate?

**Ross Finnie:** First, I clarify the reference to costs of £42 million in the motion to which the member referred. In the Executive's regulatory impact assessment on compliance with EC regulation 1/2005, we set out four options that could be pursued. I regret to say that although we subsequently made it clear that our preferred option was option 4, the £42 million figure refers to option 1. Therefore I make it clear that in the derogations to which I referred in answer to John Farquhar Munro, and in our attempts to use the distance regulations as specified, we are referring to option 4, which we believe would have a maximum cost of nearer to £4 million than £40 million, which is a significant and material difference.

In applying the derogations that are available to us, we are mindful of the need to take account of people in remote and rural crofting areas.

### **Building (Scotland) Regulations 2004**

**3. Mark Ballard (Lothians) (Green):** To ask the Scottish Executive when amendments to the Building (Scotland) Regulations 2004 will be laid before the Parliament. (S2O-11183)

**The Minister for Communities (Malcolm Chisholm):** The Building (Scotland) Amendment Regulations 2006 were laid on 3 November.

**Mark Ballard:** I welcome the amended regulations' aim of reducing CO<sub>2</sub> emissions from buildings. Is the minister aware of recent studies that show that nearly half of new buildings do not comply with existing energy efficiency regulations? Is he also aware that research found that none of a small sample of new houses in Aberdeen complied with existing building standards on energy efficiency? What is the point of setting tough standards on energy efficiency—which we welcome—if they are not properly enforced?

**Malcolm Chisholm:** I am glad that Mark Ballard acknowledges the tough new standards that will apply from next year, which will result in CO<sub>2</sub> reductions of about 25 per cent and the best levels of thermal insulation in the United Kingdom.

Like the member, I am concerned about enforcement. I have been looking into the Aberdeen study to which he refers but I have further work to do on that, so I will not give a conclusive view. However, when those houses were built, older standards applied, which we would now describe as inadequate, given our awareness of the issue. It is not clear to me that when the houses were built they did not comply with the standards of the time, but I remain open-minded and will consider the matter further. I will

certainly do further work to ensure that the standards are rigorously enforced. In principle, I cannot disagree with Mark Ballard when he says that there is little point in having the best standards in the UK if they are not rigorously enforced.

**Ms Maureen Watt (North East Scotland) (SNP):** Does the minister agree that the building regulations should provide for adequate sanctions and penalties for builders who do not install the required insulation, pipe lagging and energy efficient boilers, for example? Does he agree that there should be recompense for house owners, such as the owners of the homes in the north-east that were included in the study, who find that their houses breach the regulations?

**Malcolm Chisholm:** Strict standards and sanctions must be part of any regime. We are all conscious of the importance of the area and we must intensify our efforts in relation to insulation and energy efficiency. New building standards are a key part of that. As I said, I am actively pursuing and investigating the matter, to ensure that inadequacies and loopholes are dealt with.

### Anorexia

**4. Bristow Muldoon (Livingston) (Lab):** To ask the Scottish Executive what action is being taken to address the level of anorexia among young people. (S2O-11221)

**The Deputy Minister for Health and Community Care (Lewis Macdonald):** In October 2005, we published our framework on the mental health needs of children and young people, which highlighted the importance of sensitive, integrated care for people who have complex needs at a challenging stage of life and focused on promotion, prevention and care. This year we carried out a national and regional analysis of specialist service needs, including the needs of people who have eating disorders.

Last week in Aberdeen, I attended the first national conference of the national health service on eating disorders, at which I commended health boards for the progress that has been made, underlined the need for continuing work in the area and reaffirmed the Executive's commitment to working with NHS boards and other partners on improving all aspects of care for people with eating disorders.

**Bristow Muldoon:** The minister is well aware of the report, "Eating Disorders in Scotland", which NHS Quality Improvement Scotland published last week, in which it is acknowledged that eating disorders are a significant problem that affects at least 80,000 Scottish citizens. The report made a number of important recommendations, but I draw the minister's attention to the recommendation on

in-patient treatment, particularly for patients who have anorexia nervosa. Does he think that it is important that in-patient treatment should be available throughout Scotland, particularly to patients whose conditions are life threatening? How will he respond to the recommendation?

**Lewis Macdonald:** I agree with the points that the member made. The recommendations that NHS QIS published last week on the management and treatment of people with eating disorders will help NHS boards and their partners to plan provision.

In-patient treatment is important. Some good work is being done in Aberdeen by the north of Scotland planning group, but we expect regional planning groups elsewhere in Scotland to consider how best to deliver in-patient services to patients with eating disorders, whether or not services are delivered in partnership with the independent sector. The key is to ensure that services are available to people when they need them and are delivered as efficiently as they can be.

**Mr David Davidson (North East Scotland) (Con):** Members might remember that when I raised the issue years ago I was given a commitment from the then Minister for Health and Community Care that action would be taken.

The minister mentioned the north of Scotland planning group. The group operates under the guidance of Dr Millar, who has been banging his head against the wall for years after he developed a plan for an in-patient service in Aberdeen that would serve not just the city but the north-east and parts of the Highlands. However, funding for the initiative has been denied. The first time there was a ministerial response to the framework for mental health services—

**The Presiding Officer (Mr George Reid):** Ask a question, Mr Davidson.

**Mr Davidson:** We were told that money would be provided. Will the minister confirm that and tell us how much money will be provided and when?

**Lewis Macdonald:** I do not recognise David Davidson's characterisation of the position of the project that Dr Harry Millar is taking forward in Aberdeen; indeed, the contrary is the case. The regional planning group developed proposals and it is clearly for NHS Grampian to make the final decision on how it commissions and delivers services to patients. Nothing that we do centrally will impede the board in doing that. It is for NHS Grampian to resolve the issues to which the member refers in relation to other boards in the north of Scotland, as Harry Millar fully acknowledged when he and I discussed the matter on Friday. I am sure that Harry Millar will continue to devote his energies to developing and promoting his proposals for NHS in-patient

treatment in Aberdeen to serve the north of Scotland. His proposals are welcome and are part of a range of measures that are being taken throughout Scotland. We require boards to identify the best way of delivering services for their patients on a regional basis and in the most efficient way possible.

### **School-building Programme**

**5. Karen Whitefield (Airdrie and Shotts) (Lab):** To ask the Scottish Executive what plans it has to continue the new school-building programme. (S2O-11226)

**The Deputy Minister for Education and Young People (Robert Brown):** Under current plans, schools will continue to be built and refurbished until the end of the decade. Substantial funding is in place to support the programme, but we acknowledge that there is more to be done. Further financial support for school-building projects would be a matter for the next spending review.

**Karen Whitefield:** I am grateful to the minister for his response and particularly for his acknowledgement that more remains to be done. He might be aware that in the past few months seven new schools have opened in my constituency and that a further three schools will open early in the new year. Will he give a commitment to providing further funding to North Lanarkshire Council, so that all parts of Airdrie and Shotts can benefit from similar educational, sporting and recreational facilities?

**Robert Brown:** I am grateful to Ms Whitefield for her acknowledgment of the scale of the Executive's investment in this area. As I have said before in this chamber, public-private partnership projects to the tune of £2.3 billion have been supported in the recent past. The sum of £131.25 million has gone into the schools fund this year, including—I think—£9.452 million to North Lanarkshire Council in particular.

There is an issue about the capacity of the building industry to take the programme forward on a regulated basis. As I have already indicated, including the £30 million that Peter Peacock recently announced to add to the schools fund, it is our intention to continue the building programme into the future. However, precise details will have to await the spending review of 2007.

**Fiona Hyslop (Lothians) (SNP):** Is the minister familiar with the Audit Scotland report into PPP school funding, which found that PPP projects cost between 2.5 per cent and 4 per cent more than they would if they were financed by traditional borrowing? To apply that to Ms Whitefield's constituency, that would mean a minimum saving of £15 million for Airdrie academy, £3.6 million for

Clarkston primary and £5.7 million for Chapelhall and St Aloysius primary. Is he aware that, in that case, traditional funding methods and not-for-profit schemes, as proposed by the Scottish National Party, would save enough money to fund an extra secondary school in Airdrie and Shotts?

**Robert Brown:** As has been said before, one of the myths in the SNP's spending programme is that there is a sort of magic wand, whether it is independence or some revised version of public sector funding. The bottom line is that PPP provides a method of building that has produced the most substantial school-building programme in Scotland's history. The SNP's programme simply does not add up, as Peter Peacock has said previously in response to questions from Fiona Hyslop. Quite simply, unless the SNP is able to get around the problem of having to have the Scottish Executive guarantee the form of spend that it wants, its proposal will remain flawed and unworkable.

The Scottish Executive is pushing forward with the delivery of the best and largest school-building programme in Scotland's history. We intend to continue to do so. When there is a new Executive after the 2007 election, that will be its programme as well.

**Elaine Smith (Coatbridge and Chryston) (Lab):** Does the minister agree that it is unfortunate that some parents in Coatbridge are not as thrilled as they could be about the fabulous new-build St Andrews high school because their children have to walk along an unsafe route in inclement weather? Could he intervene to persuade North Lanarkshire Council that, because of the unusual circumstances, it should relax its rigid bus rules, which mean that, in some cases, a child in one street gets on the bus while a child in a neighbouring street does not?

**Robert Brown:** I did not entirely catch the whole of the question because of the noise in the chamber. However, I think that what Elaine Smith was saying relates to issues that are the responsibility of the local authority, which makes decisions relating to provision of appropriate services in the local area. In broad terms, I do not think that it is appropriate for the Scottish Executive to interfere in that. If, however, I have misunderstood her question, I am more than happy to hear from her further on the matter.

**Margo MacDonald (Lothians) (Ind):** What requirement, if any, does the Scottish Executive place on local authorities as regards the provision of sporting facilities and ground for play? There are disturbing reports of a reduction in the amount of space for sport in PPP schools.

**Robert Brown:** I share Margo MacDonald's desire that there should be adequate and modern

facilities for sport and play across the new schools that are being provided in Scotland. There is no particular difference between PPP projects and projects that are funded by other means in that regard. There is a considerable amount of guidance in the Scottish schools standard PPP contract and in other places, such as the school estate strategy, to support the objective of delivering better facilities. Quite often, school playing fields have been modernised. However, ultimately, it is for local authorities to decide the priorities in their area.

### Education (Discipline)

**6. Bill Butler (Glasgow Anniesland) (Lab):** To ask the Scottish Executive what measures it has put in place to support the right of teachers to teach, and young people to learn, in a safe and disciplined environment. (S2O-11199)

**The Deputy Minister for Education and Young People (Robert Brown):** The Scottish Executive put a range of measures in place following the launch of the 2001 report "Better Behaviour, Better Learning", which set out recommendations for the Scottish Executive, education authorities and schools on tackling indiscipline in schools.

**Bill Butler:** Given that any pupil behaviour that disrupts the learning of other pupils and the maintenance of health, safety and discipline in the school community is unacceptable, will the minister reaffirm head teachers' right to exclude, when appropriate? Will the Executive provide resources for additional staffing for in-school behaviour bases and units and support the provision of additional off-site behaviour facilities when necessary?

**Robert Brown:** I am well aware of Bill Butler's expertise in the matter from his professional career. The Executive has always supported head teachers' right to take action, including exclusion when necessary, to deal with problems in schools. However, it is important to recognise that exclusion is a temporary remedy. Bill Butler was right to touch on longer-term issues such as appropriate support for teachers and how to deal with pupils who cause difficulties.

I stress that most pupils in schools are well behaved and want to learn. A recent survey of teachers on behaviour and discipline recognised that. In general, the more confident and supported teachers are, the less likely they are to perceive and tolerate negative behaviour.

Considerable funding has been provided across the board to support the strategies to which I referred and to address other issues, such as inclusion and the provision of additional teachers in schools.

## First Minister's Question Time

12:01

### Prime Minister (Meetings)

**1. Nicola Sturgeon (Glasgow) (SNP):** To ask the First Minister when he will next meet the Prime Minister and what issues they will discuss. (S2F-2560)

**The First Minister (Mr Jack McConnell):** I look forward to enjoying the beautiful scenery of Oban this weekend with the Prime Minister.

**Nicola Sturgeon:** On the Scottish National Party's behalf, will the First Minister tell the Prime Minister that we are always glad to see him in Scotland? *[Interruption.]*

**The Presiding Officer (Mr George Reid):** Order.

**Nicola Sturgeon:** Is the First Minister aware that Mr Blair's Cabinet discussed this morning whether to replace Trident? In the chamber on 14 September, the First Minister said that he would

"come to a view on the matter and make that view very clear indeed."—*[Official Report, 14 September 2006; c 27538.]*

Has he come to a view and will he please make it clear?

**The First Minister:** My view is as I expressed it the last time. I also have a view about the Prime Minister's coming to Scotland. We are delighted that he is coming to Scotland this weekend and we look forward to his pointing out the difficulties that would exist in Scotland if the Scottish National Party's plans for independence came to fruition.

If the Prime Minister's Cabinet has agreed this morning—as I believe it intends to—to launch its debate throughout the United Kingdom on the future of the Trident missile system, I welcome that debate. A debate should take place. It is essential to have a debate and to discuss all the options that should be available. As I have said before in the chamber, it would be wrong at the start of that debate to rule out absolutely a replacement for Britain's nuclear deterrent, given the international circumstances in which we operate. However, people who believe that we may need to renew the deterrent should also have an open mind at the start of the debate about the possibilities that could be on offer. A debate should be welcomed. I hope that, rather than take the polarised extreme position that they have taken in advance, the Scottish nationalists might participate in the debate and not sit on the sidelines.



**Nicola Sturgeon:** I remind the First Minister that the last time he expressed his position, the United Kingdom Government described it as “completely ridiculous”. For once, I agree absolutely with London Labour. Is not it the case that no confused third option is on the London table and that, even if it is, it does not delay the decision that must be taken now? Back here in the real world, that decision is whether to replace Trident. As the Prime Minister confirmed in the House of Commons yesterday, the Government will not only launch a debate but will reach its decision before Christmas. Is not it the case that the time to exert some influence is fast running out?

On 22 June, the First Minister said:

“people in Scotland should have an opinion on that issue”.—[*Official Report*, 22 June 2006; c 26857.]

I know what I think: I oppose the replacement of Trident. We know that Tony Blair and Gordon Brown support its replacement. I simply ask the First Minister what his opinion is. Is he for or against replacing Trident?

**The First Minister:** My opinion is that a decision should be taken in the light of Trident’s potential to contribute to international peace and security and of the potential of alternative ways forward for not only the United Kingdom, but other countries.

I will say something to Miss Sturgeon about the real world. My position is clear, as is hers. She does not genuinely believe that she has a case to make about Trident; rather, she wants to exploit the issue to try to deliver a separate Scotland. The issue is not about deciding on the Trident missile system—it is the Scottish National Party’s plans, under which Scotland would have less influence not only in the UK, but in the world, and under which there would be an economic black hole that she would be unable to fill, despite the promise to raise taxes that Angus Robertson made this week. Scottish businesses would be cut off from their main markets south of the border and economic uncertainty would be created. Potential chaos would ensue. That is the real world that the SNP wants. We will expose its plans this weekend in Oban and every day and week until next May.

**Nicola Sturgeon:** I cannae wait.

Is the First Minister trying to say that he wants a decision on Trident to be delayed until after the elections so that he will not have to get off the fence? On 14 September, he said of Trident:

I will take my own view ... as the months move on.”—[*Official Report*, 14 September 2006; c 27540.]

The months have moved on, but he has not. He is still prevaricating and delaying. I draw to his attention what the Prime Minister said in the House of Commons yesterday. He said:

“this issue will be less about process and more about

where we stand on it.”—[*Official Report*, House of Commons, 22 November 2006; Vol 453, c 540.]

The Prime Minister will be in Scotland tomorrow. What will the First Minister’s answer be to him if he asks: “Jack, I have to take a decision on Trident now. Where do you stand on whether we should replace it?”?

**The Presiding Officer:** Before the First Minister answers that question, I should say that, like my predecessor, I have allowed questions on reserved matters that impact on social and economic issues in Scotland and on which the First Minister has taken a public position for the Executive, for which he is responsible.

**The First Minister:** I will make three points. First, I would say to the Prime Minister exactly what I have said in public in the chamber. I have not said things in private that are different from what I have said in public.

Secondly, I would say to the Prime Minister that any decision will have an impact on Scotland—the Presiding Officer referred to such matters. Miss Sturgeon needs to consider that. Some 11,000 jobs in Jackie Baillie’s constituency and beyond rest on the base, so any debate on the future of the Trident missile system must take into account the future of that base and those jobs. The SNP might want to get rid of it, but we must take a far more considered position.

Thirdly, I would say to the Prime Minister that Miss Sturgeon raises reserved issues in the chamber week after week because she has lost the argument on every devolved issue. I have been First Minister for five years. She is not brave enough to ask me questions in the chamber today on education because school results are improving. She is not brave enough to ask me questions on health because waiting times are down. She is not brave enough to ask me questions on crime because crime rates are coming down and she is not brave enough to ask me questions on the Scottish economy because it is the best in the UK, with higher employment, lower unemployment and a growing population as a result. That is why she raises reserved issues and why we will win the next election. [*Interruption.*]

**The Presiding Officer:** Order.

**Nicola Sturgeon:** I remind the First Minister that I exposed his failure on crime last week, I exposed his failure on education the week before that and I exposed his failure on council tax the week before that. Did any member notice that the one thing that the First Minister will not ask the Prime Minister about tomorrow is what he thinks about Trident? That was what my question was about.

In a television interview last night, the First Minister suggested that he is less popular than

Alex Salmond because he has to take tough decisions. Is not exactly the reverse the case? The First Minister is not respected because he will not take a stand on the big issues of the day. Is not that why, as we see again today, more and more people think that it is time for an SNP Government with Alex Salmond as First Minister?

**The First Minister:** It is precisely because, not only do we have all these improvements in Scotland, but we have also exposed in recent weeks the SNP's plans to take more than £1 billion out of our higher education system and more than £1 billion out of local council services as well as to reduce corporation tax and leave a £1.4 billion gap in the Scottish economy, as announced by Alex Neil in the chamber last week. Compare that with the achievements that have made the Scottish economy the strongest in the United Kingdom. We have the highest employment and the lowest unemployment. We have the highest levels of research and development, the highest inward investment, a growing population and we have improved results in our schools and reduced health service waiting times. Not only is crime reducing—including news this week that the number of the most violent crimes has reduced dramatically—but we have higher clear-up rates, more police on the streets and therefore a far more effective justice system as a whole.

I tell Nicola Sturgeon that I have achieved more in five years than Alex Salmond has achieved in his whole lifetime and I will be delighted to debate with him over the next five months.

**Miss Annabel Goldie (West of Scotland) (Con):** So heartening.

#### **Cabinet (Meetings)**

**2. Miss Annabel Goldie (West of Scotland) (Con):** To ask the First Minister what issues will be discussed at the next meeting of the Scottish Executive's Cabinet. (S2F-2561)

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

**Miss Goldie:** Last weekend, the First Minister told newspapers that he wondered whether the past five years had all been worth it. Just as the people of Scotland were breathing a sigh of relief at the prospect of his departure, the rain clouds gathered and the First Minister said that he would stay on for another five years. In his bid for the most laughable statement of the year prize, he said that Scotland was in a better position now than it was five years ago.

If that is the case, why has Scotland lost 17 per cent of its manufacturing jobs during that time? Why is the business rate poundage still higher in

Scotland than it is in England? Why has economic growth stuttered at a lower level than in England? Is that really a record to be proud of?

**Mr Duncan McNeil (Greenock and Inverclyde) (Lab):** Try and take her seriously.

**The First Minister:** I will try to take the questions seriously. I will respond to the member's first point first. I answered the question, to which Annabel Goldie referred, last weekend about my family. I want to be absolutely clear about this: of course there are times when this job affects one's family and that very deep effect makes one consider whether the job is worth it.

When I look at what has been achieved in the past five years, I am absolutely certain that the job is worth it and that my doing the job has been worth it not just for me as a person, but because my leadership has delivered better results in our schools, shorter health service waiting times and reductions in crime. It has delivered not only higher levels of economic growth than we have seen in our 30-year trend, but the highest employment and the lowest unemployment in the UK, a financial services industry that is growing far faster than in the rest of the United Kingdom and a life sciences industry that is growing faster than almost any other in Europe. There are record numbers of tourists coming to this country, rather than the plummeting levels that existed before I became First Minister, and we have a Scottish population that is growing rather than declining as it did for decades.

I tell Ms Goldie that I am very happy to compare my record with that of the Conservatives after 18 years in power in Scotland. I say to her, do not talk to us about manufacturing jobs when her party's Government decimated Scottish manufacturing and left hundreds of thousands of Scottish youngsters in poverty and their parents on the dole with no hope or opportunity for the future.

**Miss Goldie:** That was the same Conservative Government that created an economy that any Chancellor of the Exchequer would thank his almighty Lord for inheriting. It is very sad that the Bute House bubble is so big that the First Minister actually believes that this country is in better shape than it was when he took over.

The First Minister mentioned crime, so let us ask: what about crime? In his five years, the figure for total crime and offences has gone up. Crimes of indecency are up, rape and attempted rape are up, and fire raising and vandalism are up. Handling of offensive weapons is up and the number of persons recalled to prison from licence is up by almost 100 per cent. That is what the Executive's own statistics show. Is that really a record to be proud of?

**The First Minister:** That is simply not true. The reality about crime in Scotland today is that 20,000

fewer crimes were recorded by the police last year. Housebreaking has fallen for seven successive years. There were 1,000 fewer victims of serious violent crime last year and violent crime is at its lowest level since before devolution. The number of homicides fell by almost 30 per cent last year and clear-up rates for crime are up: today, 46 per cent of crimes are solved, compared with less than a third in the 1980s, when the Conservatives were in power.

Crime is a serious issue—it deserves serious debate. The Executive has brought in many changes. We are reforming our courts, improving sentencing and tackling drug crime while ensuring that fewer people get onto drugs and that more people are coming off drugs. We are ensuring that more police are out on the streets, doing the job that they signed up to do, and we are ensuring that we have tougher community sentences, which means that fewer people are reoffending. In all those examples and more, our justice system is delivering for Scotland because we made it the top priority for legislation in this parliamentary session.

**Miss Goldie:** So, the Bute House bubble has obscured the sluggish economy and is making the First Minister believe that Scots are safer than they were five years ago. It must be the best small bubble in the world. However, even it cannot hide the First Minister's performance with regard to our public services. In-patient waiting times are up by a quarter, several hospitals have been run down or closed, nearly 8,000 more people are without a dentist, physical attacks on teachers have risen by a quarter in the past year alone and, in most local authorities, more pupils are now failing to meet the Executive's minimum standards in reading, writing and maths. Is that really a record to be proud of?

**The First Minister:** That is simply not true. As I have already said, Scotland's employment rate is not only among the highest in Europe but is the highest in the United Kingdom. Not only do we have lower levels of unemployment than we had during the Tory years, but we have the lowest unemployment rate in the UK.

Not only do we have record numbers of tourists, a booming financial services industry and a booming life sciences industry, but we have a growing population, higher research and development spend, higher inward investment and a higher job count than anywhere else in the UK. Furthermore, we have a falling crime rate—the overall crime rate is 27 per cent lower than it was at its peak. We have a record number of police officers—more than 16,000—with more of them out on the beat, doing their proper jobs in the community, and we have 500 community wardens, the introduction of which the Tories opposed.

Furthermore, the figure of 22,000 drug seizures shows that those seizures are up 21 per cent

since 1999. With regard to health, we know that we have the best-ever waiting times for in-patients and out-patients, that there have been improvements in survival rates in Scotland's three biggest killers and that we have introduced a ban on smoking in public places that the Tories opposed but which the chief medical officer has said could result in Scotland being a far, far healthier place 20 years from now.

Finally, with regard to education, our 15-year-olds are among the highest performing young people in the world in maths, literacy and science, and we know that the number of students who stay in Scotland after their graduation is up 10 per cent since devolution. Far more of our secondary school pupils achieve the excellent standard of reading and writing that we want them to achieve than was the case not only five years ago but seven and a half years ago.

In all those areas, this Government is delivering for Scotland—not for devolution, but for Scotland—in a way that the Tories could never have dreamed of.

**David McLetchie (Edinburgh Pentlands) (Con):** The First Minister will have read of the disturbing case of the young child who was rushed to hospital last week from a flat in Wester Hailes in my constituency when it was suspected that the child had swallowed heroin. Four other children have been taken into care. However, as we are all aware, this is not the only time such an incident has occurred recently. Therefore, will the Scottish Executive undertake an urgent review of policy in relation to the thousands of children in Scotland who live in families in which drug addiction and drug abuse are rife and ensure that the protection and welfare of those children is the overriding priority?

**The First Minister:** As David McLetchie knows, I understand his concern as the local MSP and I share that concern. However, I hope that he is aware that we reviewed the policy and that a new policy was circulated to the relevant agencies at the beginning of the summer. It is vital that they take that policy on board.

I cannot say too much about the case in question, but I think that the issue may be more about the alleged drug taking of the families than about what the child herself took. It may also be about the way in which the children in those families have been looked after in the past and how they should be looked after from now on.

It is essential that when the responsible local authorities identify problems in a family—whether they are linked to drug addiction or to any other factor—that lead to children being in danger or requiring care, they do not hesitate to take action. The lesson that has been learned, not necessarily

from the case to which David McLetchie refers—the facts of which still need to come to light—but from recent cases in other parts of Scotland, is that hesitation can be lethal for the children involved. I want agencies to act more promptly and to put children first at all times. Our new guidance certainly asks them to do that.

### **Public-private Partnerships (Competition)**

#### **3. Campbell Martin (West of Scotland) (Ind):**

To ask the First Minister whether there are sufficient economic operators within the PPP contract market in Scotland to ensure that the requirement for genuine competition is achieved in relation to every contract. (S2F-2565)

**The First Minister (Mr Jack McConnell):** The PPP market in Scotland has strengthened recently. We are now seeing increased competition for PPP projects, with three or more consortium bidders for health and schools projects. There are variations in market response across the sectors and in different parts of the country. It is now standard practice to review prospects for every PPP proposal before procurement commences.

**Campbell Martin:** The First Minister will be aware that the European public sector procurement law and the Public Contracts (Scotland) Regulations 2006 (SSI 2006/1) require genuine competition for PPP contracts. He might not be surprised if I refer to the North Ayrshire Council schools PPP contract. Is he aware that there were only two bids for that contract, one of which was identified by the council's advisers as being non-compliant at the first key stage review, and that the evaluation report that was produced at the first key stage review recorded that the council's advisers

"had been unable to satisfy themselves that the ... bid has sufficient financial or economic standing to pass evaluation at this stage of the process"?

Does the First Minister therefore accept that there was no competition for the North Ayrshire Council schools PPP contract?

**The First Minister:** I would be happy for Campbell Martin to receive a detailed response to his points from the relevant minister.

I want to make two points. First, as I understand it, Mr Martin has made a number of allegations about that contract and when investigations have taken place, those allegations have been found to have no foundation, so he should hesitate to make such claims in Parliament.

Secondly, it is important to recognise that public-private partnerships, whereby local authorities and health boards work with the private sector to secure improved facilities in education and in

health, are now a tried and tested method of securing competition for contracts and of ensuring value for money for the taxpayer. However strongly Mr Martin and his former colleagues in the SNP might oppose the new PPP buildings, the reality is that we have better hospitals, better schools and better facilities for our young people and our sick and elderly people than we have had in Scotland for generations. Over the coming months, we will defend the importance of those facilities in education and in health from the threat that is posed to them by the Scottish nationalists and their former supporters.

**Campbell Martin:** I should clarify that some complaints are still with the Lord Advocate and the procurator fiscal in Kilmarnock, so the matter is not closed.

As the First Minister will accept, the Scottish Executive is responsible for the money for PPP contracts. However, is he aware that when I asked the Executive's scrutineers, Partnerships UK, why it had allowed the North Ayrshire Council contract to proceed on the basis of two bids, one of which was non-compliant and should not have been allowed past the first stage, the chief executive, Mr James Stewart, said:

"In this instance, the Authority"—

that is, North Ayrshire Council—

"did not consider it necessary to provide the Evaluation Report"?

Does the First Minister accept that North Ayrshire Council did not provide the Executive's scrutineers with the necessary information to ensure that there was competition? Moreover, will he agree to meet me, or instruct the Minister for Finance and Public Service Reform to meet me, so that I can inform the Executive of what exactly has been going on with the North Ayrshire Council schools PPP contract?

**The First Minister:** In addition to the comments that I made last weekend about my family, I said that I was older and wiser. One thing that I have learned in this job is never to respond to a quotation until I know whether it has been taken in or out of context. It would be better if Mr Martin provided us with all the information that he claims exists, and we will ensure that he receives a detailed response.

### **Child Poverty**

#### **4. Sarah Boyack (Edinburgh Central) (Lab):**

To ask the First Minister what action is being taken to tackle poverty among children, in light of recent reports. (S2F-2570)

**The First Minister (Mr Jack McConnell):** Since 1997, more than 200,000 children in Scotland have been lifted from absolute poverty, and the

proportion of children in relative poverty has fallen from one in three to one in four. We are making faster progress than the rest of the UK towards the aim of ending child poverty by 2020. To take more youngsters out of poverty, we need to create even more jobs, improve child care and education further and complement the United Kingdom tax changes, which benefit the poorest families.

**Sarah Boyack:** Does the First Minister agree that it is unacceptable that the Executive's excellent progress on tackling child poverty might be totally undone by huge fuel price rises? Does he also agree that Npower's suggestion that parents should make their children wear their socks in bed, which was drawn to our attention just this week by children's charities, is an unacceptable response? Does he agree that energy companies should follow Scottish and Southern Energy's lead and introduce cheaper tariffs and a package of support for customers who are in severe fuel poverty? Finally, does he agree that all energy companies must do more to meet their social obligations to help the 100,000 children whose families have been pushed into fuel poverty by their huge price rises?

**The First Minister:** I want to praise energy companies that have, despite the current challenges in the energy market, decided to make provision to meet their wider responsibilities and have ensured that those who are in most difficulty receive better support, guidance and—in some cases—tariffs.

The member makes the valid point that such form should be shown by all energy companies. I hope that all companies that provide energy, particularly to domestic consumers, understand the impact of their policies and pricing strategies on the poorest families over the winter and, indeed, that others follow the example of companies that have taken their responsibilities seriously and have demonstrated best practice.

**The Presiding Officer:** I will try to get in three more questions and supplementaries if they can be kept short.

**Christine Grahame (South of Scotland) (SNP):** Given what the First Minister has just said, does he agree with the comments of Jane Gibreel, Save the Children's programme director for Scotland, who said:

"It is an outrage that in Scotland, parents are being forced to make impossible decisions between such basic provisions as providing a hot meal or putting on the heating"?

Given that fuel prices have risen 87 per cent in three years and in the light of Sarah Boyack's comments, does the First Minister support my call for the Chancellor of the Exchequer to extend to low-income families the winter fuel payment that pensioners currently receive?

**The First Minister:** I am sure that, in the pre-budget report, the Chancellor of the Exchequer will make provisions that take account of all factors. However, we must not divert attention away from ensuring that the energy companies accept and face up to their responsibilities.

That said, we must also have a balanced package of measures that remove youngsters from poverty, rather than simply help them to survive in it. That is why it is important to balance aspects such as work, education, child care and the tax and benefit changes that have ensured that, over the past nine years, 200,000 children in Scotland have been lifted out of poverty and the proportion of children in relative poverty, which is by far the most serious measure of poverty, has fallen from one in three to one in four.

### Education Authorities

**5. Alasdair Morgan (South of Scotland) (SNP):** To ask the First Minister whether the Scottish Executive considers that the number of education authorities should be reduced. (S2F-2571)

**The First Minister (Mr Jack McConnell):** We have initiated a wide-ranging debate regarding alternative models of public services provision to ensure that they are efficient, high quality, joined up, user focused and accountable.

**Alasdair Morgan:** This appears to be yet another issue on which the First Minister has not made up his mind. Regardless of the differing views on that issue, does the First Minister believe that the action of the Convention of Scottish Local Authorities in suspending the Headteachers Association of Scotland as advisers was sensible? Does he think it is a good idea for people to take advice only from those who agree with them?

**The First Minister:** It is absolutely essential that COSLA take advice from head teachers, and that we take advice from head teachers in a balanced and appropriate manner.

### European Crime Policy (United Kingdom Veto)

**6. Phil Gallie (South of Scotland) (Con):** To ask the First Minister whether the Scottish Executive has had contact with United Kingdom Government ministers regarding reports that the European Union wishes to end the UK veto on crime policies. (S2F-2563)

**The First Minister (Mr Jack McConnell):** Ministers and officials regularly discuss a range of European Union issues with colleagues in the UK Government.

We are committed to working co-operatively with our European partners in the fight against serious cross-border crime. We are open to engaging in

discussion on how that co-operation might be improved, although, as I said in reply to almost exactly the same question from Phil Gallie on 28 September, we remain to be persuaded that changing decision-making procedures in the area is the right way to go.

**Phil Gallie:** As the 300<sup>th</sup> anniversary of the union of our Parliaments approaches, will the First Minister accept my compliments on the way in which he has robustly defended the union?

Will the First Minister undertake an equally robust defence of the independence of the Scottish justice system, as determined by the Act of Union 1707, thus ensuring that there is no further erosion of the independence of the Scottish criminal justice system by the European Union?

**The First Minister:** As I think I have already said in response to such questions from Phil Gallie, the key principle in cross-border co-operation between the European Union states on matters of crime and justice is co-operation. It is right and proper that whatever arrangements are put in place respect absolutely the traditions and the success of the Scottish justice system. I thank Phil Gallie for his recognition that the Scottish justice system is in such a strong condition today.

12:32

*Meeting suspended until 14:15.*

14:15

*On resuming—*

## Question Time

### SCOTTISH EXECUTIVE

#### Justice and Law Officers

##### Road Traffic Accidents (Grampian)

**1. Richard Lochhead (Moray) (SNP):** To ask the Scottish Executive what measures the Justice Department is taking to help to address the level of road traffic accidents in Moray and across the Grampian area. (S2O-11161)

**The Deputy Minister for Justice (Johann Lamont):** The Scottish Executive and Transport Scotland are represented on the north east safety camera partnership, which aims to reduce speed-related accidents in Moray and Grampian. Transport Scotland investigates accidents on trunk roads in the area and implements route accident reduction plans. For instance, a study was commenced on the A96 early in 2005, with the final phase due for completion in 2007. The Scottish Executive works closely with a number of road safety organisations in the area, including the police and the local authorities, on road safety related issues including safety awareness.

**Richard Lochhead:** The minister may be aware that there have been 49 fatal collisions on the roads of Grampian this year so far, resulting in 55 fatalities, and that, over the past two or three weeks, most of the fatalities that have occurred have either been in my constituency of Moray or involved my constituents. I ask her to consider how we can promote road safety in Grampian. Will she indicate what measures could be taken to review the legislative tools that are available to the police? After all, they can take the keys off drivers who do not have proper paperwork, yet they cannot take the keys off dangerous drivers or newly qualified drivers who have been driving too fast.

There are a number of measures that the grieving families wish the Justice Department and the United Kingdom Government to consider, such as allowing newly qualified drivers to carry only one passenger—or no passengers—during the first year of driving. Will the minister advise us how those issues can be considered? Will she ensure that Grampian police and Grampian fire and rescue service have appropriate resources for coping with the recent spate of accidents and for promoting road safety in the region, which is one of their key tasks?

**Johann Lamont:** The member raised specific points about dealing with driving offences, taking away people's keys and so on, but those are clearly reserved matters. I am sure that representations are already being made at Westminster—people keep these matters under review. A great deal can be done at a Scottish level in the way of education, enforcement and practical measures, including engineering as it relates to road safety.

I assure the member that all those issues are taken seriously and that the Executive continues to have an active dialogue in Moray and Grampian, in which I know Moray Council is also involved. We are working in partnership with local organisations, community safety organisations and the local authorities in the region to ensure that young people, who are at particularly great risk, understand about driving safely and about the consequences of dangerous driving. People should keep themselves safe, but there is also enforcement should people drive dangerously. I in no way understate the seriousness of the matter that Richard Lochhead raises, and I can assure him that it is continuously kept under review.

### Reoffending

**2. Mr Andrew Arbuckle (Mid Scotland and Fife) (LD):** To ask the Scottish Executive what the most recent reoffending figures are for people given (a) prison sentences, (b) community service orders and (c) drug treatment and testing orders. (S2O-11169)

**The Minister for Justice (Cathy Jamieson):** The most recent figures for 2002-03 show that 64 per cent of prisoners and 42 per cent of people on community service orders were reconvicted within two years. Comparable figures are not yet available for people given drug treatment and testing orders, but an independent study of the Glasgow and Fife pilot programmes showed a reconviction rate of around 50 per cent for those who completed their orders. Those rates are unacceptably high and they show why we are making tackling reoffending a priority.

**Mr Arbuckle:** Does the minister agree that we should consider the further use of alternatives to custody for punishing and rehabilitating offenders where appropriate? Providing a robust, cost-effective alternative to custodial sentences would help to reduce the strain on our overcrowded prisons.

**Cathy Jamieson:** Yes. It is important that a range of non-custodial options is available. We need to have the right sentences and the right resources in place to back up those options. We now have a wider range of community options than many other jurisdictions do. We should recognise that any sentence must include

elements of both punishment and rehabilitation. It is right and proper that, when people who commit serious crimes are given a custodial sentence, they actually carry out that sentence.

**Scott Barrie (Dunfermline West) (Lab):** All members are concerned about recidivism rates in Scotland. Does the minister agree that the new community justice authorities provide a good way forward in ensuring that we get a properly integrated criminal justice system that is not just about punishment, but about rehabilitation?

**Cathy Jamieson:** Scott Barrie makes a valid point. We introduced the Management of Offenders etc (Scotland) Act 2005 to set up the new community justice authorities, of which there will be eight across Scotland. They will assume their full powers from April next year and will ensure that a joined-up approach is taken by the Scottish Prison Service, local authorities and other agencies to provide the range of responses that are needed to tackle the problem of reoffending.

### Knife Crime Reduction

**3. Marlyn Glen (North East Scotland) (Lab):** To ask the Scottish Executive how the latest knife crime campaign will reduce violence in communities across Scotland. (S2O-11204)

**The Minister for Justice (Cathy Jamieson):** The hard-hitting campaign that I launched last week is intended to challenge the long-standing attitudes and behaviours that contribute to knife carrying in parts of Scotland. It makes it clear that everyone has a part to play if we are to rid Scotland of knife crime once and for all, and it builds on a raft of tough enforcement action, new laws and revised prosecution guidelines. That is direct and effective action against knives across the whole criminal justice system.

**Marlyn Glen:** I welcome the progress that we are making. I ask the minister to join me in welcoming the 10 per cent fall in overall recorded crime in Dundee over the past year. Does she agree that, to get the anti-violence message across to the whole community, the campaign should be promoted across portfolios; that the partners, friends and parents of those who carry knives also need to be targeted; and that the anti-violence message must be actively promoted in our schools?

**Cathy Jamieson:** I welcome the fact that there has been a reduction in overall crime in the area that Marlyn Glen represents. However, that does not mean that we can be in any way complacent. We must continue the efforts that we have made to bring down the crime figures even further.

Education is vital. We must ensure that our young people get the message that carrying knives is not clever or cool and that it does not

offer them protection. I launched the present campaign in Rosshall academy in Glasgow, and I joined the violence reduction unit in taking DVDs into Kilwinning academy in Ayrshire. I was also recently involved with Strathclyde police on the big world initiative, which is trying to get the message across. Schools can now tap into a raft of bits of information, programmes and initiatives. I was most impressed by the young people themselves, who said that the message seems to get across if they are able to get involved in the drama workshops that are available and if on-site campus cops get involved in these projects.

**Phil Gallie (South of Scotland) (Con):** Will the minister oblige me and inform the First Minister that I am not quite so enchanted with the Scottish justice system as he suggested this morning?

I was the originator of the current legislation that set the standard for penalties for knife crime in Scotland. Will the minister comment on the tougher enforcement that she just referred to? It is my belief that she intends to extend prison sentences for those who carry knives. How does that sit with the complaint that is constantly heard from other parts of the chamber that Scottish prisons are overfilled?

**Cathy Jamieson:** I will pass on Mr Gallie's comments to the First Minister, making it clear that I do not share Mr Gallie's view. The First Minister will be pleased to hear that.

Members will be aware that our action plan on knife crime included measures such as the possibility of increasing custodial sentences, doubling the penalties and giving the police additional powers. Much as it pains me to agree with Phil Gallie on anything, he has hit on an important point. The public expects the Parliament to address the difficult issue that, while the people who commit serious crimes must go to prison, must not be released early and must be supervised when they are released into the community, we must also ensure that we have a prison estate that is fit for purpose. However, that does not stop us considering the people who are currently in our prison system or who are in danger of coming into it, who could be better and more appropriately dealt with by non-custodial sentences. I hope to gain Phil Gallie's support for the bill that will soon be considered by Parliament.

### **Drug and Drink Driving**

**4. Iain Smith (North East Fife) (LD):** To ask the Scottish Executive what analysis has been made of drug and drink driving offences recorded in Fife and nationwide in 2005-06 compared with the previous year. (S2O-11175)

**The Deputy Minister for Justice (Johann Lamont):** Figures for 2005-06 show that the

number of drug and drink driving offences in Fife rose by nearly 13 per cent, an increase of 85 offences. At the Scottish level, the total number of offences increased by 2 per cent. Last year's rise in Fife, however, came after a 20 per cent fall the year before.

Driving while under the influence of drink or drugs is totally unacceptable behaviour, and it will not be tolerated. We have a strong package of measures in place to tackle it, based around a combination of education, deterrence and rigorous enforcement.

**Iain Smith:** I welcome the minister's answer and also welcome her to her new post.

Does the minister agree that any death caused by a driver who is rendered unfit by drink or drugs is unacceptable, particularly at this time of year when families might lose a loved one due to the irresponsibility of such drivers? What additional steps will the Scottish Executive take over the festive period to make people aware of the dangers of drinking and driving while under the influence?

**Johann Lamont:** Iain Smith is right. Any needless death caused by a drink-related incident is much to be regretted, and it is a challenge to understand why on earth anyone would want to get behind the wheel of a car when they have alcohol in their bloodstream. We also face the challenge of getting the message across that drink-driving is unacceptable. People need to be confronted with and understand the possible consequences of such action. It is shocking that one in seven road deaths is alcohol related.

We recognise the challenge that the figures represent. Huge strides forward, both in understanding and in conviction rates, have been made, but we have to continue. A drink-driving campaign began on Monday this week to emphasise the consequences of drink-driving. That must continue throughout the festive season and beyond to make drink-driving unacceptable and to make people understand just how serious such actions can be for individual families.

**Margaret Mitchell (Central Scotland) (Con):** Does the minister agree that it is totally unsatisfactory that the information that is currently available from the Executive on the number of convictions or arrests for drink or drug driving makes it impossible to determine how many people have been convicted or arrested for either drink-driving or drug-driving as separate offences? Will she take steps to make sure that that information is made available?

**Johann Lamont:** My understanding is that both offences fall within the same charge. A driver has a clear responsibility not to drive when they have been drinking or are under the influence of



drugs—the charge remains the same, and the consequences can be as serious in either case. Perhaps in the past people have been less aware of and have not thought so seriously about drug driving. It is understandable that the two offences have been brought together, and we have to confront people with their responsibility not to go on to the roads in a state that makes their car a lethal weapon.

We must maintain the current figures, interrogate them and challenge people's behaviour through education and the courts.

**Mr Stewart Maxwell (West of Scotland) (SNP):** What progress has been made in providing the police with roadside drug-testing kits? When are the kits likely to be in the hands of road traffic officers so that they can tackle what is, as everyone agrees, a growing problem?

**Johann Lamont:** As I understand it, the police already have equipment to test for drugs. I will get more information on that and see that Mr Maxwell gets a detailed response about exactly what is available to police forces.

**Scott Barrie (Dunfermline West) (Lab):** I am sure that Fife is no different to any other area of Scotland in having people who disregard the effect that they might have on others. Does the minister agree that it is not just at Christmas and new year but throughout the year that we have to get the message over to the people of Scotland that it is unacceptable to drink and drive? What other steps could be taken to reinforce that message every month of the year?

**Johann Lamont:** The festive season certainly provides the opportunity to raise the matter again. The danger is that we might begin to think that we have cracked this one, and we have to move against any complacency. We often hear people saying that we have made drink-driving unacceptable so we can move on to other issues. I am not sure that, unless we are entirely vigilant, there will not be drifting.

The festive season is a critical time, when people move from place to place in an atmosphere of celebration, but the message is as strong throughout the rest of the year. It is critical to educate people and make them understand the direct consequences for them if they disregard the law. People must confront their responsibility for their behaviour if it brings grief and tragedy into other people's lives.

### Youth Justice

**5. Jim Mather (Highlands and Islands) (SNP):** To ask the Scottish Executive to what extent the Minister for Justice will support the implementation of "More Choices, More Chances: A Strategy to Reduce the Proportion of Young People not in

Education, Employment or Training in Scotland" in respect of the provision of youth justice services and how the impact of that support will be measured over time. (S2O-11140)

**The Minister for Justice (Cathy Jamieson):** I fully support the implementation of "More Choices, More Chances" and my officials and I will be closely involved in taking the work forward.

I strongly believe that getting young people into education, employment, voluntary work or training is one of the most effective ways to help them avoid being drawn into offending behaviour.

**Jim Mather:** The core group members are listed in the document and it is apparent at first glance that none of them has an obvious justice remit. Will the minister consider seconding to the group someone with a justice remit to add balance to the membership of the group?

**Cathy Jamieson:** It is important that the strategy is not seen as sitting in just one portfolio. Just as we are trying to get the message across that responsibility for changing antisocial behaviour in any form belongs to a wide range of different agencies working together, it is important to make it clear that everybody has a responsibility to try to ensure that young people who are not in education, employment or training get the support that they need.

I am not persuaded at this point that we need to second someone with a justice remit to the working group, although I might consider that. I am more concerned to ensure that the right people are round the table, that we have the right strategy and—this is an important point—that we identify those young people, make sure that people are in contact with them and that everything possible is done to get them into the right provision.

**The Deputy Presiding Officer (Trish Godman):** Question 6 was not lodged.

### Anti-racism Legislation

**7. Margo MacDonald (Lothians) (Ind):** To ask the Scottish Executive how the police and procurator fiscal service ensure that anti-racism legislation is applied equally inside and outside sporting arenas. (S2O-11163)

**The Lord Advocate (Elish Angiolini):** Policing in and around sporting arenas is the operational responsibility of chief constables. They follow the Lord Advocate's guidelines on the investigation and reporting of racist crime, which require them to investigate fully all racist incidents, regardless of the locus. Where sufficient evidence exists, racist incidents are reported to the procurator fiscal.

The Crown Office and Procurator Fiscal Service is committed to ensuring that all racially motivated crimes reported by the police are treated seriously

and with priority. Procurators fiscal adhere strictly to the case marking guidelines when considering such cases.

**Margo MacDonald:** I thank the Lord Advocate for her full and considered reply. I have no wish to see the long arm of the law move into sporting arenas because I believe that sporting bodies should promote anti-racism inside their arenas and among their players. However, my plea that the matter should be looked at to find out how the legislation works in practice arises from the case of my constituent Dan Gerrard, who was racially abused—the abuse was heard by witnesses. Unfortunately, the Scottish Football Association declined to pursue the matter further on this occasion. I would be most grateful if I could supply the Lord Advocate with the full details so that she might give me a considered opinion on the case.

**The Lord Advocate:** It would be inappropriate to comment in this forum on the circumstances of any individual incident, as I am sure Margo MacDonald understands. However, although the policing of sporting events is primarily a matter for the referee and the sporting organisations involved, the Lord Advocate's guidelines on incidents that take place during sport are well known to those involved in such matters, as, indeed, are the Lord Advocate's guidelines on racist incidents. It is open to any person who is a victim of or a witness to such a crime at a sporting event to report the matter directly to the police or the procurator fiscal. If Margo MacDonald wishes to write to me directly about the matter, I will be happy to pass the information to the procurator fiscal within whose jurisdiction the allegation has arisen.

**Dennis Canavan (Falkirk West) (Ind):** As a former player for Spartans Football Club, I support everything that Margo MacDonald said. It is a national scandal that the Scottish football authorities turned a blind eye to anti-Irish racism in Scottish football for many years. It was not until UEFA took action that certain people were brought to their senses.

As well as using the law to prosecute those who are guilty, will the Lord Advocate urge the Scottish football authorities to take strict disciplinary action against any guilty players, supporters or, if necessary, clubs, to stamp out all forms of racism and sectarianism, which should not be tolerated in a multicultural, multi-ethnic Scotland?

**The Lord Advocate:** I understand that the issue of sectarianism is currently being discussed and it is clearly a matter of major concern—any racist or sectarian criminal conduct is a matter of concern to any prosecutor and any citizen in Scotland.

I am aware from chief constables that sporting associations are now very much aware of their

responsibilities. There has been a major change in culture in Scotland over the past few years in relation to the matter, with the introduction of religious and racial aggravations. My predecessor and I have made it clear to procurators fiscal around Scotland that such conduct will be treated with the utmost seriousness.

The Lord Advocate's guidelines on sporting events were produced by the Lord Advocate, Lord Mackay of Drumadoon, so they were drawn up some time ago. The guidelines say that the Lord Advocate expects these matters "to be treated seriously" by those who have paramount responsibility for the control of sporting fixtures. That responsibility clearly lies primarily with sporting associations. The message is clear, and I assure Dennis Canavan of the continuing seriousness of the matter, so far as the prosecuting authorities in Scotland are concerned.

## **Enterprise, Lifelong Learning and Transport**

### **Economic Success (Manufacturing and Service Sectors)**

#### **1. Gordon Jackson (Glasgow Govan) (Lab):**

To ask the Scottish Executive what action it will take to build on the economic success of businesses across Scotland, in particular within the manufacturing and service sectors. (S20-11208)

**The Deputy First Minister and Minister for Enterprise and Lifelong Learning (Nicol Stephen):** Scottish ministers support and robustly promote the economic successes of businesses in Scotland. Through the enterprise networks, we work to provide a comprehensive and flexible range of support to business across Scotland, including to businesses in the manufacturing and service sectors.

**Gordon Jackson:** In my area, the shipyard is a major manufacturing facility. It is doing extremely well in terms of both orders and an increased workforce. Of course, that depends on our links with the United Kingdom Government and it is a matter of common sense that the yard will survive only if that link is maintained. In the meantime, will the minister confirm that there are constant and continuing links between the Scottish Executive Enterprise, Transport and Lifelong Learning Department and the appropriate UK department to ensure that the yard's progress and prosperity are maintained and advanced?

**Nicol Stephen:** Yes, there are. That is one of the reasons why the Clyde is well placed to continue to win new defence orders. Scottish ministers meet the Department of Trade and Industry and the Ministry of Defence regularly to

ensure that Scotland's role is fully represented. BAE Systems recently accepted a £4.1 million regional selective assistance grant towards an £18.5 million new investment programme to modernise its Scotstoun and Govan yards. The project is expected to create some 400 jobs and safeguard a further 200. As the member correctly says, the Scottish National Party's plans to declare the rest of the UK a foreign country would not allow Govan and Scotstoun to win orders from the UK Ministry of Defence.

**Jim Mather (Highlands and Islands) (SNP):** I would like to thank the minister for those answers, but it would be disingenuous if I did so.

What will the Government do to ensure that Scottish competitiveness is improved to meet external competition, particularly given that the Northern Ireland establishment has accepted the findings of the recent study by the Economic Research Institute of Northern Ireland that Northern Ireland's current economic policy instruments, which are identical to ours, are "unfit for purpose"; that lower corporation tax is an "Indispensable Ingredient"; and that economic growth cannot be achieved by fiscal transfers?

**Nicol Stephen:** What we will not do is vote for a third-party right of appeal, which is what Jim Mather's Scottish National Party colleagues did. As we well know, Jim Mather said that he would not promote that policy.

To respond to the member's question, we have already delivered extra support for growing companies. Through the co-investment fund, which receives Executive support, 150 deals have been made. The proof of concept fund has 119 new projects and has created 28 new technology companies. I have already mentioned regional selective assistance, which has been important to our competing for and winning new jobs. I notice that the Scottish National Party is against that, as well.

On 20 November, Barclays announced 500 new jobs. In addition, First Data intends to create 430 jobs, Shell has announced 100 new jobs and BSKyB is to recruit 200 new staff. The new jobs are not confined to the service sector—INEOS has proposed the biggest biofuels plant in the world and Terumo Vascutek will bring 212 new jobs to Scotland. Those jobs would go overseas if the SNP did not support them.

**Members:** Why?

**Nicol Stephen:** Because the companies concerned have international opportunities and they consider other locations. Just this week, the company that announced 500 new jobs in Glasgow said that it had considered locating in Singapore, eastern Europe and Dublin, but had decided to come to Scotland. The SNP regarded that as bad news.

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** The Scottish Executive's small business rate relief scheme has been a tremendous success throughout Scotland. Will the minister consider improving the scheme even more? The smallest businesses get a 50 per cent rate reduction. Would it be advantageous to increase that reduction?

**Nicol Stephen:** I am always anxious to find competitive advantage for business in Scotland. As Mike Rumbles knows, we have already taken steps to reduce business rates in Scotland to bring them into line with business rates in England. We are committed to a further reduction to ensure that they will be in line with business rates in England from April next year. We will consider carefully Mike Rumbles's suggestion before the Minister for Finance and Public Service Reform makes the announcement on such matters in due course.

**John Home Robertson (East Lothian) (Lab):** Does the minister acknowledge the tremendous success of British Energy as a major electricity generator in Scotland? Will he comment on those political parties that would deny British Energy the opportunity to invest in new nuclear plant in Scotland?

**Nicol Stephen:** As John Home Robertson knows, the Executive is committed to a policy of no new nuclear power in Scotland unless the issue of nuclear waste is properly resolved. I regularly meet British Energy officials, including its chief executive, and we always have constructive discussions.

### **Redundancies (Young's Bluecrest Ltd)**

**2. Dr Elaine Murray (Dumfries) (Lab):** To ask the Scottish Executive what assistance it can offer to the 120 people to be made redundant by Young's Bluecrest in Annan. (S2O-11223)

**The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson):** Should those job losses occur following the consultation period, our immediate priority will be to provide support and assistance for those people who face redundancy. That will be provided through the Executive's PACE—partnership action for continuing employment—framework. The support will be tailored to meet individual needs and local circumstances and will include Jobcentre Plus services, one-to-one counselling and advice, comprehensive information packs and access to high-quality training.

**Dr Murray:** Is the minister aware that later last week Penman Engineering in Dumfries announced the loss of 47 jobs; that just last month 46 jobs were lost at Interfloor in Dumfries; and that uncertainty still surrounds the future of the Hunter Rubber Company, which is also in Dumfries?

Does he support the Transport and General Workers Union's campaign to save the jobs in Annan and does he agree that, although Scotland is outperforming the rest of the United Kingdom on employment, Dumfries and Galloway requires specific assistance in the face of the loss of the jobs in the manufacturing sector to which I referred?

**Allan Wilson:** One of the reasons why we have regional selective assistance as a locational premium is that, unlike the nationalists, we understand that economic performance will vary in different parts of the country, so it is important to provide incentives for economic development and economic growth in different parts of the country and to respond to the issue in a variety of ways.

I would be pleased to meet representatives of the TGWU. We are engaged in dialogue with Young's on its plans for the Annan plant. As the member will know, the proposed job losses have resulted from the rising cost of raw materials. That is good news for Scottish fishermen, but not such good news for fish processors. To remain competitive, the company will have to outsource primary processing to Thailand. Through a variety of measures, including financial instrument for fisheries guidance support for capital infrastructural development, we provide support to the food processing industry and have offered the company assistance for mechanised shelling processes. I would be pleased to progress those matters with the local enterprise company.

**Alasdair Morgan (South of Scotland) (SNP):** I suggest to the minister that one way of discouraging the type of trading that has led to the problem at Young's is to encourage the use of labelling that sets out clearly a product's geographical origin and ensures that any product that has been to Thailand and back cannot be described as Scottish seafood. What steps can the minister take to encourage such labelling?

**Allan Wilson:** I am in favour of the member's general suggestion, which would protect the geographical status of the product concerned and ensure that consumers get what they think they have paid for. I point out that we make grants totalling £45 million available to local food producers to ensure that the local supply chain is supported.

That said, we need to understand that modern supply chains look to economies of scale, which means that they look over the global marketplace to international supply chains. Although I agree that it is vital to cut down on unnecessary food miles, we also benefit from food miles in that we can promote Scottish produce to international markets and allow consumers to buy produce that does not come from Scotland. We simply cannot take a parochial view of the process.

### **A725 Bellshill Bypass**

**3. Michael McMahon (Hamilton North and Bellshill) (Lab):** To ask the Scottish Executive what progress has been made towards addressing traffic congestion on the A725 Bellshill bypass. (S2O-11216)

**The Minister for Transport (Tavish Scott):** We are committed to spending £200 million on upgrading the A8 between Baillieston and Newhouse to motorway standard and improving the associated trunk road network. That work, which is expected to improve general traffic flows in the area, will commence in 2009. Transport Scotland is working with the owners and tenants of Strathclyde business park to improve access to and from the park.

**Michael McMahon:** Although the upgrading of the A8 to motorway standard between Baillieston and Newhouse is welcome, the three-year delay in commencing the works means that, because of the situation on the Bellshill bypass, major employers are reconsidering future investment and might well even decide to locate elsewhere. After all, their staff spend two hours trying to exit Strathclyde business park on to the bypass. Is the minister able to assure us that an interim proposal to address the congestion on the A725 at Strathclyde business park will be vigorously promoted among his officials to ensure that a solution can be found to this very serious problem?

**Tavish Scott:** As Michael McMahon knows, we are considering possible solutions in the area, but any solution must achieve the objective that he and I share of cutting down peak-time traffic congestion. The traffic modelling that has been carried out, which Mr McMahon knows about and which has been shared with the owners and operators of the park, has not been helpful in that regard. A number of meetings have been held to discuss how best to move things forward and to reanalyse the situation to find out whether specific short-term measures could improve traffic movement in the area. We will continue to discuss the matter and I am happy to keep the member up to date with progress.

### **Broadband**

**4. Mr John Swinney (North Tayside) (SNP):** To ask the Scottish Executive what technology solutions it is considering to ensure that broadband can be delivered to locations that are currently out of reach. (S2O-11145)

**The Deputy First Minister and Minister for Enterprise and Lifelong Learning (Nicol Stephen):** We have delivered broadband access for every Scottish community. However, because we want to go even further, we have been working

with independent consultants to examine all technical solutions—including wireless and satellite solutions and the scope for making further improvements to the existing ADSL network—that might be able to deliver broadband to areas where access issues persist. That complex work is almost complete and I will set out our conclusions shortly.

**Mr Swinney:** In the technology assessment that the Executive is undertaking, has the minister come across the work of a company in my constituency, Remote Data Services Ltd, which has pioneered a kind of mesh technology that allows broadband to reach isolated hill and glen areas? If not, will he ask his officials to consider it? Finally, can he define what “shortly” means with regard to the publication of his long-awaited review?

**Nicol Stephen:** I thank John Swinney for that question and, indeed, commend him for all the work that he carries out on this matter on behalf of his constituents. I know that he is anxious to see significant progress on the roll-out of further broadband opportunities, particularly in rural Scotland.

The proposals in the consultants’ report are due to be available to me by the end of this week. If that happens, I will seek to take early decisions, and decisions will certainly be announced before the end of this year. Funding and activity to widen the broadband network in Scotland will start from April next year.

I intend to consider all the best technology solutions. I was unaware of Remote Data Services and its mesh technology solution, but I will ask my officials to ensure that they look into that as a matter of urgency.

**Maureen Macmillan (Highlands and Islands) (Lab):** I thank the minister for the information that he has given. Does he accept that businesspeople in, for example, the Black Isle feel enormous frustration? Broadband and the Dingwall exchange are impossible to access because, it seems, of the quality of the copper wiring.

Does the minister accept that the frustration has been exacerbated by the prolonged wait for a resolution? I was pleased to hear what he said about when that resolution would be, but will he explain why it has taken so long? We were promised an announcement back in the spring.

**Nicol Stephen:** Rolling out broadband to every community in Scotland, with the support of Government, has been a significant achievement. We now want to build on that work and try to get broadband access to as many as possible of the individual businesses and houses that are isolated from the broadband network. That is a high priority for me, which is why I will take action on the report as quickly as possible.

I mentioned starting to do things from April of next year. It will be around March of next year before we are able to identify the first clusters or groupings that will be able to receive support. I will ensure that the representations that have been made to me by many MSPs are pulled together as part of my announcement. We will try to make early progress on this important issue.

**Murdo Fraser (Mid Scotland and Fife) (Con):** The minister will know that I have written to him about the problems for tourism businesses in remote rural areas that cannot access broadband, which are at a competitive disadvantage because so many bookings are now made over the internet. Therefore, I was interested in and pleased to hear what he said. Will he give comfort to those businesses on when the broadband programme might be rolled out, so that their competitive disadvantage can come to an end?

**Nicol Stephen:** I understand and agree with Murdo Fraser’s point. When we are setting priorities for action, it will be important that we consider business needs as well as the needs of individual households and domestic premises. I will ask my officials to ensure that business needs are key factors in our considerations, in particular the needs of the tourism sector.

**Christine May (Central Fife) (Lab):** My question follows on from Murdo Fraser’s question. The minister will know that, for many high-tech businesses such as those in Glenrothes in my constituency, and for members of their staff who want to work flexibly from home, the ability to transfer large amounts of complex data quickly is important. Is the minister in discussion with providers on upgrading broadband facilities to enable such data transfers?

**Nicol Stephen:** We are in regular discussion with a range of providers. However, it is important that we await the recommendations from the consultants and then think about the potential solutions—for the groupings and clusters that can be brought together, and for the priority businesses that require action. We will then be able to consider who might best be able to fulfil those needs by offering the best technology and the most competitive pricing.

### **Proposed Energy Technologies Institute**

**5. Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD):** To ask the Scottish Executive what discussions it has had with the United Kingdom Government regarding its proposal for an energy technologies institute. (S2O-11170)

**The Deputy First Minister and Minister for Enterprise and Lifelong Learning (Nicol Stephen):** I have written to the Chancellor of the

Exchequer and the Secretary of State for Trade and Industry to express my full support for a strong Scottish lead in the energy technologies institute.

My officials are facilitating a series of meetings with a wide range of Scottish interests to ensure that we are in an excellent position to present our capabilities and to win this work.

**Mr Stone:** I am pleased to hear that, as we have home-grown expertise that could contribute and lead in developing energy technologies for the future. Will the minister pay particular attention to my constituency of Caithness, Sutherland and Easter Ross, which has had a long relationship with energy generation? I am keen for the talent in my constituency to make a contribution to the institute, as a knowledge resource and in providing a site.

**Nicol Stephen:** I will ensure that that is part of the Scottish approach and bid on the matter. As Jamie Stone knows, we have significant energy strengths throughout Scotland. Aberdeen is the energy capital of Europe and is anxious to secure the institute headquarters, where the director will be located. Other parts of Scotland are anxious to develop their strengths in the energy sector. For example, the University of Strathclyde, the University of St Andrews and Heriot-Watt University all undertake major energy-research activities. That is why I am so pleased that areas throughout Scotland are working together on the issue. I will promote that co-operative approach, which is likely to be successful.

**Richard Baker (North East Scotland) (Lab):** While recognising the research links between Dounreay and the University of Aberdeen, does the Deputy First Minister agree that, although the Executive is right to focus on ensuring that all Scottish institutions benefit from the initiative, basing the institute in Aberdeen would benefit Scotland as a whole? Does he agree with the Confederation of British Industry Scotland and the United Kingdom Offshore Operators Association that, as Europe's energy capital, Aberdeen is the natural place to situate the new institute?

**Nicol Stephen:** In short, yes. It is important that Scotland's case emphasises the strengths of Aberdeen. It is great to see support from the CBI and other sources, including UKOOA. It is vital that the Scottish ministers and all members in the Parliament give the bid from Aberdeen and from Scotland the best opportunity of success.

**Brian Adam (Aberdeen North) (SNP):** I am glad to hear that comment from the minister. Will he spell out a bit more about the discussions that have taken place with academic institutions in Scotland on the bid? Can he say whether a potential director has been identified, as that

appears to be a key part of the Department of Trade and Industry's case?

**Nicol Stephen:** It is important to emphasise that the Executive has been heavily involved in meetings with universities and industry on the issue in Scotland and attended the DTI briefing event on the issue, which took place on 11 October. Following the creation of the institute's board by the end of this year, the director is to be appointed in January 2007. I agree with Brian Adam that the discussions about where the director will be based are vital. We need to prepare a strong case for that.

## **Adult Support and Protection (Scotland) Bill: Stage 1**

**The Deputy Presiding Officer (Trish Godman):** The next item of business is a debate on motion S2M-5042, in the name of Andy Kerr, that the Parliament agrees to the general principles of the Adult Support and Protection (Scotland) Bill.

14:58

**The Deputy Minister for Health and Community Care (Lewis Macdonald):** We introduced the Adult Support and Protection (Scotland) Bill principally to provide support and protection for those people in our communities who are vulnerable to harm, inadvertent or otherwise, but who are not covered by existing legislation. In 1993, the Scottish Law Commission produced a paper on how best to protect vulnerable adults, in which it observed that, at that time, there was “little or nothing available” to protect adults who were vulnerable but not mentally disordered. The paper also noted

“an increasing awareness that abuse, deprivation and exploitation of vulnerable adults generally occurs and that the existing law is often not capable of tackling it effectively.”

In 1997, the Scottish Law Commission published a draft bill to address those concerns. Since then, the Parliament has passed the Adults with Incapacity (Scotland) Act 2000 and the Mental Health (Care and Treatment) (Scotland) Act 2003.

The bill is designed to fill a gap. In the context of the increasing numbers of people who are living ever longer in old age, it will address the vulnerability of those who are mentally well and capable but who are nonetheless frail and at risk of harm. The Adults with Incapacity (Scotland) Act 2000 provided groundbreaking new legislation for managing the welfare or financial affairs of adults who lack the capacity to manage those matters for themselves. The Mental Health (Care and Treatment) (Scotland) Act 2003 updated the legal framework for people with a mental disorder. The main aims of the bill are to update further the legal framework to address the gaps that remain, which include groups of people who are not covered by existing statute and omissions in the range of interventions that are available to provide support and protection. In effect, those gaps mean that practitioners currently have no means to access some adults who are or may be at risk of harm.

We first consulted on many of the proposals that are in the bill in 2001. Respondents to that consultation indicated strong support for measures that addressed a wider group than those with a mental disorder. There was a high level of

agreement about the need for the kind of protection orders that are proposed in the bill.

Since then, as members will be aware, there have been repeated calls from Age Concern Scotland, the Mental Welfare Commission for Scotland, the Vulnerable Adults Alliance Scotland and others who represent older people and those who are infirm to legislate for better protection of adults. That is because abuse can happen in regulated care settings such as care homes and in family homes. It happens in relationships of trust, in which it can be difficult for the individual who is being harmed to seek the help that he or she needs. Sometimes, that is because the individual relies on the abuser for care and sometimes because of fear of reprisal.

The bill is about unintended harm as well as intentional abuse. Abuse, by definition, results in harm, but harm does not always result from abuse. The bill is intended to offer protection against abuse and other causes of harm, because the person who suffers inadvertently needs such protection.

I recognise that acting to protect adults in those circumstances raises some sensitive issues. That is fully reflected in the Health Committee's stage 1 report. I welcome the committee's support for the important provisions in parts 2 and 3 of the bill and I acknowledge that its recommendations focus on the critical issues in part 1. I am grateful for the Health Committee's careful consideration of those issues and I thank the Finance Committee and the Subordinate Legislation Committee for their comments.

The Health Committee's stage 1 report endorses our approach to some provisions in part 1. In the context of the general principles of the bill, the committee supports the provisions that establish rights of entry and inquiry and which put adult protection committees on a clear statutory footing.

The bill's main purpose is to provide protection from deliberate and unintended harm. It is important to recognise that harm to vulnerable adults includes and encompasses abuse. Abuse of older people—elder abuse—is a reality and one of the reasons why we need the bill, but I am happy to concur with the committee's view that we need to give sufficient emphasis to situations in which harm is a result of self-neglect or the pressures of caring rather than intentional abuse. We will consider how that may be better reflected in the wording of the bill at stage 2 so that we explicitly provide protection from harm, including abuse, rather than risk appearing to focus on abuse to the exclusion of all else.

We will consider how the bill makes clear the overlap with existing legislation. The bill reflects principles that are common to other legislation,

such as recognising the importance of the adult's known wishes. It is not intended to override the advance statements that a person may make about their treatment should they require intervention under the Mental Health (Care and Treatment) (Scotland) Act 2003, and we will certainly consider how best to make that clear as we go forward.

Advocacy is important in helping people to communicate their views. The committee has said that people to whom the bill applies should have the same rights as those who are subject to interventions under existing statute, and I am happy to concur with that point. Part 1 offers practitioners, for the first time, a range of options for responding to actual or suspected harm, and the underpinning principles put the individual's wishes first.

The bill requires better co-operation among the agencies that are most likely to become aware of an adult being at risk of harm. It places a number of duties on local authorities and allows us to limit the class of council officer who will be permitted to perform the functions that are identified under the bill. Ministers will use the order-making power to define clearly the officers who are empowered to act and the qualifications that they will require to be able to use those powers.

The committee welcomed the rights of access and inquiry. Sometimes, getting through the door will be enough, as the opportunity for a conversation with an appropriate professional may give an individual who may be at risk the information that he or she needs to make a real choice. However, that will not always be the case; hence the need for the further powers that the bill confers. There are safeguards to prevent inappropriate use of those powers. Protection orders can be used only with the authority of a sheriff. There is a balance to be struck between acting immediately to prevent serious harm and providing appropriate appeal rights to ensure that actions are in proportion to needs.

I acknowledge that the most contentious of the protection orders is the removal order. To grant a removal order, the sheriff will need to be satisfied that it is necessary to prevent serious harm to the adult who is being removed. A removal order will expire after seven days or any shorter period that is specified in the order.

The bill provides for variation or recall of a removal order when there has been a change in facts and circumstances. However, such a variation can never extend the period of the order beyond seven days. There is no right of appeal against a removal order only because the order is of such specific and limited duration that any appeal against it is unlikely to be heard until after it has expired. As a result, an appeal that is heard

after the order expires would not provide a different outcome for the adult at risk. He or she may instead seek a variation or recall of the order, thereby providing an opportunity for the issue to be looked at again by the court.

**Christine Grahame (South of Scotland) (SNP):** Has the minister discussed the civil shrieval procedures that would have to take place? I see no mention of them. Will they be like interim interdicts? How will they work?

**Lewis Macdonald:** We have taken appropriate advice on the procedures, to which I will be happy to return in the course of the afternoon to give Christine Grahame more detail of the way in which they will work.

In acknowledging issues that are raised around protection orders, such as those that were raised by Christine Grahame, I am happy to consider what might be needed to make it clearer in the bill how appeals procedures will function. We want to return to that area at stage 2.

The bill aims to balance rights and protection. To override an adult's refusal of consent, where a court is persuaded that it is withheld because there is undue pressure, will be an absolute last resort. We do not expect such circumstances to arise very often. However, where a responsible professional person is convinced that an adult is refusing support and protection due to undue pressure from another person, it is essential that he or she is enabled to present the evidence of that to a sheriff for their urgent consideration.

One of the most sensitive issues raised at stage 1 has been the definition of adults at risk. I agree that we should respond to the committee's concerns in that area by seeking to narrow the definition of adults at risk of harm in order to clarify the bill's intentions. There are people with profound and multiple impairments and others with cognitive impairment who are unable readily to articulate their views. They are among the people whom we seek to protect and support and we must not lose sight of their needs.

The other measures in the bill are to enhance the operation of the Adults with Incapacity (Scotland) Act 2000, the Mental Health (Care and Treatment) (Scotland) Act 2003 and the Social Work (Scotland) Act 1968 by simplifying and streamlining them to deliver the original policy intentions. I believe that those measures, which have been broadly supported, will achieve those objectives.

We have considered carefully the views of the Health Committee. Ministers will seek to respond to those views in as positive a way as we can, consistent with the fundamental principles of the bill. On that basis, I hope that the bill can move to



the next stage of consideration with broad-based support.

I move,

That the Parliament agrees to the general principles of the Adult Support and Protection (Scotland) Bill.

15:08

**Shona Robison (Dundee East) (SNP):** The bill has had what I would describe as a difficult birth. Perhaps that is because, as I understand it, its origins lay with the Bichard proposals, from which it was disentangled. Initially, the focus was on the elderly, but the bill was broadened out to cover other groups. Whatever its background, suffice to say that it is a bill with a lot of difficulties, to which I want to turn my attention.

We have no problem with parts 2 and 3 of the bill; our problems are with part 1 and, in particular, sections 3 to 38. As legislators, we have to balance the involvement of the state in people's lives, and its duty to protect vulnerable individuals, with the rights of those individuals themselves. I do not diminish the fact that that is a difficult balancing act.

The first problem is who is covered by the bill. The minister said that there will be amendments at stage 2, but a bill that has to be significantly amended at stage 2 tells its own story. I hope that the Executive will reflect on the drafting of the bill for future reference. If a bill has to be substantially rewritten, that should concern everyone in the Parliament.

As the minister said, the bill is widely drawn. There is potential for everybody to be covered at some stage in their lives. The definition of adults at risk includes those with disabilities and those who have temporary illnesses, but surely the fact that someone is disabled does not, in itself, make them vulnerable. The disability organisations made that point. It is someone's disability along with other factors that makes them an adult at risk. That needs to be made clear in the bill. As the Health Committee said, we need to make it clear exactly whom the bill is designed to protect.

The second problem is the use of the word "abuse", which is not helpful because it is loaded and accusatory. An adult at risk might have been subject to benign neglect rather than deliberate abuse. If their carer is labelled an abuser, that will not help them to accept the perhaps badly needed help that they require to continue with their caring role. We know that the pressure on carers can cause frustration and lead them to act in a way that puts people at risk of harm, but if we are to engage in positive discussions with carers about how they can change that behaviour, the term "abuse" must change. Use of the phrase "at risk of

serious harm" is one way forward to address the problem.

Clarification is needed of the bill's relationship with other legislation, including the Mental Health (Care and Treatment) (Scotland) Act 2003. It is important that adults who are covered by the bill have the same rights as those who are covered by the 2003 act, including, for example, the right to advocacy services. I hope that the minister will reflect on that.

The right of officers to enter premises is a powerful provision in the bill and it should be exercised only by those who are involved in dealing with the legislation. At present, the bill gives any council officer the power to enter premises, but that must be amended. The minister acknowledged that the power is far too wide.

The power to override consent is of greatest concern because it is such a fundamental issue. Let us remember that we are talking about an adult who has capacity. Surely the power to override their consent should be used only as a last resort, when all other options have been tried and it is necessary to avoid immediate harm. I am afraid that the case studies that have been given—not just by the minister, but by some of the organisations that gave evidence to the committee—are of concern. To me, they were not cases of last resort and the intervention was disproportionate.

I hope that the minister notes the concern about the power to override consent. Are we really saying that someone who has a chronic alcohol problem, who refuses assistance or services but who clearly has the capacity to make decisions can be forced to accept help and may be forcibly removed from their home for their own protection? If the minister is saying that legislation should be used to do that, he is mistaken. I know from my years of experience working as a home care manager that we cannot force people to accept help even if they badly need it. The idea that home care staff should force their way into someone's house, perhaps facing verbal or even physical aggression as they do so, is not practical. No one would want to see people being moved from their home against their will, other than in exceptional circumstances.

Neither of those situations is palatable, and I cannot see either happening in practice. That means that there is another danger with the legislation, because it raises the expectation that it can be used to sort out some of our difficult social problems. Clearly, the bill will not do that and it is not fair on anyone to raise those expectations.

There needs to be some honesty and clarity about exactly what the bill can achieve. It cannot be used as an excuse for people not to do their

jobs. In committee, we heard time and again about cases in which, if the person responsible had been doing their job properly when there was lots of evidence that someone was at risk, the outcome would have been different. We need to be clear that, even with new legislation, if people do not do their jobs properly and are not resourced correctly, others will still be left in vulnerable situations. It is a question not just of legislation, but of what goes with it.

Having said that, I believe that there is a small group of people who need protection and support but who are not currently covered by the appropriate services. The bill needs to define clearly who those people are and what assistance they can be given. There needs to be a two-way process, with reciprocity in the bill to ensure that it is not just a big stick to threaten carers and that it provides the help that is badly needed.

The Executive must recognise the cross-party concern about the bill. We want to salvage something out of a badly drafted bill, and we are happy to co-operate in doing that. With reservation, and with the caveats that I have outlined, we are prepared to support the general principles of the bill at stage 1. We want the serious issues to be addressed by the minister at stage 2.

15:17

**Mrs Nanette Milne (North East Scotland)**  
**(Con):** This may be a somewhat repetitive debate.

As we know, the general purpose of the bill is to provide an overall framework of support and protection for adults who are at risk of serious harm. It has been described as being complementary to both the Adults with Incapacity (Scotland) Act 2000 and the Mental Health (Care and Treatment) (Scotland) Act 2003, and will plug gaps in that existing legislation.

I admit to having been somewhat sceptical about the need for the bill when first presented with it. I wondered whether its laudable goals could not have been achieved by enforcing or amending the legislation that is already in place and ensuring that people do their jobs properly. Parts 2 and 3 will do just that, by proposing changes that will simplify and streamline the protection of adults with incapacity in their welfare and the management of their finances and property. Those measures have been generally welcomed as being beneficial to that group of vulnerable people.

The controversial provisions in the bill are in part 1. Although 28 of the 33 organisations and individuals who commented on it were generally supportive, several submissions from bodies representing groups whom the bill is designed to

protect were against key elements of part 1. They expressed concern that the bill could be seen as a threat to the autonomy of people with disabilities and, moreover, that it could create barriers to the reporting of abuse by people who are fiercely protective of their independence and fearful of being perceived as unable to cope.

The majority who were firmly in favour of the proposals in part 1 include those representing the elderly, such as Age Concern Scotland. That group has fought hard to expose elder abuse, which it says is much more prevalent than is generally realised. The Association of Directors of Social Work cited problems in the existing legislative framework in respect of gaining access to individuals when there is evidence or suspicion that an adult is at risk. The Association of Chief Police Officers in Scotland was in no doubt that the bill would enhance the protection of adults who may be seen to be vulnerable. Given that balance of evidence, I am prepared to accept that there is a clear need for the bill.

However, the bill as introduced has given rise to some serious concerns, which the Health Committee flagged up in its stage 1 report. Those concerns raise fundamental issues about the balance between the reach of the state in its duty to protect and the right of an individual to the lifestyle of their choice. The committee recommended several changes that are necessary if the bill is to be accepted as a useful and effective piece of legislation. I completely agree with the committee's recommendations.

In the bill as introduced, the definition of an adult at risk could encompass potentially any adult in the population. The definition needs to be narrower and less discriminatory towards those who have disabilities. The use of the term "abuse" is unacceptable and could alienate well-meaning and caring people who have been guilty of unintentional neglect rather than deliberate abuse. The bill's use of such terms could lead to an unwillingness to seek or accept help to improve the circumstances of an individual at risk for fear of being labelled as an abuser. As Shona Robison mentioned, we need a less pejorative description such as "adult at risk of serious harm", which sounds far less threatening to carers and to the vulnerable adults involved.

Another concern is that the bill as introduced could override rights that were established under other pieces of legislation, notably the right to advocacy and the right to make an advance statement, which were provided for in the Mental Health (Care and Treatment) (Scotland) Act 2003. The fact that the bill provides for no right of appeal against removal orders could, it is thought, be challenged under the European convention on

human rights. The bill needs to be amended to take account of those concerns.

The most controversial element in the bill is undoubtedly the provision of powers that, in certain circumstances, will allow protection orders such as removal orders to be put in place against the wishes of the adult at risk. Clearly, only in exceptional circumstances should an adult with capacity have their privacy invaded or be removed from their home without consent. The power to override an adult's consent should be used only as a last resort after all other options have been tried and when it is necessary to avoid immediate harm. Surely there must be a requirement that, before a sheriff can make a protection order against the wishes of a capable adult at risk, the local authority must demonstrate that it has tried all other options before seeking to override the adult's consent.

Sufficient resources must be put in place to ensure that adults who are subject to protection orders can be accommodated. The bill should make it clear that no one can be removed from home without appropriate care and accommodation being available to them.

The definition of the council officer that is referred to in section 7(1) needs to be tightened so that the power to enter a person's place of residence is given only to appropriately qualified and experienced individuals. That should be made explicit.

I support the provision that each local authority must set up an adult protection committee to take a strategic overview in jointly managing adult protection policies, systems and procedures at local level. I agree with the Health Committee's view that the voluntary sector should be represented on those committees.

Taking into consideration the fact that the balance of evidence indicates that the bill is necessary to enhance the protection of a particularly vulnerable section of society, and given the minister's willingness to amend the bill to take account of most of the concerns that I have expressed—in particular, the need to strike the right balance between upholding a person's right to the lifestyle of their choice and ensuring that public authorities can intervene when there is thought to be a risk of serious harm—my Conservative colleagues and I are content to support the general principles of the bill at stage 1. We will pursue the appropriate suggested amendments at stages 2 and 3.

15:23

**Euan Robson (Roxburgh and Berwickshire) (LD):** I am particularly pleased to take part in the

debate. Legislation in this important area is clearly necessary.

The reforms in part 1 of the bill are, frankly, of immense importance. The protection of adults at risk is, in the most general sense, of the greatest importance and is a mark of a civilised society. Parts 2 and 3 provide for useful reforms in closely related areas. Most of those reforms are born of the experience of the operation of existing legislation, by which I mean primarily, but not exclusively, the Adults with Incapacity (Scotland) Act 2000 and the Mental Health (Care and Treatment) (Scotland) Act 2003.

I will deal with parts 2 and 3 first. It is clearly right to amend the Adults with Incapacity (Scotland) Act 2000 to allow someone with an interest in the adult with incapacity to displace the nearest relative—on cause shown—as the adult with incapacity may not be in a position to do so. The changes to power of attorney are similarly helpful, as are sections 54 to 59, which deal with the intromitting of funds. I hope that the minister will pick up the Health Committee's concerns about points that the Scottish Legal Aid Board made with regard to section 55. The sections on intervention orders and guardianship orders are similarly helpful. They are designed to make more flexible the application process for those orders and for their extension or renewal.

On part 3, the minister will have noted the Health Committee's suggestion—prompted by the Scottish Association for Mental Health—that those subject to compulsory treatment should not be excluded from direct payments, and the important recommendation that transitional arrangements be established under the ordinary residence procedure of the Community Care and Health (Scotland) Act 2002, so that care packages continue while local authorities seek to establish funding arrangements. The appearance of a considerable additional financial burden in the course of the financial year can cause small local authorities real difficulties, because their general income base may be much lower than that of the authority from which an individual has come.

I have no doubt that part 1 of the bill is necessary. As members will know, there are examples of protection not being available or delivered to adults who are clearly vulnerable and require it. The fundamental point is that the bill leaves no doubt that local authorities have a duty to make inquiries and that health boards and other agencies must act in co-operation. I regard sections 4 and 5 as critical.

I will quote briefly from an inspection report by the social work services of my local authority. Section 146 of the report makes the case for the legislation. It states:

"Clarification of some aspects of the legislation as it relates to vulnerable people would be a positive development, providing clearer criteria for their protection. The Mental Health and Adults with Incapacity Acts address the needs of people who have a mental disorder or who lack capacity. A Vulnerable Adults Bill would include people with learning disabilities and would be particularly relevant for other vulnerable people who do not lack capacity and who do not have a mental disorder."

The bill is important to precisely those people and in the interests of clarity.

In sections 4 and 5 of the bill, a clear circle of protection is drawn around those who may require help and assistance. The provisions are similar to those relating to child protection. On umpteen occasions, case co-ordination has been shown to be particularly vital. The bill spells that out.

As other members have said, definitions are critical. On balance, I tend to think that "harm" is a more acceptable term than "abuse", but we will discuss that at stage 2.

I will make one or two other suggestions. There is an appropriate hierarchy to the orders that the bill establishes. Assessment, banning and removal orders are generally acceptable, but I do not think that they are ranked in quite the progressive way in which they ought to be. Perhaps the minister will consider ordering the provisions differently.

I agree that there should be an explicit statement that removal is a last resort. That would be helpful in clarifying the position for those who need to operate the legislation. As other members have said, we must know to where removal will take place. We must ensure that, if there are removal orders, there are places to which people can go.

I would like to make two final points.

**The Deputy Presiding Officer:** It may be helpful if I indicate that at this stage in the debate I am not applying the normal time limits.

**Euan Robson:** Thank you. In that case, I will be slightly more expansive than I would otherwise have been.

It is clear that statutory adult protection committees will be valuable. However, the minister might consider an important additional provision. Child protection committees currently exist and an adult protection committee was recently established in the Borders on a voluntary basis. The bill ought to impose on adult and child protection committees a duty at least to liaise. Apart from anything else, it is important to have an equivalent approach to the care and protection of two groups in society. In addition, a person who has required protection from a child protection committee might be at a transitional stage and need protection from an adult protection committee. We must ensure that there is clear co-

operation between the two bodies. I am sure that in practice there will be such co-operation, but nothing prevents us from making the intention clear from a national perspective.

There should be a further, important duty on all parties to keep proper records. My suggestion emerges from practical experience—I will not go into that in detail, but the minister is aware of the situation. It is all well and good that the bill contains a requirement to look at records, but incomplete or unsound records might be no use. They might be unhelpful or even misleading and they might give a false sense of security. The inclusion of a duty on all parties to keep proper records would be an essential amendment to the bill.

I welcome the minister's intention to respond to the Health Committee's proposals and recommendations, of which there are a considerable number. I will not repeat the committee's concerns—other members have mentioned them, in particular the concern about the overriding of consent. In that context, stage 2 of the bill will be particularly important.

My party is pleased to endorse the general principles of the bill, which we think is timely and needed.

15:32

**Roseanna Cunningham (Perth) (SNP):** It is often said that the committee system is the heart and soul of what happens in the Scottish Parliament, combining as it does the functions of select and standing committees in the rather different system at Westminster. Our legislative scrutiny is front loaded—hence the fairly lengthy and detailed process involved before the stage 1 debate can take place. The equivalent stage in Westminster involves a debate on general principles as a first step, followed by an amendment procedure that does not really allow for discussion of the principles of the bill.

It is worth emphasising that the committee stage of bills in the Scottish Parliament is not intended to be a rubber-stamping exercise. The purpose of our front-loaded scrutiny, as opposed to the approach in the other place, is to ensure that flaws in draft bills are identified and drawn to the attention of ministers and the Parliament, so that the Parliament can pass legislation that works in the way in which it was intended to work. If that does not happen, the law of unintended consequences haunts every piece of legislation.

That is particularly important in the context of the bill, which will have far-reaching effects. It is fair to say that the bill caused the Health Committee considerable difficulties, to which I will refer. Members who read the stage 1 report—I concede

that probably few members outside the Health Committee have done so—will quickly have realised that there was a good deal of ambivalence about the bill, which is evidenced in the committee's substantive recommendations for change.

Members will see from paragraph 52 of the report that committee members went to meet people who would be directly affected by the bill, including groups of older people in Fife, a group of people who have mental illness in Edinburgh, and a group of people with learning difficulties in Glasgow. I thank Age Concern, SAMH and Enable for helping to organise those meetings. The meetings were essential, because we had learned that a number of the groups that the bill is intended to protect had significant concerns about the bill's implications.

When new legislation is enacted to provide protections for people, we do not expect to find such opposition. In some cases, there was outright opposition. Members need only scan through the *Official Report* of the evidence-taking session of 19 September to begin to see the problem. Broadly speaking, there was a clear difference of opinion between witnesses representing groups dealing with the elderly and witnesses representing some of the other significant groups of people who are included under the definition of adults at risk in section 3 as

“adults who, because they are affected by disability, mental disorder, illness, infirmity or ageing, are—

(a) unable to protect themselves from abuse, or

(b) more vulnerable to being abused than persons who are not so affected.”

Leaving aside the fact that that is potentially the entire population at some time or another of their lives, members need to remember that we are talking about people with full capacity. The bill includes the right to enter someone's property even against their will, as well as the right to remove them from their own homes or to remove a third party from the home. That was a particular cause for concern.

I direct members' attention to the sharp divisions of opinion between different representative bodies on the power to override consent, which is contained in section 32. A discussion of the evidence is contained in paragraphs 163 to 182 of the Health Committee's report. Members will note that paragraphs 173 and 174 cover the most vocal opposition from Kevin Morris, on behalf of National Union of Students Scotland disabled students. He castigated the bill as “patronising”. He said:

“The bill will take back a lot of what we have worked long and hard for for disabled people.”—[*Official Report, Health Committee*, 19 September 2006; c 3040.]

Capability Scotland reported that its clients

thought that the bill was fine—until they realised that they were included in the definition, at which point they became somewhat less enthusiastic. Andrew Reid of Inclusion Scotland indicated that disabled people should not be getting treated differently from able-bodied individuals.

Other groups such as Age Concern Scotland and the National Autistic Society Scotland were more positive. However, the division of opinion was expressed throughout the committee's proceedings, to a greater or lesser extent, and it was the principal reason for the committee's having such difficulty coming to a final view. Ultimately, however, the committee had to come to a view. Parts 2 and 3 were deemed generally pretty uncontroversial and gave the committee little concern. We are content with the provisions there. However, we had significant reservations about part 1, in particular the new powers in sections 3 to 38. The bill raises fundamental questions about the limits to state intervention, as set against the individual's right to personal autonomy—the right to be wrong; the right to be different.

We took the view that, on balance, the bill has the potential to fill a gap, although we had difficulty pinpointing what that gap was. I am still not entirely clear about that. We welcomed some provisions. However, we felt that key definitions were seriously flawed. There were also concerns about the relationship between the powers under the Adult Support and Protection (Scotland) Bill and the powers contained in existing legislation. Which would take precedence?

Our main concerns and recommendations can be grouped as follows. First, they are to do with the definition of adults at risk in section 3, which we considered to be inadequate. It should not be so all-encompassing and should not effectively discriminate against particular groups. The definition should be capable of being operationally effective. We were particularly concerned that such a central provision should not be amendable by subordinate legislation. Indeed, that echoes what the Subordinate Legislation Committee had to say on the matter.

The term “abuse” is discussed in paragraphs 111 to 121 of the committee's report. We felt that it was an unhelpful term. During evidence taking, it became crystal clear that it was expected to encompass not just specific acts of commission but also inadvertent actions and actions that might broadly be categorised as being carried out with the best of intentions, albeit misplaced. The term also covers neglect and self-neglect. The committee was of the view that the terms “abuse” and “abuser” might inhibit complaints rather than encourage concerns to be raised, particularly if the so-called abuser is a carer who is unable to cope

with the situation in which they find themselves. The committee therefore recommends that the term “abuse” be replaced with phrasing that is less emotive and value laden, such as “at risk of serious harm”.

On the interrelation between the bill and existing legislation, the committee felt that the bill should contain the same rights to advocacy services as exist under the Mental Health (Care and Treatment) (Scotland) Act 2003 and that it should be clearly indicated that advance statements similar to those covered by the provisions of the 2003 act should not be able to be overridden by the powers under the bill. There was a concern that there would be a bit of what one might call “legislation shopping”, with officials deciding to apply the principles of one bill because it did not provide the same protection as the other.

Council officers’ entering premises was also discussed by the committee. Apparently, as it stands, any council official can enter premises to undertake an assessment. The committee feels that the bill should be a tad more specific in that regard.

The committee considered appeals against orders. There is no appeal against an assessment order: the removal of an individual who is deemed to be at risk so as to assess the situation. That may just happen in the course of a day—we accept that; however, we are not convinced that it is appropriate for people to be removed from their homes against their will without a right of appeal. No such right of appeal is currently provided for in the bill. I do not accept that the fact that there is a seven-day limit on such orders bars an appeal. The courts are accustomed to immediate hearings—for example, interim interdict procedures can be triggered literally overnight. The courts are well capable of dealing with that kind of scenario.

The overriding of consent was perhaps the single most controversial aspect of the bill to be discussed by the committee. We believe that it should be an absolute last resort, to be used only when all other options have demonstrably failed. However, much of the case-study evidence unfortunately suggested that intervention would be contemplated in situations in which it was not a last resort.

The reciprocity and resources argument has been mentioned and was discussed in the Finance Committee’s report. We believe that, if someone is to be removed from their home, there is an obligation to place them in equivalent and appropriate care and accommodation. The committee believes that that should be stated in the bill, although it is mindful of the concern surrounding the availability of resources—

including financial resources—to implement the bill properly.

All those concerns have been raised directly with the minister, who has said that he is willing to narrow the definition of “adults at risk” to make it clear that it will not necessarily relate to all people with disabilities. He has also said that he will reconsider the use of the term “abuse”, to reflect our concern that it is unnecessarily stigmatising to those causing unintentional harm.

The minister has said that he accepts the importance of advocacy. I may have missed it, but I hope he said that that will be stated in the bill. He has also stated that he would accept the primacy of an advance statement, and I hope that that will be stated in the bill. He has said that he will clarify that protection orders will genuinely be used only when they are absolutely necessary. I ask him to clarify, in his closing speech, that that means after all other measures have failed. Finally, he has said that he will seek to limit the definition of “council officer” to those who are at least competent in terms of their qualifications and experience.

Those assurances from the minister go some way to alleviating the committee’s concerns, although he has not accepted all our recommendations.

I thank all members of the committee for their participation, and I thank the clerks for all the hard work that was done in the background. I also thank all those who gave evidence on the bill. For obvious reasons, some of them had a more difficult time than others in the process, but I hope that we made it as positive an experience as possible.

No doubt, we will engage in further dialogue in respect of the various issues that have been raised, but for the present I can say that the committee will endorse the principles of the bill.

15:43

**Janis Hughes (Glasgow Rutherglen) (Lab):** In my time on the Health Committee, we have scrutinised a raft of legislation on many subjects, and the bill is definitely up there with those that have engendered the most debate. As we have heard, the committee deliberated long and hard over its stage 1 report. It seemed that we had to determine not only whether the bill was good law, but whether it was necessary to introduce a new bill or whether existing legislation was sufficient to cover the areas that the bill seeks to address.

In common with the rest of the committee, I welcome the measures that have been included in parts 2 and 3 of the bill. They are sensible amendments to existing legislation and they will ensure that the bill delivers its stated policy aims.

However, part 1 of the bill is more contentious and raises the most significant concerns. I share the committee's view—and other members have raised the issue—about the powers contained in section 3 to 38.

It is often said that a civilised society is defined by how it looks after its more vulnerable citizens. We have a duty to ensure that the bill lives up to its name and offers protection to those citizens. Although I do not doubt that the bill could be worthwhile legislation if it is eventually passed, it is clear to me that it will require significant amendment if it is truly to be fit for purpose.

I whole-heartedly agree with the minister's assertion to the committee in his letter of 17 November that

"there are some individuals in our society who do cause harm intentionally and it is critical that this bill introduces measures that prevent this."

The question for the committee is whether or not the bill as it stands introduces those measures in an appropriate way.

There must be a careful balancing act to ensure that we protect those in our society who are vulnerable, but allow individuals the right to live their lives as they choose. The bill should certainly not be a policing mechanism. Because of the definitions of the terms "adults at risk" and "abuse", I hope that the minister will agree that the bill requires some refinement. I will elaborate more on that shortly.

During one of our evidence sessions, the committee heard from Kevin Morris, disabled students officer for the National Union of Students; he has already been quoted. Kevin told us that he was

"scared by the general principles of the bill and the school of thought that lies behind it. The fact that it is all-encompassing is very dangerous. That scares many disabled people."—[*Official Report, Health Committee*, 19 September 2006; c 3043.]

That is why I was pleased to note from the aforementioned letter that the minister is

"willing to narrow the definition of adults at risk to make clear that it will not relate to all people with disabilities."

Sometimes it might be necessary to use a sledgehammer to crack a nut, but this is not one of those times. I hope that the minister also takes into account the committee's views, which echo those of the Subordinate Legislation Committee, on deleting that part of the bill that permits the definition of adults at risk to be amended by subordinate legislation. That is a very important recommendation.

I would like to minister to clarify the definition of "abuse". Fourteen of the 18 respondents who made substantive comments on that had clear

concerns about that definition. The committee felt strongly that the term implies intentional, perhaps even malicious harm and, although that does happen—we are not saying that it does not—the situation is often more one of benign neglect. To label someone as an abuser in those circumstances would be unhelpful in the extreme.

The minister has now told the committee that he is

"willing to reconsider the use of the term 'abuse' throughout the Bill",

and I hope that the Executive will lodge significant amendments on that point at stage 2. The alternative term, "adults at risk of serious harm", was suggested during our stage 1 deliberations and I am sure that there will be many other suggestions. I look forward to hearing the minister's amendments.

The bill is aimed at widening the raft of protection measures previously put in place by the Parliament for those who are covered under the Mental Health (Care and Treatment) (Scotland) Act 2003 and the Adults with Incapacity (Scotland) Act 2000. The acts ensure that those people have a right to independent advocacy services. As we have already heard from Nanette Milne, that is not the case with the bill that we are discussing today. It is vital that those who would be covered under the bill have the same rights as those who are covered by other, similar acts. I hope that we hear a commitment to that from the minister today.

Having said all that, I support the bill's aims because I believe it to be well intentioned, and I now believe it to be necessary, although I was not convinced of that at the outset. However, I agree with Shona Robison's comments about the number of amendments that are likely to be necessary at stage 2. I have a sense of déjà vu, because this is not the first health-related bill that I have been involved with to be in this position. I hope that the minister and his civil servants take that on board.

I urge Parliament to support the bill at stage 1. I also urge the Executive to work with the committee to deliver legislation that will not stigmatise Scotland's vulnerable adults but will provide the necessary support to help them.

15:49

**Christine Grahame (South of Scotland) (SNP):** As some members might know, I come to the bill against the background of the Miss X case, in which a lady with learning difficulties suffered horrific abuse over a substantial period at the hands of her siblings, to the point where her life was put at risk. The faults in that case, and there were many, were put down to the practice and procedures of the social work department,

including the failure to look at reports properly, the failure to make connections and the failure to follow up. One of the large failures was not to see the young woman on her own, without the siblings who were abusing her being in the background.

People might have thought that I would welcome the bill because it would have provided the opportunity to enter the lady's house and speak to her away from those who threatened her. In fact, although a guardianship order was in place that would have allowed the social work department to enter the premises to see how the ward was doing, it was not used.

Although I welcome the purposes of the bill, I wonder whether it will change anything. One of the interesting comments in the committee's report came from a witness who said:

"the question is whether the Bill takes a sledgehammer to crack a nut".

The more I read the report and looked at the bill—I will speak about the flaws in the drafting—the more I wondered whether it is too heavy handed and will simply not deliver. The Government is in the habit of producing legislation that might not be necessary, despite which the SNP will support the bill at this stage. Nevertheless, I want to look at some of the problems.

Many of the definitions have been covered, but let us consider one that has not—visits, which are dealt with by section 6. The definition of "council officer" has been dealt with, but let us look at the next words in that section. It says that a council officer

"may enter any place for the purpose of enabling or assisting a council conducting inquiries under section 4 to decide whether it needs to do anything".

That is extremely wide. I would like the minister to tell me what kind of places ought to be covered.

Section 9, entitled "Examination of records etc", says in subsection (1):

"A council officer may require any person holding health, financial or other records relating to an individual whom the officer knows or believes to be an adult at risk to give the records, or copies of them, to the officer."

Subsection (5) says:

"Nothing in this section authorises a person who is not a health professional to inspect health records".

That is the only caveat; all other records can simply be looked at and no notice is needed. Subsection (2) says:

"Such a requirement may be made during a visit or at any other time."

A visit to where—the bank? All the bill says is that a visit is to "any place". Those are huge drafting

issues that bother me. Does the minister want to clarify anything?

**Lewis Macdonald:** I seek clarification from Christine Grahame as to which places she thinks should not be included in the bill, because I think that the intention is evident.

**Christine Grahame:** Such situations occur when people have capacity and against their will, but the bill would allow a council officer to go to their bank and look at their bank records. That is just one matter of definition that I picked out of the bill that gives me great concern.

The bill heaves with procedures—it is littered with them. There are procedures to take people to court, which the minister will explain; assessment orders; and no right of appeal in certain circumstances although it seems like a clear breach of the ECHR not to have a right of appeal where a banning order is in place.

Euan Robson gave the game away when he told us what I already knew, which is that there are adult protection committees in the Borders. Do we need to provide for such committees in the bill? Do we need to set up a system and have procedures? Where an authority has learned the hard way, it draws together all its agencies and applies procedure. Authorities do not need legislation to do that.

**Euan Robson:** The point is that if we put such committees on a statutory footing, there will be no doubt that they should exist. Although the Borders committee was born of experience, it has provided an example for others to develop. It would be fine if all authorities did the same voluntarily, but if they do not, there should be statutory provision.

**Christine Grahame:** I cannot agree. The process is happening in many places in Scotland. The chief social work inspector could make plain through her guidance that that is what she expects local authorities to do. Do we need another layer of bureaucracy, form filling, pen pushing and paper clipping, which gets in the way of front-line services and takes up manpower? That takes me back to resources.

Examination of the evidence indicates that this is not only my point of view. Page 11 of the Health Committee's stage 1 report lists the main concerns of SAMH, Enable Scotland and Inclusion Scotland, which covers 20 locally based organisations. The first one is a whopper. It is that

"the Bill is unnecessary given existing legislation and criminal law".

Those are their words, not mine. They are also concerned that it

"discriminates against those with disabilities by specifying them in the definition of adults at risk"—



that point has already been dealt with—and that it “overrides some beneficial measures contained in existing legislation.”

Those are grenades thrown at the bill. We must bear in mind the other legislation that is in place and the fact that we have guardianship orders. I note that the evidence on guardianship orders is that the procedure is “cumbersome and expensive” and that we need to speed up the process. Let us do that—let us speed up the process of guardianship orders, which allow the guardian to enter premises where they think their ward is at risk.

For me, the jury is out on the bill. I will be interested to see how the many fundamental flaws in the bill, which range from simple matters such as definitions—I know that they represent the building bricks of the bill—to procedures, can be remedied.

15:56

**Christine May (Central Fife) (Lab):** I think that I may be the only non-member of the Health Committee to participate in the debate so far.

**Roseanna Cunningham:** No. Christine Grahame is not on the committee.

**Christine May:** I beg Christine Grahame's pardon.

It may come as a surprise to members, although I hope that it does not, to learn that we are all getting older. We hope that we will continue to be able to live independent lives and will be in full control of our faculties for the rest of our lives, but it is a fact that a significant proportion of us will not. That means that we will require care and support, possibly in a regulated care setting. I hope that we will find ourselves in a setting in which the care is—as it is in the majority of cases—sympathetic, loving and safe.

It is not just in old age that care may be required. As the minister has said, people are now living longer with medical conditions that cause incapacity, such as strokes. Many people have increased dependency needs, require care and are less able to protect themselves from abuse or to deal with issues of poor care.

Young people with complex needs also move from the children's system into a very different adult world. It has become clear from previous work that has been undertaken by the Parliament—the Adults with Incapacity (Scotland) Act 2000 and the Mental Health (Care and Treatment) (Scotland) Act 2003—that further measures are needed, so we have this bill.

From what everybody has said, I think that it is recognised that the bill is a well-intentioned and,

arguably, needed extension of the protection that the Executive has already given to those with incapacity. As many other members have said, this is undoubtedly a complex area and the bill perhaps involves intervention to a greater extent than has heretofore been the case in people's private family lives. The bill is not only about care that is given in the regulated sector, in which people have a job to do and it could be argued that they should be doing that job properly to the standards against which it can be measured. It also covers people who are cared for, often at great personal sacrifice, in their own homes by relatives. I and others in the chamber are members of the newly formed cross-party group on carers. We have heard evidence in members' business debates of the stress on individuals of caring for a loved one with incapacity.

A considerable amount of concern has been expressed in the debate about the detail of some of the measures and about their potential impact. However, the bill will set up a system whereby there will be a single point of control, and that can only be a good thing. It will place a duty on agencies to investigate suspected abuse or harm, will provide new powers to carry out assessments, will create a range of options for intervention and—crucially—will extend the powers to designate individuals who should not be allowed to work with people who require care. The extension of the vetting and barring process will be a significant benefit. The bill will do a number of other things, too, so at this stage we should agree to its general principles. However, as Roseanna Cunningham has pointed out, we should not simply go through a rubber-stamping exercise.

It should be acknowledged that there are major concerns. I hope that the minister will give some indication of the extent to which he acknowledges those concerns and how that recognition will influence his approach to stage 2. I invite him to comment on whether he agrees that, as things stand, there is a danger that we will create a hierarchy of legislation involving the Adults with Incapacity (Scotland) Act 2000, the Mental Health (Care and Treatment) (Scotland) Act 2003 and the bill, and that people might pick and choose the provisions that they will apply.

I urge the Parliament to support the bill's general principles on the basis that there is a gap in the existing legislation that requires to be filled, but I support Janis Hughes in her request that the minister and his officials take on board the genuine concerns that have been expressed on some aspects of the bill by members of all parties, and I hope that the minister will give us a clear indication of how he intends to address those at stage 2.

16:01

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

**(Ind):** When I first started to read the bill, I realised that there was a need for people to be able to enter patients' homes to assess them but, as I read through the bill, I began to wonder how on earth its provisions could be implemented with due care and attention, such that such action represented the least restrictive option.

The legislation that I used as a general practitioner will probably be knocked out by the bill. The Law Society of Scotland highlighted in evidence and has subsequently reiterated that the bill will mean that it will no longer be possible to use section 47 of the National Assistance Act 1948 to remove adults who are not mentally disordered or incapable, but who through self-neglect are living

"in circumstances of serious squalor and risk to health."

The Law Society has made it clear that if the bill is enacted, people in that position will not be covered.

Although the definitions must be examined, I am happy to give the bill my support at stage 1 because the minister has suggested that he will tackle that issue and a few others, including the powers of local authority officials. The fact that council officials will have the ability to question the autonomy of a person who has capacity is extremely worrying, especially given that, as I read the bill, that could take place anywhere—in a nursing home, for example, or even in the ward of a hospital. There will be no restriction on the premises that a local authority official may enter if there is any suggestion that someone with capacity is endangered at any time of their life.

Although I welcome the provision, people will have to be properly trained. Such training should be available not only to local authority officials, but to GPs, because it might be appropriate for a person's GP to accompany the local authority official on such an occasion. Quite often, the GP will be well known to the person. If the right people enter a person's house to assess them, it might well not prove necessary to go through all the court procedures that give rise to the doubts that I have about overriding a person's autonomy. If someone does not want to be removed, it is quite a serious matter to create a power to allow them to be removed. I believe that people's human rights are under threat—we have been told that human rights will not be violated, but I am not sure about that.

People will need to understand the legislation and realise that the bill fills a gap. Given that they will need to be sure that they know which piece of legislation they are acting under, they will need advice before they move.

In the past, I would have thought that it was rarely necessary to enter someone's home without their consent, but I can see that in the future, with so much work being done in the community and so many people under strain because they do not have the support that they need, even carers who care very much for people may in some circumstances put themselves and the person for whom they are caring at risk. They therefore need support.

We need to know where people are going to be removed to, and it needs to be up front that it is of a high standard, equal to their current accommodation. As we already have difficulty finding accommodation for people who need respite, who are homeless or who need to be removed for other reasons, I do not know where such accommodation will be found.

It is great that professionals will be working together but, like the General Medical Council, I am wary about confidentiality of health records. That has been mentioned by other members. From the point of view of a patient's rights, we have to be careful about giving out information. Their wish not to have information passed on could be overridden. On the whole, professionals try to be careful about that.

**Christine May:** Does Dr Turner agree that some of the dreadful cases in the past have arisen because of reluctance to share such information?

**Dr Turner:** Christine May is correct. People need training in how they should use and share information. I believe that people should share information. I also believe that people should be given time to attend adult protection committees. When I was a general practitioner, I found it difficult to get time off. I had to be replaced by a locum to be able to attend a meeting to discuss the needs of patients—usually children.

Other members have raised good points, all of which I agree with. The bill has been introduced with a good heart. It required a lot of work before it was presented to us, and it needs considerably more work, which the minister seems prepared to do. Although I am willing to go along with the bill, we need to be careful when we are introducing legislation that will override a person's rights.

16:07

**Helen Eadie (Dunfermline East) (Lab):** I am in no doubt why the people of Scotland need the Adult Support and Protection (Scotland) Bill. It is clear to me, having sat through the Health Committee's evidence sessions and having read the submissions, that there is majority support for the bill. The evidence that the committee heard and received came from the voluntary and statutory sectors. All the written and oral evidence

pointed to the need for the bill. Organisations such as Age Concern and Help the Aged told us that they believe that elder abuse regularly goes unreported, often because victims are too embarrassed, but also because they are sometimes simply unable to report it. More than 40 organisations under the banner of the Vulnerable Adults Alliance Scotland lobbied the Scottish Executive to introduce legislation to protect adults of all ages who are at risk from abuse. As other members have said, the Scottish Law Commission produced a report in 1997 and its work reflected the concerns of the Mental Welfare Commission and the social work inspectors. By introducing the bill, the Executive has responded positively and is clearly determined to support all those calls.

We know the reasons why many victims fail to report the abuse—other members have spoken about that. I am convinced that there are people in Scotland who need help but who will not get it if the bill is not passed. The bill is needed to allow suspected harm to be investigated, for those individuals who may have capacity but who, for a variety of reasons, are unable to exercise their choice. The proposals in the bill represent a solution to the difficulties of securing appropriate help and assistance.

The bill will make it someone's responsibility to investigate reports of abuse and it will require all agencies to work together to investigate those reports—that does not happen at the moment. It will also ensure access to people who may be victims of abuse where access is being denied. That is to support the older person's right not to be abused and to offer them help and support if they need or want it. We heard during evidence that that was part of the problem in the Scottish Borders Council.

As a consequence of the work undertaken by the Scottish Executive and the reference group that it established, and of the analysis of responses to its consultation, the Scottish Executive decided that it would no longer use the term "vulnerable adults". The term was felt by disability groups in particular to be unhelpful and potentially labelling.

Great efforts have been made by the Scottish Executive to engage with a range of organisations to seek their views on the proposals. The engagement involved meetings and the establishment of a reference group. That group included organisations such as Enable, Capability Scotland, the Royal National Institute of the Blind, RNID, Sense Scotland and the Scottish Association for Mental Health among others.

The Health Committee listened carefully to the concerns of the disability organisations that gave evidence. In response to questions put by Nanette

Milne and by Christine May—who is no longer in the chamber—

**Christine May:** Yes I am.

**Helen Eadie:** I am so sorry—I meant Christine Grahame, not Christine May.

The response to those questions by Adrian Ward of the Law Society of Scotland was compelling. He said:

"I strongly believe in the need for the bill for adults at risk of abuse. I first advocated such a need publicly at a conference of United Kingdom social work people in 1990. I said that there was a clear need for better awareness, better systems and better legislation to address the broad area of deprivation, exploitation and abuse. In my own practice, even in the past few weeks, I continue to see cases in which there is that need.

In a broader context, the bill covers the third of three areas. We have the Adults with Incapacity (Scotland) Act 2000 and the Mental Health (Care and Treatment) (Scotland) Act 2003, and the Adult Support and Protection (Scotland) Bill is just as necessary as the other two pieces of legislation. I urge the committee to watch out for whether we are leaving any gaps in the broad coverage of the great variety of needs that all these pieces of legislation look at. I have flagged up a concern that part 1 of the bill has narrowed to focusing on abuse, although issues of deprivation and exploitation remain significant.

It should also be borne in mind that the 2000 act deals with people who are considered incapable under its terms and that the 2003 act deals with people who are considered mentally disordered under its terms, but there are others who are vulnerable and who need protection. In addition, if the bill is enacted, some of the protections in it will better address some of the needs of people within the categories addressed by the 2000 and 2003 acts, so I welcome the bill."

I welcome it too.

**Shona Robison:** In which cases would the member think it appropriate to override the views of an adult with capacity who did not want an intervention?

**Helen Eadie:** I will return to that point later in my speech. The point was covered by a Mr Graham, a physician who gave evidence to the committee on the bill.

Mr Ward continued:

"I am concerned that the bill has narrowed to focusing on abuse rather than maintain the wider picture with which the process started, and I fear that that may leave gaps. However, those aspects can be addressed during the bill's passage."

I agreed with Mr Ward when he said:

"I believe that the proposed amendments to the 2000 act would be improvements and that they are necessary."

He then continued:

"Again, however, I have made submissions about how the proposed improvements can in turn be improved. The bill's improvements would not change the intention of the 2000 act, which we met to discuss when the Parliament

started. The 2000 act was the Parliament's first major piece of legislation. Five or six years down the line, we have experience of working with it and we know the aspects that are causing unintended difficulties. As a general point, members of a unicameral legislature must be aware that, when we enter a new field, although we all try to get it right, a few years down the line this or that could be improved and that some things are not working out as well as they might.

The bill addresses two issues that cause problems in practice and problems for the people out there whom the legislation is meant to serve. First, the issues connected with getting all the reports marshalled and put before the court without any of them being more than 30 days old will be addressed by the bill. Those issues have been a source of many problems, some of which have been quite artificial, given that many of the people to whom the 2000 act applies have long-term conditions such as dementia. Secondly, the bill will deal with the issue of caution—it is spelled “caution” but pronounced “cayshun”—which is the guarantee bond. Tomorrow, a man is coming to see me who is his wife's financial guardian. He has a bill for £375, her estate is reduced to £22,000 and he wants to know what he can do about that.”

I will have to skip some of my comments, but I want to mention banning orders. In the evidence that we gathered, the proposed banning orders attracted the most comment of all the protection orders. I asked our witnesses to comment on how effective banning orders would be. In particular, I asked Adrian Ward to comment on his view that the term “banning order” is imprecise and unduly emotive and should be replaced with the term “exclusion order”. We should listen to what he said:

“I believe that I am personally responsible for the concept in the bill that, sometimes, it is better to remove the person who is causing the problem rather than the victim. I remain of that view. There are occasions when it is unreasonable that the victim should have to leave home and it might be better that a clearly identified person who is causing the problem should be the one who is removed from the setting. That is a clear concept and one either agrees with it or disagrees with it.”

I happen to agree with it. Adrian Ward continued:

“The question whether what should be imposed is a ‘banning order’ or an ‘exclusion order’ is a matter of terminology. You will have picked up on the fact that I do not greatly like the terms ‘abuse’, ‘abuser’ and ‘banning orders’. I prefer ‘harm’, ‘risk of harm’ and ‘exclusion orders’.”—[*Official Report, Health Committee*, 5 September 2006; c 2971-72 and 2982.]

The bill is invaluable and must proceed to stage 2. As has been said, we want to send out a message to potential abusers throughout Scotland that it is no longer acceptable in Scotland to harm vulnerable people. We have the chance today to do something about the situation. I hope that members support the proposals.

16:16

**Robin Harper (Lothians) (Green):** During the previous session of Parliament, in 2002 to 2003, I

tried to have hate crime legislation extended to all the groups that are identified under European employment law as subject to discrimination. That seemed to be the simplest way to get a list of groups that are subject regularly to discrimination. There are six such groups: women; the lesbian, gay, bisexual and transgender community; minority communities on the basis of race; minority communities on the basis of religion; the elderly; and disabled people. I am absolutely convinced of the necessity for the bill because, at that time, the Executive, in discussions with Equality Scotland and in response to parliamentary questions that I asked, said that it could address our concerns, but through legislation other than that on hate crime. The bill is a proposal for that other kind of legislation.

The appalling and unbelievable level of mistreatment of elderly and disabled people is apparent in the research that Equality Scotland carried out in producing the proposal on hate crime. That situation has been one of the biggest surprises to me about what happens in our country—it is unconscionable. It is absolutely clear that the bill is not before time. However, I am conscious of the concerns that have been raised by Shona Robison, Roseanna Cunningham and Christine Grahame, who asked whether the bill will change anything.

One particular concern is that the bill could place pressure on carers, who might be alarmed by the idea that they, in a time of extreme pressure, without being able to seek the kind of help that carers need, might come to suffer. As Christine May observed, we now have a group in the Parliament that campaigns for more support to be given to carers, so it would be extremely sad if any carer was treated as if they were an abuser when the case might be one of neglect or even mistreatment that occurred under intense pressure of the sort that few members could imagine or comprehend.

My other concern is about parliamentary time between now and the election in May, because there is a parallel and linked bill—the Protection of Vulnerable Groups (Scotland) Bill—that will complete stage 1 at the beginning of the new year. That detailed bill is already attracting a huge amount of criticism. It supports the Adult Support and Protection (Scotland) Bill, and needs to be considered in that context.

I urge the Executive to take on all the concerns about the bill and to lodge as many stage 2 amendments as it can to address them. Otherwise, the Parliament should ask for more time to consider the bill. The Parliament may also want extra time to consider the Protection of Vulnerable Groups (Scotland) Bill. Those are two extremely important bills, and we should give them

the time that they deserve. If we cannot get that time in this parliamentary session, they should be held over until the next session, so that we are able to make two really good pieces of legislation.

16:21

**Euan Robson:** It should be clear to the minister from the debate that parts 2 to 4 of the bill will not cause him a great deal of difficulty. The interest will focus on part 1. I will pick up one or two points in the best order that I can.

The definition of adults at risk will be important, and it is welcome to have the minister's helpful remarks and his commitment to consider it carefully. We will need to be clear about what the minister's amendments say. There will doubtless be considerable debate at the Health Committee on that point. It is important that we establish the definition and that it should not thereafter be amendable by statutory instrument. It would be unfortunate if that was the case, particularly if it was amendable under the negative procedure.

I ask the minister to reconsider proposed new section 87A of the Social Work (Scotland) Act 1968, which introduces a power to modify that act for persons placed from outwith Scotland, and appears to allow ministers to alter a statute. That needs further consideration.

The minister said that he will reconsider the definition of "abuse". A number of possible definitions have been advanced and, as I said earlier, "harm" might be a better and more helpful term.

Members made a number of suggestions on the powers of officers to enter premises. It has helpfully been said that the term "council officer" will need more clarification. However, we must understand what is meant by phrases such as "any adjacent place". If the minister is not minded to change the wording, a *Pepper v Hart* statement as to what is meant by "any adjacent place" might be helpful at stage 2 or 3. The powers to enter premises will have to be used sparingly and carefully. They should not be regarded as a general right to barge unwelcome into any home.

Roseanna Cunningham made a point about respecting different lifestyles. I am sure that that is the Executive's intention, but the minister must make clear remarks to that effect at stage 2. It is important to respect the fact that there might be differences in what is acceptable between generations, given that younger people might enter older people's homes. Differences arising from custom and practice or upbringing need to be respected. Certain standards that a younger generation might apply to a particular situation need not be the same standards that an older generation would apply, for understandable and

acceptable reasons. We can return to that at stage 2.

It is important to include advocacy in the bill. Robin Harper made an interesting point about the effect on carers. I had not previously considered that carers might think that the bill was somehow threatening to them. I had considered the alternative—that it would be helpful to them to a considerable degree. The issue is interesting and will need to be considered further.

Section 5, which describes the additional agencies to which the bill applies, could specify the police, because they are important. I know that they are included in a general description, but it would be helpful if they were specified.

The most important feature of the bill relates to what I describe as a circle of protection around the people who need it. So often, we have seen a communication breakdown in that circle of protection, such that the people who had evidence and understanding did not pass it on, or only an incomplete picture was available. I hope that the bill will ensure that that does not happen again. Of course there will be incidences of human failing, but the policy intention should be clear.

Adult protection committees, which will be put on a statutory footing, are important, because they are a focus in that circle of protection. With all due respect to the member who suggested this, who is no longer here, it is unfair to suggest that they are just a prescription for bureaucracy and additional members of staff. If that were the case, they would not be worth while. The fundamental purpose of those committees, which is of considerable importance, is misunderstood.

It is important that recommendation 23 in the Health Committee's report, on advance statements, is implemented.

Overall, I remain convinced that the bill is important. It covers what might be considered to be gaps in statutory provision. Moreover, it should leave no doubt, which has arisen in the past among public authorities about how they should proceed when confronted with people who need protection. The ethos of the bill is correct and it is worth while, which is why I commend it to members and hope that it is successful this evening.

16:29

**Dave Petrie (Highlands and Islands) (Con):** This has been a good debate, with two significant outcomes. Although the bill has general cross-party support, members have asked whether it is really necessary or whether existing legislation could be amended accordingly.

I agree with Shona Robison, who asked whom the bill will protect, because that is not clear at all. However, the minister was right to say that individuals' wishes must come first.

Nanette Milne was right to be sceptical. Amendments to existing legislation might be more appropriate. The definition of adults at risk must be narrowed. The fact that there is no right of appeal must have ECHR implications.

Euan Robson is right to say that it is vital to protect adults who are at risk. The bill clarifies local authorities' duty to do that, but I am reminded of the situation with children's panels. If we remove adults, where will we remove them to? Children's panels have had horrendous nightmares with regard to limited residential establishment provision.

Our party has received the bill reasonably well. The bill's premise is perfectly logical: it is an attempt to fill the gaps in existing legislation and create a policy that will protect and serve all vulnerable people in Scotland, which is commendable. The need for such legislation is undeniable, although the need for a new bill is questionable.

Particularly interesting is the proposal to create adult protection committees that are responsible for co-operating with public bodies to protect those who are deemed to be adults at risk. The definition of adults at risk needs to be revised, but such individuals clearly deserve individual care and attention. Adult protection committees will have the sole responsibility of looking after the well-being of vulnerable persons and they will direct all their funding and resources to that cause. They are expected to have a great deal of influence in monitoring the care of at-risk adults.

In its submission on the bill, Age Concern Scotland stated:

"the Adult Support and Protection (Scotland) Bill gives out a strong message that abuse in any form against any individual is unacceptable and that those who may be more at risk of abuse because of their life circumstances will be offered additional protective measures."

No person in Scotland should suffer because of their psychological, financial or social situation. The bill aims to tackle those issues. Its intention appears to be to protect those who cannot protect themselves and to come to the aid of those who are taken advantage of by others. The bill's provisions will also be used to intervene in cases of benign neglect, where a care giver unintentionally neglects their charge, but neglect is nonetheless present.

My party signed up to the bill in committee, but we did so on the understanding that significant changes will have to be made at stage 2. We agree with the Health Committee's recommended

changes and we look forward to the minister's response to our concerns. In supporting the bill, we must be careful to avoid overstepping social boundaries in relation to the autonomy and independence of adults with disabilities and to avoid patronising those whom we categorise as adults at risk, who might consider that they are perfectly capable of caring for themselves. It will be tricky to define exactly who is considered to be at risk, but the current definition must be refined. As it stands, every individual in the chamber could be considered an adult at risk to some degree.

There is also concern that, if authorities are sent into homes to investigate complaints—from outside sources—of neglect or abuse, that might discourage those who are in possible danger from reporting abuse. Many people who receive care within the home are extremely defensive of their independence and fear that asking for help might indicate that they are unable to cope with their situation or their autonomy. In evaluating and expanding the bill, we must be careful to consider the concerns of those who will benefit or suffer from it.

There is concern that individuals might be removed from their homes before adequate services are available to them. We must not get ahead of ourselves when we consider the financial constraints of the legislation. We must be sure that appropriate funding and resources are available to provide for adults at risk if it is necessary to remove them from their living situation. If we do not make available appropriate funding, we cannot expect local authorities to cope with the demands that implementing the bill will surely place on them.

It is clear that the provisions in the Adult Support and Protection (Scotland) Bill respond to the real need for increased protection of those people who are considered to be adults at risk. Existing legislation has attempted to tackle the issues that affect individuals who suffer from abuse and neglect in Scotland, but no bill on the matter has been as comprehensive as the one that we are discussing today. I look forward to the future evaluation and discussion of the bill when the Executive has recognised and responded to the Health Committee's concerns.

Accordingly, we support the bill.

16:34

**Shona Robison:** This has been a useful debate that has left the minister in no doubt about where changes to the bill are required.

Euan Robson said that the bill is the mark of a civilised society. That may be true if it does what the Executive says it will do, but that is what concerns are being expressed about. He also said

local authorities will be left in no doubt that they have a duty to take action to protect vulnerable adults. Of course, they should be doing that already. He said that the bill would work in the interests of clarity, but the system should already be clear. He also talked about the establishment of adult protection committees but, as Christine Grahame pointed out, that has happened already without the bill.

Euan Robson made a reasonable point about the need for the bill to provide for appropriate accommodation in relation to reciprocity. We all agree with that.

Roseanna Cunningham talked about how the law of unintended consequences can haunt legislation, and that is what we are concerned about. We are not being difficult when we raise concerns; as legislators, we want to ensure that the law that we pass does what it is intended to do and does not have unintended consequences from which we have later to pull back.

There is undoubtedly ambivalence about the bill, as Roseanna Cunningham said. She mentioned that various groups have expressed concern, particularly those which represent disabled people, whom the bill intends to protect. We need to listen to those who will be affected by the bill, in particular when they raise genuine concerns about the bill being patronising and taking away rights. It is the minister's duty to reassure them on those points.

Roseanna Cunningham also talked about key definitions that are flawed, which has been a theme throughout the debate. She talked about equivalent and appropriate accommodation, which is similar to a point made by Euan Robson, and the necessity for the minister to accept the Health Committee's recommendations. He has accepted some recommendations, but others will be the subject of further debate.

Janis Hughes talked about the need for significant amendments if the bill is to be fit for purpose. She said the bill should not be a policing mechanism. I totally agree with that, and it is of concern that the bill is being perceived in that way. She also made the point that 14 out of 18 respondents were concerned about the term "abuse", which the minister has said he will address at stage 2. We will need to see what he comes back with on that.

Janis Hughes also mentioned the rights to advocacy that must be included, and we agree with that. She talked about *déjà vu* in referring to extensive amendments at stage 2—the Mental Health (Care and Treatment) (Scotland) Act 2003 comes to mind. There were about 600 amendments to that legislation at stage 2; I hope that we will not have to deal with so many

amendments at stage 2 of the bill. I would have thought that lessons might have been learned from the 2003 act. The Executive has to get a bill right at stage 1 when it can. There will always be amendments at stage 2, but the minister must acknowledge that amending fundamental parts of a bill at stage 2 shows that it was badly drafted. We should not have to redraft fundamental elements of the bill at stage 2, but that is what we will have to do.

Christine Grahame challenged us all on the need for the bill, and she made some valid points. She talked about the fact that failure in procedures and practice was at the root of the Miss X case, and she asked whether the bill would have made any difference. The jury is out on that. She also made points that had not been made previously about the terminology in the bill. She referred to visits, to the wide ability to enter any place in the course of inquiries into an adult protection case and to the fact that the examination of records could include the examination of personal information against a person's will. That takes us back to the issue of consent, which gives all of us—certainly Scottish National Party members—cause for concern.

Christine Grahame also asked whether the lack of a right of appeal where a banning order is in place had ECHR implications, which is a valid question, and she suggested that other things, such as the speeding up of the guardianship orders process, should be happening anyway. That point was worth making, as there are concerns about that process.

Christine May discussed the role of carers and their need for support. We all agree with what she said in that respect. She talked about the single point of control in the system and the creation—to an extent—of the duty to investigate. Someone will have responsibility for that duty, but it is a concern that, in Scotland in this day and age, legislation must be passed to make a duty out of something that should already be the job of someone who works in social work services. It is in that context that we must reflect on having to pass the bill. We must ensure that people are aware of their responsibilities in their work and that they receive the appropriate back-up and have enough resources to do their jobs to the best of their abilities.

Jean Turner spoke about the training that will be required to ensure that the legislation is adequately implemented. Her point was well made.

Unlike the rest of us, Helen Eadie was glowing about the bill. Perhaps she does not share the concerns that other members have, about which, as I said, the minister has been left in no doubt.

Finally, Robin Harper talked about hate crimes against elderly people. Of course I accept what he said, but I am not sure that the bill will combat such crimes. Societal attitudes must change, but we must be cautious about always looking to legislation to fix societal problems. Education is needed to change attitudes. Legislating can sometimes seem an easy answer, but it can make problems even more difficult because it is often not the answer.

The tone of the debate and the content of speeches by members of all parties should give the minister a clear indication of what is required at stage 2. I hope that we can make the bill into legislation that will have a practical effect and will achieve what people have set out to achieve. With the caveats that I have mentioned, we are, as I have said, happy to support the bill at stage 1.

16:43

**Lewis Macdonald:** The sensitivities surrounding the important issue of the proper protection of vulnerable adults have been highlighted in the debate. Acknowledging that abuse can exist or that frail elderly people can be at real risk of unintended harm is not always comfortable, but all members will be aware of cases involving such abuse or risks from their constituencies—such cases have been mentioned—or from media reports. Our task is to find a way of protecting vulnerable people from harm or abuse—one that will not be unduly intrusive on their rights. We want to clarify what the boundary ought to be between the reach of the state and the right to choice and privacy of capable but frail or vulnerable adults. We certainly do not intend to create a means of unnecessary intervention; rather, we want to enable the state to be an advocate that gets on the side of individuals who have capacity but who are not fully able to exercise choice for one reason or another.

I welcome the indications that most members have given that they support the general principles of the bill, although I recognise that that support is qualified by a shared recognition of the need for further debate on and amendments to it. In a sense, Roseanna Cunningham dealt with the point that Shona Robison made towards the end of the debate. It is entirely proper that bills that are introduced into the Scottish Parliament are properly scrutinised at every stage. There is no merit in thinking that committees ought simply to rubber stamp proposals or that we should always aspire, before we even reach stage 1, to answer all possible questions that might arise in drafting legislation, try though we might.

The point of the process of scrutiny of new law by committees of the Parliament is that the committees ought to add value to what comes

before them. One cannot take that view and at the same time say that a new bill should contain nothing of substance that needs to be amended or improved.

Legislation is sometimes required even when we believe that existing statute ought to provide people with protection or that existing duties ought to be carried out in a way that provides such protection. Good law can include measures that clarify and consolidate, as well as measures that innovate. The bill does all those things.

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

Is the main driver of the bill the medical profession, social workers, the legal profession or society in general? In the past 50 years or so there has been legislation—possibly flawed—that has dealt adequately with the problem in the majority of cases. In what way will the bill improve matters?

**Lewis Macdonald:** Nanette Milne was right to identify the fact that the great majority of organisations in all the sectors to which John Swinburne refers that gave evidence to the Health Committee supported the general principles of the bill. In her speech, Jean Turner referred to some of the existing law that applies, which dates from the early days of the NHS. That legislation has been overtaken by developments since then and we need to amend and improve it. I do not regard the bill as the property of one interest or group. I think that it is required and that the increasing numbers of people who are living to a very old age and are frail, although they do not lack capacity, make it essential for us to have measures that address their vulnerability in a fair and proportionate way.

We need to create the means of effective intervention but to ensure that interventions are proportionate to needs. Where an individual is believed to be at risk, the means must exist for that concern to be investigated. Where that investigation is impeded, there must be the means to carry it out. Where an investigation finds that an individual is at serious risk of direct and immediate harm, the means to act must be available.

We need to tackle abuse and to deal with abusers—those who cause harm intentionally. The bill introduces measures to do that and to give victims of abuse the chance to be supported to take action to stop what is happening to them. The bill is also intended to extend protection to those who are at risk as a result of action that is not intended to have that consequence. We want to make it easier both to bring the perpetrators of abuse to justice and to protect those who are the victims of inadvertent neglect or self-harm. The bill covers all those risks and is intended to do so.

We expect that, in most cases, public authorities will use the powers that the bill gives them with the



full approval of the adult at risk. In some cases, a person will be asked to leave their usual home to have a discussion with officials elsewhere. In those cases, to which a number of members have referred, the individual may say that they choose to stay where they are. We expect that in almost all instances that expressed wish will be respected.

**Euan Robson:** The minister is making some important points. However, he will agree that the bill imposes duties on local authorities. Because those are duties, they are presumably inspectable. Even if the bill is not amended, any overzealous application of the duties will presumably be picked during the inspection process.

**Lewis Macdonald:** Indeed. It will be the duty of adult protection committees in each area to review the use of all protection orders and to report their findings biannually to ministers, to ensure that those orders are not used inappropriately.

Christine Grahame asked about the procedures for protection orders. Section 38(8) makes provision for those procedures to be specified in rules of court that will be approved by the Sheriff Court Rules Council. Members will recognise that that is the usual procedure; it applies, for example, under the Matrimonial Homes (Family Protection) (Scotland) Act 1981.

**Christine Grahame:** The minister might not be able to answer my question today, but I want to make the point that when there is an application for an interim interdict, statements of fact—condescendences—must be supplied, and in appropriate circumstances the other party must have an opportunity to respond, so that something is on paper about which the sheriff can hear evidence. That is what I was getting at. To what extent has the minister explored the matter, given that the proposed approach would interfere with individuals' rights?

**Lewis Macdonald:** Protection orders will be granted only if a court or tribunal has evidence that it can consider. Christine Grahame has an interest in the detail of the matter and I will be happy to write to her about it if I have not fully answered her question. However, I am satisfied that the bill will provide for a proper judicial process, whereby evidence will be considered. None of the protection orders that are envisaged in the bill will apply without proper and due consideration.

**Robin Harper:** I seek further clarification on the issue that Euan Robson raised. In a case of benign neglect, would the first duty of the local authority be to provide help and support to the carer?

**Lewis Macdonald:** Absolutely. The clear intention is to provide local authorities with the means to act when their existing means and duties

in relation to persons at risk have not produced the desired outcome. The process would begin only after other measures had been exhausted. More contentious orders, such as removal orders, are intended to be the last resort.

The question was asked whether the absence of a reference to the police as one of the bodies required to co-operate with local authorities and other bodies is significant. I am happy to consider the matter at stage 2, if the motion on the bill's general principles is agreed to at decision time. We acknowledge the key role of the police in detecting and acting on the situations that we have been discussing.

In most cases, when questions have been asked, the public authority will have fulfilled its duty, the individual will have exercised their choice and the matter will end at that point. However, in the rare and exceptional cases in which there is undue pressure, protection orders should be available to authorities if the other approaches that Robin Harper mentioned have failed. The bill offers a means to assess an individual and, in some instances, to remove them from a situation in which they are at risk, for a short period. The person might be removed just for a few hours, so that a simple health check can be carried out, or for a few days, so that their circumstances can be assessed more broadly.

It would be unusual for a removal order to have to remain in operation for the maximum of seven days. However, there might be circumstances in which an adult is prevented from exercising choice by another person in the household. In some situations, the person might not fully understand the pressure under which they are put. In such exceptional circumstances, it is right that there should be provision for a return to court for further consideration of the case.

Concerns were raised about unintentional discrimination in the application of protection orders. Public authorities already have an obligation to assess whether action under legislation is compatible with the ECHR. The provisions of the bill are compatible with the ECHR. I agree with the Health Committee that the more restrictive actions should be taken only as the last resort, if there is a risk of serious harm and all other options have been exhausted. Any sheriff will need to be clear that there is a risk of serious harm. The code of practice that accompanies the legislation will signpost and emphasise the importance of those tests.

**Christine Grahame:** This might not be the opportune moment to make this point, but I do not think that another opportunity to do so will arise.

I am concerned about the use of guardianship orders, which give access and powers of entry in

the circumstances that the minister described. Has he reviewed the evidence that the committee heard about the operation of guardianship orders, for example about how expensive and difficult to renew they are? May we consider that system in the first instance, to ascertain whether it might work better?

**Lewis Macdonald:** It is important to stress that guardianship orders under the Adults with Incapacity (Scotland) Act 2000 are not designed to meet emergency situations of the kind that we have been discussing; they are granted only after careful consideration of the adult's needs, and only if the adult lacks capacity as certified by two medical practitioners.

The proposals under the bill and the provisions of the 2000 act are complementary, but different. Under the 2000 act, measures can be put in place only when a person is assessed as having incapacity. The powers under the bill will allow an initial assessment to be made if it is unclear whether or not a person has capacity. I hope that that will allow for an appropriate decision to be made. If a person is found not to have capacity, the 2000 act will apply.

The question whether there is a risk of competing legislation was raised. There ought not to be any such risk. Once an assessment has been made, if a person lacks capacity, they should be supported by measures under the 2000 act. As Christine Grahame and others know, there are measures in the bill that will address and improve some aspects of the 2000 act to ensure that they work as intended.

The code of practice will provide further guidance on the structure and operation of adult protection committees. Euan Robson, I think, made a point about ensuring that adult protection committees and child protection committees share their expertise and that there should be no undue overlap. That point has been addressed—there is provision for that expertise to be shared.

**The Deputy Presiding Officer:** Order. Members are being too noisy.

**Lewis Macdonald:** There is an expectation that service users and voluntary sector representatives will be included in adult protection committees. We do not believe at this stage that that is likely to place an onerous duty on organisations to get involved. We expect their involvement to happen in any case, and provision is included to allow it. I mentioned that adult protection committees will review and report on the use of protection orders. That will allow us to continue to respect the human rights of those affected.

Robin Harper asked about the Protection of Vulnerable Groups (Scotland) Bill. As I am sure he will recognise, that bill covers a different area—

namely, the removal from the workforce of perpetrators of abuse. The Adult Support and Protection (Scotland) Bill is very much focused on the victims of abuse—they stand at the centre of it.

The remaining parts of the bill have been mentioned briefly, and I will respond briefly.

**The Deputy Presiding Officer:** Order. There are far too many conversations going on.

**Lewis Macdonald:** Thank you, Presiding Officer.

The power to amend the provisions of the Social Work (Scotland) Act 1968 on placements from outwith Scotland is subject to the affirmative procedure. Therefore, it will be subject to scrutiny by the Parliament. Work on that area is already under way. We will ensure that the 1968 act is reviewed appropriately so that the work is delivered properly. The 1968 act currently includes provisions on the responsibilities of Scottish councils regarding the assessment and provision of services—that matter was also raised in the debate. We will consider ways to help address the issues that have been highlighted using revised guidance with a view to ensuring that the legislation is modern and fit for purpose.

We recognise that it is not possible simply to pass a law and thereby completely eradicate the risk of harm. We acknowledge that particularly in the context of the increasing number of people who we know will live into their 80s and 90s in the future. The Parliament can reduce the risk of harm through legislation, however. That is what the bill is all about. We want to work with all concerned to achieve that outcome in the context of practical definitions that provide clarity and consistency, give clear direction to the relevant public authorities and enable individuals to exercise choice and be safe. It is about striking a balance between extending protection and enabling people to live fulfilling lives. We believe that the bill can deliver both those objectives.

## **Adult Support and Protection (Scotland) Bill: Financial Resolution**

16:59

**The Deputy Presiding Officer (Trish Godman):** The next item of business is consideration of motion S2M-4377, in the name of Tom McCabe, on a financial resolution in respect of the Adult Support and Protection (Scotland) Bill.

*Motion moved,*

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Adult Support and Protection (Scotland) Bill, agrees to any expenditure of a kind referred to in paragraph 3(b)(iii) of Rule 9.12 of the Parliament's Standing Orders arising in consequence of the Act.—[*Lewis Macdonald.*]

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

## **Airdrie-Bathgate Railway and Linked Improvements Bill: Financial Resolution**

17:00

**The Deputy Presiding Officer (Trish Godman):** The next item of business is consideration of motion S2M-5174, in the name of Tom McCabe, on the financial resolution in respect of the Airdrie-Bathgate Railway and Linked Improvements Bill.

*Motion moved,*

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Airdrie-Bathgate Railway and Linked Improvements Bill, agrees to any expenditure of a kind referred to in Rule 9A.14.3(b)(ii) of the Parliament's Standing Orders arising in consequence of the Act.—[*Tavish Scott.*]

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

## Parliamentary Bureau Motions

17:00

**The Deputy Presiding Officer (Trish Godman):** The next item of business is consideration of Parliamentary Bureau motions S2M-5213 to S2M-5215 inclusive, in the name of Margaret Curran, on membership of committees.

*Motions moved,*

That the Parliament agrees that Marilyn Livingstone be appointed to replace Ms Wendy Alexander on the Education Committee.

That the Parliament agrees that Gordon Jackson be appointed to replace Des McNulty on the Finance Committee.

That the Parliament agrees that Janis Hughes be appointed to replace Gordon Jackson on the Subordinate Legislation Committee.—[*Ms Margaret Curran.*]

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

## Decision Time

17:00

**The Deputy Presiding Officer (Trish Godman):** There are five questions to be put as a result of today's business. The first question is, that motion S2M-5168, in the name of Phil Gallie, that the Parliament agrees to the general principles of the Airdrie-Bathgate Railway and Linked Improvements Bill and that the bill should proceed as a private bill, be agreed to.

*Motion agreed to.*

That the Parliament agrees to the general principles of the Airdrie-Bathgate Railway and Linked Improvements Bill and that the Bill should proceed as a Private Bill.

**The Deputy Presiding Officer:** The second question is, that motion S2M-5042, in the name of Andy Kerr, that the Parliament agrees to the general principles of the Adult Support and Protection (Scotland) Bill, be agreed to.

*Motion agreed to.*

That the Parliament agrees to the general principles of the Adult Support and Protection (Scotland) Bill.

**The Deputy Presiding Officer:** The third question is, that motion S2M-4377, in the name of Tom McCabe, on the financial resolution in respect of the Adult Support and Protection (Scotland) Bill, be agreed to.

*Motion agreed to.*

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Adult Support and Protection (Scotland) Bill, agrees to any expenditure of a kind referred to in paragraph 3(b)(iii) of Rule 9.12 of the Parliament's Standing Orders arising in consequence of the Act.

**The Deputy Presiding Officer:** The fourth question is, that motion S2M-5174, in the name of Tom McCabe, on the financial resolution in respect of the Airdrie-Bathgate Railway and Linked Improvements Bill, be agreed to.

*Motion agreed to.*

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Airdrie-Bathgate Railway and Linked Improvements Bill, agrees to any expenditure of a kind referred to in Rule 9A.14.3(b)(ii) of the Parliament's Standing Orders arising in consequence of the Act.

**The Deputy Presiding Officer:** I propose to put a single question on motions S2M-5213 to S2M-5215 inclusive, on membership of committees. If any member objects to a single question being put, they should shout "Object" now.

The fifth question is, that motions S2M-5213 to S2M-5215 inclusive, in the name of Margaret

Curran, on membership of committees, be agreed to.

*Motions agreed to.*

That the Parliament agrees that Marilyn Livingstone be appointed to replace Ms Wendy Alexander on the Education Committee.

That the Parliament agrees that Gordon Jackson be appointed to replace Des McNulty on the Finance Committee.

That the Parliament agrees that Janis Hughes be appointed to replace Gordon Jackson on the Subordinate Legislation Committee.

## School Bus Safety

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

The final item of business tonight is a members' business debate on motion S2M-4833, in the name of Alex Neil, on school bus safety. The debate will be concluded without any questions being put.

*Motion debated,*

That the Parliament notes that in certain local authority areas in Ayrshire and elsewhere there is a concern about the need to tighten up the rules and guidelines regarding the safety of buses carrying children to school and, in particular, believes that the regulations should be changed so that it is mandatory for a supervising adult to accompany primary school children travelling on a school bus whether the bus is a single or double decker.

17:03

**Alex Neil (Central Scotland) (SNP):** I begin by outlining briefly the existing legal framework on the issue, which is vital to the safety of children travelling to and from school. The Education (Scotland) Act 1980 states that local authorities must have due regard for the safety of pupils who travel to school by any arrangement. The Schools (Safety and Supervision of Pupils) (Scotland) Regulations 1990 state that any arrangements that are put in place must be kept under review.

Under the "School Transport Guidance Circular", Scottish ministers "expect" local authorities to do that and it is also a common law duty of care. The circular states that

"parents have a right to expect that suitable arrangements for a safe school transport system will be made by education authorities, taking account of local circumstances."

I allege that the spirit, if not the law, of the circular and the act is not being adhered to—in particular there is a huge gap in provision of supervisors on single-decker buses especially in many parts of Scotland.

In a 2003 circular, Scottish ministers stated that

"on many journeys, the supervision of pupils is unnecessary"

without providing any evidence to back the statement up. Ironically, the circular goes on to say that supervision

"would be desirable in some circumstances",

but it does not state what those circumstances would be. That is at best an ambivalent position, which I think is also rather complacent.

The same circular also states:

"Supervision on transport can help to maintain good behaviour amongst pupils and this in turn can contribute to more positive behaviour within the classroom."

Well, if supervision is not necessary in most circumstances and it contributes to good behaviour inside and outwith the classroom as well as to the pupils' safety, why is it not universally applied?

The circular also states that

"Supervision contributes more generally to greater school transport safety."

That makes me wonder why supervision is not mandatory. Why is it left up to the local education authorities to determine on its provision? Why do not the vast majority of those authorities provide regular universal supervision on school buses.

The safe school travel pack that was provided by the Scottish School Board Association, and which has been endorsed by the Executive, provides guidance on good practice, but funnily enough it does not address the need for supervision.

Legislation is, however, prescriptive when it comes to safety devices: for example, display of distinctive reflective school bus signs at the front and rear of each vehicle is compulsory. Since 2001, under reserved legislation, any coach or minibus that is transporting three or more children aged between three and 16 must be fitted with seat belts. More recently, it has also become compulsory for cars to be fitted with booster seats for all children under the age of 12. Why do we have those measures for private transport but do not have parallel measures for buses and public transport?

**Bruce Crawford (Mid Scotland and Fife) (SNP):** Does the member share my concern that although a person driving a private vehicle must have a passenger service vehicles licence to transport children in a bus over a certain size, a person in the public sector who is driving for an education authority does not?

**Alex Neil:** Absolutely. That is another gap and another reason why the law needs to be substantially reviewed.

The three Ayrshire local authorities' policy—it is also that of every council that was previously part of Strathclyde Region—is to provide supervision on all double-decker buses but not on single-decker buses, although research shows that primary school children generally travel on single-decker buses while secondary school children use double-decker buses. Surely it is more important that primary school children be supervised—although I am not denying the importance of supervision of secondary school children.

The Scottish Consumer Council's report, "Travelling to School" found that

"school bus services tend to use older and less comfortable vehicles",

which many pupils describe as unsafe. The same report states that

"just under sixty percent of school bus pupils reported that they never wear a seat belt".

Even worse, 40 per cent of school bus users reported that their bus did not have seat belts. The report also said that 75 per cent of school buses never have an adult supervisor other than the driver. In 2005, that report concluded that a more proactive approach from the Executive was needed and that the need for more escorts on school buses should be reviewed.

The Executive's own report "Anti-social Behaviour on Buses" said that the school run is a major source of bother. A similar report by the Northern Ireland commissioner for children and young people in 2005 concluded that

"There is a clear need for adult supervision ... on school buses"

to reduce misbehaviour and to improve safety.

Unfortunately, there are no up-to-date precise figures on injuries or accidents that involve school buses. However, "Road Accidents Scotland 2004", which was published in January 2006, reported 612 injuries in the 10 years up to 2004 involving people who were travelling by public transport buses. In recent evidence to the Education Committee, a petitioner said that in every constituency that the members of that committee represented, a serious injury or fatal accident involving a school bus had occurred in the past 10 years.

Information about supervision arrangements and the spend on school bus safety is not held centrally—I hope that the Executive will consider the need to collect that information. I know that a review of sorts is going on in the Executive, but I say to the minister that prevention is better than cure. To be frank, the policy is a complete mess and it requires ministers' urgent attention.

We owe it to every child in primary school and in secondary school to ensure that their travel to and from school is as safe as it can be in every respect. I beg the Scottish ministers to take the matter seriously and to produce an action plan early in the new year.

17:12

**Dave Petrie (Highlands and Islands) (Con):** I thank Alex Neil for initiating this worthwhile debate. School bus safety for our primary and secondary students is sometimes overlooked, but it is extremely important. The Education Committee refers safety concerns to the Department for Transport time and again because the means to effect safety are reserved, but as school bus safety becomes a more pressing issue

in local authorities it is our duty to highlight flaws in the system and to work to fix them.

As Alex Neil said, the Scottish School Board Association, supported by the Scottish Executive, provides a safe school travel pack that contains advice for school staff, parents and students on how to make the journey to and from school as safe as possible. However, that is not enough. Our duty as members of the Scottish Parliament is to ensure that legislation is in place to protect all Scotland's people. We need more than an advice pack to protect our youngest members of society and to keep them safe on the roads.

The issue's prominence was recently addressed by David Cameron, who created a working group in the Conservative party at Westminster to address school bus safety. We can do our part by putting our heads together and focusing on how we can improve the transportation system for Scotland's students.

Statistics tell us that in 2005 more than 700,000 students were enrolled in primary and secondary schools and that more than 150,000 of them travelled by bus each day. Legislation that the Conservative party introduced in the 1980s stipulates that coaches and minibuses must have seat belts available for every student when more than three children who are aged between three and 16 are being transported on organised trips. The legislation also specifies reflective school bus signs and hazard lights to alert oncoming motorists. Legislation from October 2001 requires all minibuses, coaches and buses to be manufactured with seat belts. Those regulations have been put in place to protect our children's best interests by addressing the availability of seat belts and by attempting to safeguard children as they get off and on the bus, but many other problems must be addressed if we are effectively to secure the safety of our children as they travel to school by bus.

All school districts have to worry about school bus safety. Urban schools benefit from well-lit streets and formal walkways that children can use on their trips to and from school. Special attention must be paid to rural schools, because children are often not afforded the same degree of safety there. Local authorities decide who is permitted to ride the bus to school. In some school districts, children under eight still walk two miles to school each day, while other students walk up to three miles each way. They often walk along dark pathways. With the seasonal change and early sunset, the dimly lit, unsupervised footpaths present imminent danger. We cannot sit by and allow our children to tempt fate daily.

If we insist that children continue their long walks to and from school, infrastructure must be inspected and lighting must be installed in poorly

lit areas. Our priority is to protect our youngest members of society.

We must ensure that all students who take the bus to school use their seat belts at all times; that buses, minibuses and coaches are properly inspected and are up to date with safety regulations; and that bus drivers are adequately equipped with the knowledge and skill to transport students safely.

We might benefit from taking note of the yellow bus scheme in the United States. It stipulates that all buses are subject to safety standards on body and chassis construction, mirrors and exterior safety devices, which include stop signs that extend from the bus to halt oncoming traffic and warning lights to alert motorists of children boarding or leaving the bus. US bus drivers are also required to pass school bus driving tests before they are permitted to transport schoolchildren.

School bus safety should be a concern of every parent, student and authority in Scotland. We must acknowledge the changes that need to be made to ensure the safety of our children and actively pursue methods that allow such change.

17:17

**Robin Harper (Lothians) (Green):** I have a little experience of driving school buses.

**The Deputy Minister for Education and Young People (Robert Brown):** I am sure that Stewart Stevenson must have, too.

**Robin Harper:** As a teacher, I used to take groups of young people around in minibuses. I had a special licence. It was not a public service vehicle licence, but I was trained.

I am happy to speak in support of the concerns that are being raised because I am acutely aware of the danger to all pupils on a bus of rowdiness at the back, which can disturb the driver's concentration. On one occasion, I had a particularly unruly group of young people in the back of the bus. After giving repeated warnings, I had to stop somewhat short of our final destination, close to their homes, give two of them their bus fares and throw them off the bus because they were making the journey dangerous for everybody else.

Proper supervision on buses, when it is necessary and required, should be addressed. I am not sure about the suggestion that a blanket approach should be taken. Everybody in the chamber will be conscious of the extra expense that that would involve. The absence of bus conductors from Scotland's buses is to be regretted. There are still bus conductors in London. They seem to manage to operate the

system there and the companies that have bus conductors still operate at a profit. They are very popular, particularly because of the protection they give to people at night, but I digress.

The figures that we have been given for the number of accidents on school buses sound alarming. It would be interesting to see how they would stack up against a control based on pupils who travel on ordinary transport. That would ensure that we do not get too alarmed about the accident rate.

I would like more pupils to walk to school. Many pupils take the bus quite unnecessarily. In my part of town, hordes of pupils travel on buses over distances that they could easily walk. I used to walk to my school from the bus stop at which quite a lot of young people got on. On busy days, I would sometimes beat them into school. However, that is another slight digression from the central argument.

The figures that we have been given for the non-use of seat belts, let alone the behaviour problems, suggest that supervision on some buses would be extremely useful. That is particularly the case in rural areas, where the poor state of the roads means that there is a significant danger of accidents with other vehicles, through no fault of the bus driver. Rural roads are not as safe as main roads and roads in our cities.

It is a case of horses for courses. In principle, I support the motion, which it has been useful for the Parliament to discuss. We look forward to the Executive coming up with its answers.

17:21

**Stewart Stevenson (Banff and Buchan) (SNP):** Contrary to Robert Brown's sedentary remark, I have never driven a school bus. Indeed, I will go further than that and inform members that I have never used a school bus to travel to school—although as someone who was a member of many sports teams when I was at school, I used buses to travel to many away events.

I congratulate Alex Neil on securing a debate on an important topic that has universal application. Every member of the Parliament should be concerned about safety on school buses; would that every party were represented in the chamber to take part in the debate.

Of course, school pupils use other means of transport that we might address on other occasions. Many kids commute to school by train or—in Glasgow—subway. In the Western Isles, ferries are used for inter-island transfer and in Orkney, in particular, a number of kids commute to secondary school by air. As we are comparing

public and private modes of transport, I wonder whether we might reduce the number of kids who are ferried to school by their parents if we required a responsible adult other than the driver to be present in private vehicles—I leave that thought pinned to the wall.

At the core of the debate is safety, both of the kids on the bus and of the kids in the vicinity of the bus, either as they wait for it or after they have got off it—the importance of which an example in my parliamentary constituency has well illustrated. There is action that we can take. Dave Petrie mentioned that school buses in America have external signs that prevent overtaking. We could not introduce that measure because the Parliament does not have the necessary powers, but we could put advisory flashing signs on the backs of buses that said, "Please do not overtake." The "Please" could be in small print and the "do not overtake" in very large print.

Such a warning would certainly have saved the grief and pain of one of my constituents, whose child ran out from behind the bus and was hit and brain damaged by a passing car. All of us will be aware of stories of a similar nature. Although we cannot ban overtaking as has been done in the States, we could require councils to put into the contract for the provision of school bus services that the buses should have appropriate designations at the back and elsewhere. We should certainly consider taking such action, which would fall within the powers of the Scottish Parliament.

In Aberdeenshire, there are already a number of yellow buses. The fact that they are distinctive means that they contribute to improved safety, which I welcome. We are probably some way off being able to light every road along which kids walk. Aberdeenshire is the most rural council area in Scotland—57 per cent of its population live in the country, which is 2 per cent higher than is the case in Highland. Many of the roads in Aberdeenshire that kids use are single carriageway and there is no prospect of their being lit, so training and more buses to the door are essential.

Aberdeenshire Council gets only one quarter of the money that it has to spend on school transport. Glasgow City Council, by contrast, gets three times what it spends on school transport as part of its annual funding allocation. That issue should be part of a wider review of how we fund our councils—a process that leaves Aberdeenshire at the bottom of the per capita league.

I congratulate Alex Neil again on securing the debate and hope that the absent members on the coalition benches will read the debate and hang their heads in shame for their absence.



17:25

**Ms Rosemary Byrne (South of Scotland)**  
**(Sol):** I thank Alex Neil for securing the debate. This is an extremely important issue. The Education Committee has received a number of petitions about school transport in general.

Safety is always at the top of the agenda when it comes to school transport. It is shameful that we do not give our young people the safest possible journey to school. By not putting supervision on school buses, we are not giving parents the option of the school bus when distance or dangerous routes are an issue. There are the problems of emissions from cars and traffic congestion around schools. From an environmental and safety point of view, and to reassure parents, it would be far better to put supervision on buses. An issue for teachers in some areas is that children who arrive at school on an unsupervised bus often go into the classroom rowdy and overexcited and it takes time for the staff to settle them before they can start learning.

There are anomalies throughout the country. Alex Neil quoted a Scottish Consumer Council report. According to a news release:

"The research, carried out by the Scottish Consumer Council, found substantial differences in the use of attendants on school buses, on the checks carried out on vehicles, on the monitoring of transport contracts and in information provided to parents."

That is a scandal and something should be done about it as soon as possible. Supervision on school buses should be mandatory. It is not good enough to say that there will be supervision only on double deckers. Alex Neil is right that in many areas it is primary schoolchildren who are stuck on single-decker buses.

Someone who has a young child and has no choice but to put them on the school bus will be extremely fearful for their safety. Some people have to decide whether to make a sacrifice and give up their job in order to get their children to and from school. In many cases, grandparents have to fulfil a role that they perhaps should not need to. If we had safe buses to school, we would be able to say to all parents, "There is supervision, all the rules and regulations are being met and you don't have to worry. We're doing the best we can for your children."

An issue that has been raised by my constituents in the South of Scotland is that some local authorities have had the sense to consider the risks that are associated with the distance to school. In many cases, the number of miles might be just under the quota that is required for school transport to be provided, but the children are often walking along busy, dimly lit or unsafe roads. Those local authorities that are still not taking on board such risks need to start to do so. We need a

complete review and we need to hear what the minister says. It is extremely important that we get this right. People have been complaining for years about school transport. Some people do not have a choice. I hope that Robert Brown can reassure us that something will be done as quickly as possible.

Stewart Stevenson made a good suggestion about signage. A petition came to the Education Committee on that and we were all very concerned about it. I hope that we can move forward, and I thank Alex Neil again for securing the debate.

17:29

**Mr David Davidson (North East Scotland)**  
**(Con):** I had not intended to be here for this debate but I am delighted that I am because for once it is a quality debate.

Robin Harper and I recently spoke at a conference on school transport, which was attended not only by parents and people from school boards but by local authority officers with responsibility for school transport and Executive officials. I wonder whether any of the subjects covered have seen the light of day in the Scottish Executive's Enterprise, Transport and Lifelong Learning Department or Education Department. Much of what has been said so far in the debate was said by a range of people at the conference, including specialists in the field. As Alex Neil said, we owe it to people to take the issue seriously.

I recently held a meeting to try to solve a transport problem in the Mearns in Kincardineshire. I managed to get a director of the school, a senior master, a local policeman, a transport official from the council, the local education director and the school board to come along. We chewed the fat about unruly behaviour on buses. There had been major problems: drivers did not want to take on certain routes because of unruly behaviour; and younger children were in fear of being bullied because there was no supervision. By the end of the meeting, we had covered not just that one issue but a range of issues, including access.

Rosemary Byrne was right to say that we need to review the rules on how pupils qualify for a place on a school bus. For the life of me, I do not understand why the rules are not as simple as, "If you don't have a pavement to walk on, you should have the option of getting a school bus." In Aberdeenshire, parents are queueing up to pay to put their children on a school bus—either because the family have only one car and the husband needs it for work, or because they are dependent on someone, or because they have other children to look after.

**Fiona Hyslop (Lothians) (SNP):** On anomalies, does the member acknowledge that, although 90 per cent of three and four-year-olds go to nursery education, school transport is not provided because such education is not statutory?

**Mr Davidson:** I accept that, and I thank the member for making the point.

Drivers are very concerned about public safety. The schools want to take action and the local authorities appear to have an appetite to take action. However, there is a lack of fair funding across Scotland. Stewart Stevenson mentioned that, and I would have done so anyway. In funding, there is no recognition of the effects of rurality on the costs of basic services. Aberdeenshire Council would like to take on some of the things mentioned in this evening's motion and would like funding to cover the costs. The cities in the central belt get more funding than they ever use. That is grossly unfair on children and families in the rest of Scotland. That is the case in the north-east of Scotland and I am sure that people in the Borders feel the same.

**Robert Brown:** Although the issue has come up, I do not want to use this debate to go on about funding. However, does the member accept that, in grant-aided expenditure allocations, the allowance made for rurality is substantially greater than the allowance made for deprivation?

**Mr Davidson:** All I can say in reply is that, yes, I acknowledge that, as do councils. However, there is also deprivation in rural areas and it comes in different forms. Deprivation is not only about money; it can also be about a lack of access to facilities.

In a trial, FirstBus introduced yellow buses to Scotland to see whether they would work. The system works in America and has gone down well here. But again, is the money there to fund contractors so that they can provide expensive and well-designed vehicles? Is the money there to provide supervision?

Another anomaly is that school buses are also used as routine service buses. As a result, unknown adults can get on buses with unsupervised children.

The debate has been worth while. I hope that the minister will go away and consider what came out of the conference that Robin Harper and I attended. I can certainly give him the details—but his officials were there.

17:34

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** Alex Neil has initiated an extremely important debate. Different speeches have highlighted different aspects of the safety of

our children on the buses that take them to school each day of the school year.

In an accident in 1997, a school double-decker bus toppled over an embankment on the B9161 Munlochy road, resulting in some injuries to pupils. Perhaps as a consequence, Highland Council tightened the rules on buses. Robbie Roberts, a constituent of mine who was involved in operating buses at the time, wrote to me in September to draw attention to a particular problem that I want to highlight in the debate.

Side-facing seats on buses cannot have seat belts fitted properly, even though, since 2003, the law has required seat belts to be fitted to all bus seats that are used in school buses. Since 2001, Mr Roberts has been pursuing in lengthy correspondence with Highland Council the use of buses with side-facing seats to transport children to school in the council area. Children being children, from time to time they will use the side-facing seats, despite the fact that they have no seat belts.

Ultimately, Mr Roberts pursued the matter with me. The process culminated in my raising the issue in the good columns of the *Inverness Courier*, which highlighted the issue, as a result of which Hugh Fraser, the council's head of support services, asked all area managers to get written confirmation from bus operators that they do not use the side-facing seats. I believe that the bus companies and the council have great concern for the safety of children. Bus companies such as Rapsons Coaches, Stagecoach and many others and their drivers have a good reputation in the Highlands. I do not criticise them, but it appears that buses with side-facing seats—they are mostly double-decker buses—are being used for school transport, despite the fact that it is perfectly clear that safety belts are not being used.

That is not acceptable. If the same thing happened on an aircraft, the Civil Aviation Authority would immediately ground it. Given that it was not exactly yesterday when we discovered that safety belts are a good idea, why are such buses still being allowed to be used? Ultimately, the Executive must be responsible. It really is astonishing that not one member of the Labour Party is here to debate the issue. That is unfortunate, because I am sure that many of them have had such issues raised with them and may have knowledge to bring to bear on the topic. Members' business debates are extremely important. The *Official Report* of the debate will be read by people throughout the country.

Legislation on health and safety is often developed as a result of tragedies. Would it not be better to think ahead, take account of advice and learn from the experience that members of all parties, except the Labour Party—the members of

which are completely absent from the debate—have talked about? I hope that the minister will address the specific issue of side-facing seats and say whether he believes that they should be banned and, if so, what the timescale for doing so would be. If he agrees with Alex Neil's call for an action plan, I ask him to say whether it will take account of that particular aspect.

17:38

**The Deputy Minister for Education and Young People (Robert Brown):** I congratulate Alex Neil on securing the debate, which, as members have said, is on an important subject. I am always open to listening to expressions of concern by members and to considering whether issues are raised on which the Scottish Executive has a locus or can be of help. The debate has been wide ranging and, although it has not solved the problems of the world, many issues have been raised. I give an undertaking to read the *Official Report* of the debate and consider whether I need to follow through on some of the issues.

Robin Harper's comments, which were based on real-life experience, were illustrative and balanced. He raised several good points, including the fact that some children travel on service buses rather than school buses, or by train or other forms of transport. A series of important issues have been raised about matters such as seat belts and side-facing seats. There is a link between school transport and the school run, which is done by car, although Rosemary Byrne rather overstated the matter when she implied that many people will suddenly begin taking their children to school by car because of concerns about safety on buses. There is a connection between those problems but, although we need to consider such matters holistically, it is important not to overstate the issue, as the problems are not really the same.

I will clarify the statutory duty that Alex Neil touched on to start with. The duty to provide school transport rests with education authorities under the Education (Scotland) Act 1980, as amended, to

"make such arrangements as they consider necessary"

for the journey between home and school of pupils who reside in their areas. Rosemary Byrne mentioned that the Education Committee has taken a close interest in the two-mile limit and other issues. That was certainly the case when I was a committee member and I am sure that that interest has continued.

**Dave Petrie:** I had a major dispute with Argyll and Bute Council, which tried to alter the mileage limit for school bus travel from two miles to one mile. Would it be possible to actively encourage a

fixing of the mileage limit for free bus travel, if not to put it on a statutory base?

**Robert Brown:** There has been a fair bit of controversy in a number of areas. Somebody raised an issue with me about children who go to the same school and live within streets of each other, just outside the limit and just inside it. Such matters raise many difficult issues, which must be for the local authority to determine. As Dave Petrie knows, the two-mile limit is in guidance rather than statute.

The Scottish Executive issues guidance—it is guidance rather than regulation—on school transport provision to local authorities. It covers matters such as pupil and bus safety, advises on contracting with transport providers and stresses the importance of supervision in maintaining good behaviour among pupils, which is central to the issue that Alex Neil raised tonight. Incidentally, it also covers a number of matters that are reserved to the United Kingdom Parliament, such as the provision of seat belts, school bus signs, hazard warning lights and the use of vehicles that are in fit and roadworthy condition.

**Stewart Stevenson:** I accept that regulating is a matter for the UK Parliament, but does the minister accept that it is possible to require contractual terms of the local authorities, which would have the same practical effect?

**Robert Brown:** Yes. I was making the point in the context of explaining the use that the Scottish Executive makes of guidance on school transport.

Dave Petrie made a valuable point, which a number of other members touched on, about the differences between rural and urban transport. I will leave aside funding, which is an issue for a different day, but it is important to acknowledge that the position with which local authorities have to deal can vary substantially because of Scotland's geographical complexion. That is one reason why there is a fair degree of local autonomy.

**Fiona Hyslop rose—**

**Robert Brown:** I have taken enough interventions.

A point was made about statistics. The annual road traffic accident statistics for Scotland provide data on the number of children who are injured on school journeys and those data are broken down into categories such as bus passengers and pedestrians. That provides some guidance on the extent of injury arising from accidents.

The issue of supervisors is complex. The Scottish Consumer Council report that has been referred to suggests that behaviour is not a problem on all school buses. It recommends a review of practice, but it might be neither

necessary nor desirable to place supervisors on all routes. However, the report is a welcome contribution to the debate and Peter Peacock said at the time of its publication that he was prepared to commend it to local authorities for their study on that point.

It is perhaps more important for the debate that the report recommends the introduction of a good-practice guide. We have taken that proposal on board and are working with the Convention of Scottish Local Authorities to draft a remit that covers not only the Scottish Consumer Council's recommendations, but concerns that the Education Committee flagged up in the course of its consideration of school transport. I think that Alex Neil touched on that work in his speech. The contract for it has been awarded to MVA Consultancy, which will examine good practice in improving the quality and safety of school buses, improving pupil safety and security and integrating school transport policy with wider transport policy and other policies such as those on health and sustainability—the school bus run is part of that issue. A number of points have been made about seat belts as well.

We also expect MVA Consultancy to consider supervision as part of the task. It is worth saying that the Executive has made £34.9 million of funding available for additional staff to support schools in tackling indiscipline. It is up to local authorities to decide where the pressure points are on indiscipline, but it is open to them to include supervision on school transport in their use of that funding.

We expect MVA Consultancy to report early next year. The good-practice examples will help authorities to drive up the quality and standards of school transport and we hope that that will have the incidental effect of making it more attractive to pupils and parents.

That approach, rather than a legislative one, which can be a little heavy-handed and sometimes unsuitable, will give local authorities a real incentive to secure school travel that meets the aspiration of parents and pupils. I understand that some authorities, such as South Ayrshire Council in Alex Neil's area, require supervision where double deckers are used. Others require CCTV cameras or use designated school escorts of various kinds, such as teachers, volunteer parents, prefects, or travel monitors. That is broadly a matter for them and we acknowledge readily that there might be a range of different ways of dealing with the safety issues about which members are concerned.

Many issues of this sort raise the question of the balance between central and local government. Broadly, local government has its own democratic mandate and is, quite rightly, accountable to its

own electorate. The provision of schools and associated facilities, such as school transport, are matters for local decision-making, subject of course to certain guidance and specific statutory regulations.

The issue arising out of today's debate is the extent to which there should be central regulation of these matters, or central guidance, as opposed to local discretion, assisted by advice about contracts and so forth. Ministers would have to be persuaded that there was a substantial mischief to be addressed before we wanted to provide national regulation. It is fair to say that none of the three Ayrshire councils has identified any particular problems with regard to bus or pupil safety in which they want us to intervene.

**Alex Neil:** Although the councils might not have identified the issues to the Executive, a number of school boards in all three Ayrshire authorities have identified the problem to the authorities.

**Robert Brown:** If Alex Neil has evidence of problems, I am more than happy for him to write to me about them or to meet him.

Many generalised points have been made, but examples of local problems that require to be dealt with have been scarce. Such examples would give provenance and enhance our understanding of the issue.

That said, the debate has been worth while. It has shed light holistically on a range of issues with regard to the current provisions and approach. We will share the consultants' report with Parliament in due course. We attach great importance to good practice throughout Scotland and it is important to keep the matter under review—I do not have a closed mind on it. I will reflect on the good points that have been made, in the context of the report that we seek.

*Meeting closed at 17:47.*

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