

MEETING OF THE PARLIAMENT

Thursday 15 February 2007

Session 2

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CONTENTS

Thursday 15 February 2007

Debates

Col.

WORKERS' RIGHTS	32201
<i>Motion moved—[Ms Rosemary Byrne].</i>	
<i>Amendment moved—[Allan Wilson].</i>	
<i>Amendment moved—[Jim Mather].</i>	
<i>Amendment moved—[Phil Gallie].</i>	
Ms Rosemary Byrne (South of Scotland) (Sol)	32201
The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson)	32203
Jim Mather (Highlands and Islands) (SNP)	32206
Phil Gallie (South of Scotland) (Con)	32207
Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD).....	32209
Chris Ballance (South of Scotland) (Green)	32210
Jackie Baillie (Dumbarton) (Lab)	32211
Mr Adam Ingram (South of Scotland) (SNP)	32212
Frances Curran (West of Scotland) (SSP)	32213
Irene Oldfather (Cunninghame South) (Lab).....	32215
Campbell Martin (West of Scotland) (Ind)	32217
Bill Aitken (Glasgow) (Con)	32218
Mr Kenny MacAskill (Lothians) (SNP)	32219
Allan Wilson	32221
Tommy Sheridan (Glasgow) (Sol)	32222
EDUCATION	32226
<i>Motion moved—[Mr Brian Monteith].</i>	
Mr Brian Monteith (Mid Scotland and Fife) (Ind)	32226
The Deputy Minister for Education and Young People (Robert Brown).....	32228
Fiona Hyslop (Lothians) (SNP).....	32230
Lord James Douglas-Hamilton (Lothians) (Con)	32231
Peter Peacock (Highlands and Islands) (Lab).....	32233
Iain Smith (North East Fife) (LD)	32235
Robin Harper (Lothians) (Green).....	32236
Ms Rosemary Byrne (South of Scotland) (Sol)	32238
Richard Baker (North East Scotland) (Lab).....	32239
Mr Frank McAveety (Glasgow Shettleston) (Lab)	32240
Dave Petrie (Highlands and Islands) (Con).....	32242
Mr Adam Ingram (South of Scotland) (SNP)	32243
Robert Brown	32244
Margo MacDonald (Lothians) (Ind).....	32246
QUESTION TIME	32249
FIRST MINISTER'S QUESTION TIME	32258
POINT OF ORDER	32270
QUESTION TIME	32271
POINTS OF ORDER	32287
BUSINESS MOTION	32288
<i>Motion moved—[George Lyon]—and agreed to.</i>	
ADULT SUPPORT AND PROTECTION (SCOTLAND) BILL: STAGE 3	32289
ADULT SUPPORT AND PROTECTION (SCOTLAND) BILL	32307
<i>Motion moved—[Lewis Macdonald].</i>	
The Deputy Minister for Health and Community Care (Lewis Macdonald)	32307
Shona Robison (Dundee East) (SNP)	32309
Mrs Nanette Milne (North East Scotland) (Con).....	32311
Euan Robson (Roxburgh and Berwickshire) (LD)	32313
Roseanna Cunningham (Perth) (SNP)	32315
Janis Hughes (Glasgow Rutherglen) (Lab)	32317
Robin Harper (Lothians) (Green).....	32319

Mrs Milne	32320
Christine Grahame (South of Scotland) (SNP).....	32320
Lewis Macdonald	32323
PRESIDING OFFICER'S RULING	32327
DECISION TIME	32328
CRICHTON UNIVERSITY CAMPUS	32333
<i>Motion debated—[Dr Elaine Murray].</i>	
Dr Elaine Murray (Dumfries) (Lab)	32333
Alasdair Morgan (South of Scotland) (SNP).....	32336
Alex Fergusson (Galloway and Upper Nithsdale) (Con)	32338
Chris Ballance (South of Scotland) (Green)	32339
Ms Rosemary Byrne (South of Scotland) (Sol)	32341
Fiona Hyslop (Lothians) (SNP).....	32342
Derek Brownlee (South of Scotland) (Con)	32344
Robin Harper (Lothians) (Green).....	32345
The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson)	32346

Oral Answers

Col.

QUESTION TIME	
SCOTTISH EXECUTIVE	32249
GENERAL QUESTIONS	32249
Business-University Links.....	32249
Care of the Elderly (Orkney)	32255
Congestion (Aberdeen)	32255
Crime Prevention (Scottish Prison Service)	32256
Genetically Modified Potatoes	32252
Hospital Procurement (Glasgow).....	32250
One Plus	32253
Small-scale Hydroelectric Power	32251
FIRST MINISTER'S QUESTION TIME	32258
Cabinet (Meetings)	32261
Consumer Safety (Poultry)	32267
European Convention on Human Rights (Prisoners)	32268
Prime Minister (Meetings).....	32258
Public Sector Workforce	32263
Ship-to-ship Oil Transfers.....	32265
QUESTION TIME	
SCOTTISH EXECUTIVE	32271
EDUCATION AND YOUNG PEOPLE, TOURISM, CULTURE AND SPORT	32271
Edinburgh Zoo	32277
Literacy	32276
Primary Schools (Perpetual Process Improvement)	32275
Schools (New Build)	32271
Schools (Surveillance Technology)	32273
Social Workers.....	32272
FINANCE AND PUBLIC SERVICES AND COMMUNITIES	32278
Affordable Housing (Highlands).....	32278
Community Group Funding (Comhairle nan Eilean Siar)	32281
Compulsory Purchase Orders	32282
Council Tax (Pensioners)	32284
Public-private Partnerships.....	32281
Public Procurement (McClelland Review)	32283
Simclar.....	32285

Scottish Parliament

Thursday 15 February 2007

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

Workers' Rights

The Presiding Officer (Mr George Reid): Good morning. The first item of business is a debate on motion S2M-5581, in the name of Rosemary Byrne, on workers' rights.

09:15

Ms Rosemary Byrne (South of Scotland) (Sol): This Solidarity debate is about improving workers' rights and strengthening trade unions throughout Scotland and the United Kingdom.

The context for the debate is the experience of workers at Simclar (Ayrshire) Ltd. The Simclar Group has a history of locking out workers: workers were locked out in Dundee and Preston and now they have been locked out in Ayrshire. Simclar also has a history of receiving funding through regional financial assistance: it received £750,000 on 6 August 2002, £1 million on 30 July 2003, and £500,000 on 17 August 2004. The workers want to know how that money was spent and who monitored the spending. I want answers, too. Simclar takes from our communities and then leaves them, without taking financial or practical responsibility for the workers who have been loyal to it.

As we make every possible effort to bring Simclar and Sam Russell to account, it is also vital that everything possible is done to support the Simclar Ayrshire workers. Community, the trade union that represents the majority of the workforce, is doing an excellent job in the face of many difficulties, but support from agencies through the partnership action for continuing employment initiative has so far been inadequate, which has caused much distress to an already demoralised workforce—despite the fact that the Deputy Minister for Enterprise and Lifelong Learning, Allan Wilson, has said:

"As soon as the announcement was made, full and immediate support swung into operation through the well-established PACE (Partnership Action for Continuing Employment) framework."

Irene Oldfather (Cunninghame South) (Lab): Will the member give way?

Ms Byrne: I need to make progress; I have to cover a lot of ground.

I seek an assurance from the minister that the situation will be rectified immediately, so that PACE carries out its functions properly and provides the assistance that the workers require. I also ask the minister how many full-time, sustainable jobs will be created through the Irvine Bay Urban Regeneration Company. I remind him that North Ayrshire has the highest unemployment in Scotland—after 10 years of new Labour in Government.

The Scottish Trades Union Congress said:

"in the context of ... recent job losses, we have to ask why other European countries with wage costs comparable to Scotland and more robust regulatory environments have succeeded in retaining and, in some instances, growing their manufacturing base."

It is paramount that the Department of Trade and Industry undertake an investigation into the workings of Simclar, which has a history of asset stripping, moving companies, setting up satellite companies and closing the gates on workers without adhering to its obligations. Simclar has dispensed with the 90-day consultation period and failed to make appropriate financial provision for its workforce three times, as I said. The minister told me that he had received a verbal assurance that there would be an investigation, but I ask him to secure written confirmation of that as soon as possible. I look forward to the investigation and call for the greatest scrutiny to ascertain whether there has been criminal wrongdoing.

Why must we fight for workers' rights in the 21st century? A Simclar Ayrshire worker who was made redundant on 29 January was, like many of her colleagues, being made redundant for the second time. The first time she was made redundant, 15 years ago, she received enhanced redundancy pay, six months' notice, access to retraining through the company and all moneys in lieu of notice. This time, she was locked out of her workplace and given statutory redundancy pay—paid for by the taxpayer, although Sam Russell is the eighth richest man in Scotland—and there was no cushion of six months' notice or commensurate moneys. Her pay with Simclar Ayrshire had never reached the level of her previous salary. Fifteen years on, she had less money and appalling conditions—that is the situation that our workers find themselves in.

That is why we need a trade union freedom bill. In 2005, the Trades Union Congress conference passed a resolution to repeal anti-trade union laws by introducing such a bill. In recent years, the UK labour market has changed. Privatisation, outsourcing and the restructuring of companies and services have become widespread, and workers' rights have been eroded. Our legal framework requires urgent changes. During the recent years of industrial change, employers such

as Gate Gourmet have adopted increasingly aggressive cost-cutting tactics to win subcontracted work from transnational companies. Gate Gourmet is just one example; there are too many other examples of employers who have cut pay, slashed pensions and announced mass redundancies in the name of competition. Under existing legislation, unions feel powerless to protect the interests of the workers they represent.

The time is right for a trade union freedom bill. Last year was the 100th anniversary of the Trade Disputes Act of 1906, which protected unions from sequestration of funds and imprisonment. In 1893, Hull dockers who had been striking for seven weeks were defeated when strikebreakers were brought in by the police and the military. The 1906 act reversed laws that enabled bosses and the establishment to ride roughshod over workers. It is ironic that 100 years later, workers have fewer freedoms and rights. On 31 March 1997, Tony Blair said that even after the changes that Labour proposed, Britain would have

"the most restrictive trade union laws in the western world."

Our workers see the evidence of that daily.

A trade union freedom bill, with support from the unions and Labour members in Westminster, would make a difference. It should appeal to all trade unionists and the Solidarity motion should be supported by all right-thinking members.

As a lifelong trade unionist, I move,

That the Parliament supports the Simclar workers and calls for an appropriate redundancy package for them; welcomes the DTI investigation into the circumstances surrounding the closure of the Ayrshire plants; condemns poor employment practices that result in workers being sacked via text messages, video conferences and factory gate notices and denied real and proper consultation and appropriate redundancy payments, illustrated by the recent examples at Simclar Ayrshire, NCR Dundee and Young's in Annan; recognises the need to improve workers' rights and the existence of the Trade Union Freedom Bill in the Westminster Parliament last session which attracted cross-party support from 187 MPs and the re-lodged bill in the current term; recognises that this Trade Union Freedom Bill is supported and promoted by most trade unions, including the RMT and TGWU, and agrees to endorse and encourage support throughout Scotland for this necessary bill.

09:22

The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson): I am a lifelong trade unionist, too, and the subject matter of the debate is close to my heart. I thank Rosemary Byrne and Solidarity for giving us the opportunity to debate workers' rights.

The motion mentions Simclar Ayrshire. I think that I can express on behalf of all members our disappointment—indeed devastation—at the closure of the Ayrshire factories and the impact on

employees and their families. We extend our sympathy to the 420 workers who have lost their jobs. I have met Rosemary Byrne and other local politicians, such as Irene Oldfather, as well as the unions involved and the administrator, to discuss the position and offer whatever support and assistance we can to the people who are directly affected. I have announced that full and immediate support is being made available through the well-established PACE framework. As a result of two recent PACE meetings in Ayrshire, a draft action plan has been produced, which I am happy to make available to members.

Ms Byrne: Does the minister agree that up to now the PACE initiative has been disappointing and that there is a need to press for improvements as quickly as possible?

Allan Wilson: In the context of PACE, there is an issue when an employer refuses to co-operate with public agencies that deliver services, as has happened in the case that we are talking about. That gives us pause for thought about how we respond to such situations. I would not criticise the public agencies that have been striving with great difficulty to cope with the situation that they inherited from an employer who was less than considerate of the interests of the staff that it sacked.

The wide range of support, advice and assistance that I have mentioned will be available to those Simclar Ayrshire employees who have been affected by the redundancies, and we will step up that response as far as we can to help them secure alternative employment or the necessary retraining or upskilling that might be required for them to move on. Substantial funding—in the region of £1 million—will be available to assist with that work, and that sum has been quantified by PACE this week. The various agencies involved are putting considerable effort into ensuring that the affected staff can engage fully with the range of services and support being offered. It is worth pointing out that PACE has a very good record in this context, with high levels of retraining and alternative employment being offered in similar circumstances, at rates of 97 per cent at Longannet and 96 per cent at BP in Grangemouth.

There have been calls—not least from me—for a DTI investigation into the circumstances surrounding the Simclar closure. There have been allegations of asset stripping and questions about why Simclar Ayrshire went from being a company with a 90-day redundancy consultation period, which was not due to end until 26 February, to being a company that could go into administration and close overnight.

It would clearly be unwise and inappropriate for me to make any further comment on those

matters, other than to say that I have written to the appropriate DTI minister on two separate occasions now. As a matter of principle, change and restructuring must be managed well. To my mind, that means treating the employees involved in the change and restructuring with the appropriate consideration and respect—which has been sadly lacking in this instance.

Irene Oldfather: Has the minister had any advice from officials about any way in which the closure might contravene the European information and consultation directive? Would it be appropriate for him to refer that point to UK colleagues, and presumably the trade union, so that they can establish whether action can be taken through an industrial tribunal?

The Presiding Officer: You now have one minute left, Mr Wilson.

Allan Wilson: Thank you, Presiding Officer—although that is not a long time in which to deal with what are fairly complex matters. I will perhaps come back to some of these issues in my closing remarks, but suffice it to say at this juncture that I have raised the issue that Irene Oldfather highlights directly with DTI ministers, together with a number of other issues that have been raised directly with me by some of the workers concerned—they are my constituents, and some are friends and colleagues—by the trade union and in discussion with the administrator. I have included all the issues that have been raised with me in two separate communications to the appropriate DTI minister.

I suggest to members and others that information about the events that led to the Simclar closure may be sent by post to the companies investigation branch of the Department of Trade and Industry, PO Box 447, London SW1H 0WU. If people have concerns, such as have been expressed by Irene Oldfather and others, that is the appropriate place for them to be sent, as an investigation is under way.

I move amendment S2M-5581.4, to leave out from “supports” to end and insert:

“believes that the right to work is a fundamental human right; supports the objective of full employment and welcomes the 150,000 new jobs created in Scotland since devolution in 1999; further supports the Simclar workers and calls for an appropriate redundancy package for them; supports the Scottish Executive’s call for a DTI investigation into the circumstances surrounding the closure of the Ayrshire plants; condemns poor employment practices that result in workers being sacked via text messages and factory gate notices and denied real and proper consultation and appropriate redundancy payments, illustrated by the recent example at Simclar Ayrshire; recognises the need to further improve workers’ rights and entitlements and agrees that the Parliament supports the enhancement of employee rights on consultation in a redundancy situation; reaffirms its commitment to providing appropriate resources to meet the costs of retraining and

upskilling workers affected, and recognises the role that the Irvine Bay Urban Regeneration Company will have in creating new job opportunities for the workforce.”

09:29

Jim Mather (Highlands and Islands) (SNP): We are whole-heartedly in favour of workers’ rights, and we are grateful to Solidarity for creating this opportunity to debate the subject. We believe that, when properly addressed, workers’ rights will help to achieve economic resurgence in Scotland.

From experience, I know that good employment conditions, mutual respect and job security boost business viability and customer satisfaction, creating more robust businesses. Ignoring and disregarding workers’ rights is increasingly a recipe for disaster, as can be seen elsewhere. The fact is that competitiveness can be achieved and built up only through co-operation with employees and suppliers. The good news is that, in the long term, monopolies are unsustainable and damage the monopolists themselves, and the abuse of workers’ rights is unsustainable and damages the perpetrators themselves; the bad news is that monopolies and the abuse of rights can cause real pain and damage for our people and our economy in the interim.

I believe that Government needs to create the conditions that produce more socially responsible behaviour by business leaders in the interests of the wider common good. That was wonderfully described recently in a book by Don Young and Pat Scott, “Having Their Cake”. They discuss the tendency towards mergers rarely benefiting employees, customers, suppliers or even the shareholders, but mainly benefiting the current management, market makers, stockbrokers, corporate accountants, lawyers and bankers, who need the churn of such transactions.

We believe that it is the job of Government to act as honest broker between companies, which want to maximise profit and viability, and employees and trade unions, which—properly—want to maximise the employment terms and conditions of working people.

Jackie Baillie (Dumbarton) (Lab): Jim Mather has talked about the Government’s position. I wonder what the Scottish National Party’s position is on the proposed bill to reform the trade unions. Would they support it?

Jim Mather: We will give it due consideration. Today, I am calling for a proper and full debate in which we learn from other places. There is a difficult blend to be achieved. It is important to achieve sustainable long-term growth, to maximise the number of people in work, to maximise national competitiveness and to maximise Government revenues. That blend must be

achieved. It is the job of Government to maximise the effectiveness of the economic system. To do so, it must bind together businesses, unions and employees in a system that works and that is consistent with everyone's objectives.

Allan Wilson: I agree. Would the member agree with me that the UK has been spectacularly successful in that context? It is one of only three EU countries that have surpassed the Lisbon agenda target for full employment.

Jim Mather: There has been an element of success but, if we consider countries such as Denmark, we find that they have achieved that better. We are currently facing the challenges of globalisation, which are similar to the challenges that we faced 100 years ago. There is a widening gap between rich and poor in the United States of America, Britain and Canada, but that gap has not opened up so much in France, Japan, the Netherlands, Denmark and elsewhere. There are clearly numerous factors involved in that but, as *The Economist* said this week,

"It is easy to assume, with globalisation, that a rising tide lifts all boats. And most people do gain, even if the improvement in their way of life can sometimes be hard to discern. But workers whose factories are shut are unlikely to see it that way. For them, it must seem these days that a rising tide lifts only all yachts."

We have to change that in Scotland. That is particularly the case where there is a branch economy, and where the branches are frequently cut to save the roots and protect activity in home economies.

We need a proper debate and to examine the effectiveness of what Denmark has in place. We should also look closer to home at what is happening in Ireland, where the national development plan for 2007 to 2013 has just been announced. That involves spending €184 billion in building up the economy. Entwined with that is a new national agreement, "Towards 2016: Ten-Year Framework Social Partnership Agreement 2006-2015". That social partnership has been embedded all the way through. We should examine that—we need to consider what works elsewhere. We have got to learn—I will leave it at that.

I move amendment S2M-5581.2, to leave out from "existence of" to end and insert:

"need to create a new era of social cohesion where employers, employees and the state work together to ensure that Scotland achieves new higher levels of competitiveness and co-operation in the workplace so that we achieve increased economic vibrancy, better terms and conditions in the workplace and an improved safety net for redundant employees."

09:33

Phil Gallie (South of Scotland) (Con): Rosemary Byrne's speech was wide-ranging and

time is a constraining factor in the debate, so I will not seek to make interventions and I will not take any during my speech. I congratulate Rosemary Byrne on giving us the opportunity to discuss the issues around Simclar Ayrshire. I do not go along with her motion entirely, as my amendment suggests, but it is great that we have it before us to debate. I would like to think that the Parliament can finish by taking a unified decision on the motion or an amendment so that the debate will have an outcome.

Simclar Ayrshire is an absolute disgrace in terms of the ethics of business behaviour. Barefaced asset stripping has taken place and there has been a manipulation—legal or illegal—of company law. That is why I welcome Allan Wilson's move to involve the DTI, which will determine whether the behaviour is legal. If it is legal, there is room for Government action and change somewhere along the line. If it is illegal, I want the sternest steps to be taken against Sam Russell and the company that he has operated.

The fact is that Simclar had a loyal, well-behaved and diligent workforce. Overnight, the individuals in the workforce found themselves out of a job. People who were to work the night shift were locked out and separated from their possessions. That cannot be right in today's world, whichever way we approach the issue.

Families were left without any income whatever and a big question mark still hangs over where money will come from. As well as assets—or so-called assets—of the company, employer records and other information that allow people to claim benefits have been locked up. That is a disgrace. The Conservatives—and, I feel, members around the chamber—want those matters to be addressed.

I am concerned about the movement of goods since Simclar was locked up and about what could be seen as a relationship between Sam Russell and the administrator. The DTI will examine and determine that.

Sam Russell said that Jack McConnell did not understand business behaviour. I do not always agree with Jack McConnell, but if Sam Russell means that what he has done is to be interpreted as business behaviour, I do not go along with that.

I congratulate Allan Wilson on his actions and I go along with Rosemary Byrne on the idea that perhaps a bit more PACE should be injected. However, as for the motion, we will support our amendment to it. We will not support the SNP's amendment, because it retains the reference to Young's of Annan, which is trying to address the business situation that has arisen. We will not support Rosemary Byrne's motion, because it goes too far. We will not support Allan Wilson's

amendment, but if—as I suspect—Parliament agrees to his amendment, we will support the amended motion.

For a range of reasons, we Conservatives consider that what has happened is contrary to everything that we believe about trade union law. We make no apology for the changes that we made to trade union law and we acknowledge that the Labour Government that was long awaited after 18 years did not reverse the elements that it opposed vigorously when in opposition. However, the balance must be right. The workforce must be treated well. Every businessman depends on the people who work for him to provide profits and income. Such matters are important to Conservatives.

I move amendment S2M-5581.1, to leave out from “and factory” to end and insert:

“or factory gate notices and denied real and proper consultation and appropriate redundancy payments, as illustrated by the recent example of Simclar Ayrshire.”

09:38

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I apologise to the Presiding Officer and to Rosemary Byrne for being late. One is subject to the vagaries of the taxi service, such as it is.

It may surprise members to learn that I was once upon a time a member of the Transport and General Workers Union.

Jackie Baillie: I am surprised.

Mr Stone: I thank Jackie Baillie for that.

Having worked in the oil fabrication sector and in the drilling sector for some years, I understand exactly the fear that has been described of being made redundant and the terror of the P45 coming one's way.

In a way, this speech is an opening and a closing speech, so if the Presiding Officer does not mind, I will comment on other members' speeches. I was pleased by what I heard of what Rosemary Byrne said and I applaud her for lodging the motion.

Here we are in the closing stages of the session and running into an election. What has been raised is one of the biggest of the issues that lie before us. I pay tribute to Phil Gallie for his speech—it was well said. I for one will miss him in the next session and I am sad that he is leaving us.

What Allan Wilson said about the DTI is very good. I hope that, in his ministerial role, he will pursue the issue all the way.

I have believed in my working life that management co-ordination with the workforce has been and remains an issue. I have been there right at the bottom, on the shop floor, getting my hands dirty. I have seen bad management.

The point about Young's is that it is offshoring its processing of scampi to Thailand. I pay tribute to Christine May and to Alex Neil, who is not with us this morning, for agreeing—in their capacities not as deputy convener and convener of the Enterprise and Culture Committee but as back benchers—to meet workforce representatives to discuss that issue. Surely a greater issue is not before us. Does it make any sense whatever to take fish from Scotland all the way to Thailand for processing before bringing them back here? That is utter nonsense. It is not for the Enterprise and Culture Committee, of which I am a member, to dictate what the next session's enterprise committee—if that is what it is called—should examine. However, given the carbon footprint, such a move to globalisation is entirely wrong and should be examined.

I have seen asset stripping in my constituency. Members may be familiar with Brown and Root Highlands Fabricators at Nigg, where I worked for several years on the shop floor, as I said. I am covered by parliamentary privilege, so I may say that in the closing years of that operation, there was some evidence that the management was shutting down the yard and, I contend, not bidding for orders. We could see tools being removed from the yard and sold on to the international market. That is surely a sin against good management.

Presiding Officer, I am sorry for an al fresco contribution to the debate, and for being late. I applaud Rosemary Byrne for introducing the debate and I congratulate her. Workers' rights affect us all and the debate is important.

The Presiding Officer: I thank the member for being brief. Such short debates always mean truncated speeches and few interventions. They are not particularly satisfactory in that respect, but I must ask members to keep to four minutes and the Greens to keep to two minutes.

09:42

Chris Ballance (South of Scotland) (Green): I will stick to my two minutes. The motion is excellent and it is important to debate such issues. It is positive that all members—in the motion and the amendments—accept that the state of affairs at Simclar is unacceptable. The tragedy is that we appear to be impotent. We can argue for a DTI inquiry, for closer scrutiny of how such companies spend large amounts of public money and against asset stripping, but we cannot stop such events happening and we cannot protect the workforce.

All that underlines the importance of the call for extra protection for workforces and for the trade union rights and freedoms bill, which is mentioned in Solidarity's motion.

I strongly wish to mention a part of Rosemary Byrne's motion that did not feature in her speech. In Annan, a globalisation absurdity has meant that we are losing Scottish jobs to Thailand, where workers are paid perhaps 25p an hour for similar work, where health and safety standards are poorer and where production standards are poorer. The environmental absurdity of shipping those jobs 17,000 miles away beggars belief yet, again, we can do absolutely nothing. The Parliament is impotent. That underlines the need for stronger workers' rights.

The strength and loyalty of the workforces of the companies that are involved have all been praised and I echo my colleagues' praise. I just wish that I could say more.

09:44

Jackie Baillie (Dumbarton) (Lab): I acknowledge the difficulties that have been experienced by workers in Simclar, NCR Dundee and Young's, and in Methode Electronics Europe in my constituency, where workers' rights were swept aside. Other members have addressed and will address those issues eloquently, so I will focus on the general issue of workers' rights.

Let me share with the chamber some headlines that I have read over the past year: "Betrayal of their workers", "Collective agreements—ripped up", "Contracts—unilaterally broken" and "Riding roughshod over pay and conditions of staff". Is this some reactionary employer—a multinational, perhaps—with scant regard for its employees? Here is another quote, which calls on the employers concerned to

"put aside petty political squabbles and honour their agreed contract with the workers. Workers are suffering as a consequence of their intransigence. It is ironic that the two MSP boast about their support for trade unions and workers in struggle when they are riding roughshod over the pay and conditions of trade union members."

I am talking not about some reactionary, right-wing business that cares nothing for its workers, but about two members of the Parliament: Rosemary Byrne and Tommy Sheridan. It is worth pointing out that the words that I quoted are not mine: they come from the National Union of Journalists—Mr Sheridan's trade union—and the Industrial Workers of the World, whose members are affectionately known as the wobblies. They come from people who were friends of Mr Sheridan.

Tommy Sheridan (Glasgow) (Sol): Will the member confirm the truth to the chamber—that the quotes that she read out come from the NUJ

chapel that happens to be the Scottish Socialist Party chapel of the NUJ, and not from the official union? The member should get her facts straight when trying to get involved in a petty squabble.

Frances Curran (West of Scotland) (SSP): That is rubbish.

Jackie Baillie: A member has responded to Mr Sheridan's point from a sedentary position. I understand that both the organisations to which I referred are in formal dispute with Solidarity over its treatment of members' staff. I was astonished by the fact that before Christmas there was a demonstration on the issue at the very door of the Parliament. The irony was not lost on some of us that Solidarity members, who speak at every passing protest, were strangely absent, perhaps because they were the subject of the protest. If there is one lesson for the chamber to learn from the matter, it is that consistency is important—members cannot do one thing privately and another publicly and expect to get away with it.

Labour has a strong record of improving workers' rights. Mr Sheridan may laugh, but one of our first actions was to sign the European social chapter, which was resisted by the Tories. We have increased maternity leave, increased paternity leave, increased holidays, provided a better work-family balance, provided rights to trade union membership, and—I hesitate to invite Mr Sheridan to laugh at this—we have restored rights of trade union membership to workers at Government Communications Headquarters.

We have ended the two-tier workforce in the national health service and introduced the national minimum wage, which was articulated as a demand by Keir Hardie more than 100 years ago and delivered by a Labour Government. At the time, unsurprisingly, the Tories were unashamed in their opposition to improving employment rights. The Scottish National Party slept through the vote and was absent for it. Jim Mather's claims to be concerned about workers' rights ring hollow—we should look at the SNP's actions. I hate to say this to Jamie Stone, an acknowledged member of the Transport and General Workers Union, but the Liberals thought that the introduction of the minimum wage was too dangerous. Workers' rights are safe only with Labour.

09:48

Mr Adam Ingram (South of Scotland) (SNP): I deplore Jackie Baillie's rather petty contribution to this morning's debate. It did not set the right tone, especially for the Simclar workers who are looking to the Parliament for leadership.

I congratulate Rosemary Byrne on securing the debate, at a time when the rights of a loyal workforce at Simclar Group plants in Ayrshire are

being brutally trampled on. Thirty-odd years ago, Ted Heath coined the phrase “the unacceptable face of capitalism” to describe the behaviour of the Lonrho group and its boss, Tiny Rowland. That description applies equally well to Simclar boss Sam Russell—one of the richest men in Scotland, as Rosemary Byrne mentioned. Surely it is unacceptable in this day and age for any group of workers and fellow citizens to be treated with such disrespect and disregard by an employer.

Rosemary Byrne has outlined the callous way in which the plants were shut without forewarning. I assume that Irene Oldfather will say more about that later. People were barely able to retrieve their personal belongings, such was the suddenness of the owner’s announcement and the deployment of security staff. The closure process had the smack of a paramilitary operation, with both factories being stripped of their machinery in the middle of the night. Presumably, it was transferred to Dunfermline, where the group is based. The ruthlessness of the action is beyond belief and must be condemned by the whole chamber, especially because 420 workers have been dumped on the scrapheap without so much as a penny from Mr Russell in the form of redundancy payment. As Allan Wilson mentioned, employment services have been left struggling to cope with the demands of the situation.

I have two questions for the minister, which I hope he will address when he sums up the debate. First, what is he doing to help to bring Mr Russell and the Simclar Group to book for their behaviour, which may be legal but is both politically and morally unacceptable? Secondly, what urgent action is he taking to fulfil his promise to pull out all the stops to support this betrayed workforce back into employment? At the moment, there is a great deal of confusion and despair among the workforce—people need to know what help they can expect and when they will get it.

The closure of Simclar Ayrshire has been a shameful episode in Scotland’s industrial history. Although I recognise that the Parliament does not have the powers to ensure that that kind of employer behaviour does not continue to go unpunished—I welcome Chris Ballance’s remarks on that issue—we have a duty to press those who have such powers to exercise them. I echo Phil Gallie’s demands for any investigation by the DTI to leave no stone unturned in bringing Simclar and Sam Russell to book.

09:52

Frances Curran (West of Scotland) (SSP): I welcome this debate on workers’ rights, which is long overdue. I regret the fact that the chamber has been spurred into action on the matter by the Simclar factory closure because, since the

Thatcher Governments, power and protection have been moving consistently towards employers. The balance of power is heavily in favour of employers, and workers’ rights have been eroded enormously. The lack of workers’ rights is all too clear in this debate, because the main avenue that is being pursued to deal with the disgusting position in which the Simclar management has left workers is a DTI inquiry. It seems that the trade unions are powerless to pursue Sam Russell and Simclar. There have also been the closures of NCR and Motorola and all the other situations in which employers have behaved in such a way. We are dealing with an employer who has absconded with wages and redundancy payments. We do not know about the pension situation, because we are waiting for the liquidator to tell us what is in the pension fund.

The amendment that the SSP lodged, which was not selected, highlights the need for a legal framework to ensure that it costs employers to up sticks, to move jobs to China, to close factories, to asset strip and to use all the other procedures that we have seen them use. They should face penalties if they take such actions, and there should be big, legally enforceable compensation for the workforce. There should be legal redress and reparations—not just for workers but for Government—from companies that have received regional or national grants of taxpayers’ money. We know that in Germany and France legislation is much harsher and more protective. If we are serious about the issue, that is the type of legal framework that we need.

When employers, regardless of who they are—today there is some hypocrisy in the chamber on the issue—steal wages, pensions or redundancy money, it should not be just a civil matter. Theft is theft. The money that has been taken by Simclar belongs to its workers, just as money that was taken by other employers belonged to the workers in their factories. There should be criminal legislation in the area—the trade unions and the workforce should be able to take employers to court to recover the money. In my opinion, if Sam Russell steals money from pensions, redundancy payments and wages, he should be put in jail. That should be a criminal act—we need more than just civil legislation.

We need more than words. The big problem is that no proposal for legislation is on the agenda of the minister or the Government parties. I realise that some of the issues are reserved, but there has been no probing to examine what the Scottish Parliament could do and whether legislation could be introduced to bring back protection for workers. We need legislation.

Politics is about power—who is in power and who they represent. It is clear that Labour, both in

Westminster and here, is not representing the workforce or trade unions. There should be an automatic right to be a member of a trade union and to be represented by a union. Because the anti-trade union laws have not been repealed, workers have been put in a precarious position.

Finally, I put on record that I have not stolen or absconded with anybody's wages, and I am an employer in this Parliament.

09:56

Irene Oldfather (Cunninghame South) (Lab):

First, I apologise to the chamber—I have had laryngitis this week, but I thought that it was important to come here today to make the case that the Simclar workers have been making to me as a local constituency MSP.

Since I first raised the matter two weeks ago at First Minister's question time, a sorry and disgraceful tale of injustice has emerged. I put a point to the First Minister about asset stripping, and that very afternoon Sam Russell put out a press release calling the First Minister, me and other politicians who had responded "ill-informed". Having listened to what the workforce has had to say—some of which I want to put in the public domain today—I think that members can draw their own conclusions about that.

This is a tale of a company that has demonstrated no regard for its workforce, employment obligations or the communities affected by the closure. It is a company that, as far as I can see, is motivated by profit. It is not working in partnership with the workforce, but operating and closing at the expense of the workforce and the local community.

I want to take a moment to say that I am very proud of how the workers and their families have behaved even though they have been struggling with no income in the past few weeks. They have behaved with dignity and in an orderly manner at public meetings and within the local community, despite much provocation. I know that members who have attended some of those meetings will acknowledge and agree with that.

No matter which part of the political spectrum members come from, they all see that an injustice has been done. Questions have to be asked about how the closure has taken place and about the ethics of a company that is transferring or selling—we are not sure which yet—capital assets within weeks of closure. For those who know the local situation, I speak of the B building in Kilwinning. Not only was that asset transferred to the parent company, Simclar International, but for the past few weeks the parent company has been charging Simclar Ayrshire rent. While the plant sits empty with no workers and no work, Simclar International

continues to take rent. That is an outrageous situation. With no commercial activity taking place, the company is taking money out of the workers' pockets and what should have been their redundancy payments.

Questions have to be asked about how the company could simply close the doors and call in the administrators when it had orders on the books. I am told that there was work for at least six months, and in the communities that I represent such a timescale is not to be sneezed at. Six months of work in Irvine and Kilwinning is important. However, the company simply transferred the contracts to the parent company while telling us that it had no assets.

That brings me to the question of the millions of pounds of stock and assets that are held outwith Simclar Ayrshire, in the United States and elsewhere. They belong to Simclar Ayrshire, but the company appeared to forget about them until a redundant manager brought them to my attention and I passed the information on to the administrators.

Furthermore, pension contributions were deducted every week from employees' salaries until 29 January, but they were not paid to the pension company. One employee confirmed that the last payment to his pension company was on 14 December while the last deduction from his salary was 29 January. I say to Mr Russell that six weeks of pension payments is a lot of money to the families, because they have survived on nothing in the past two weeks. I call on Mr Russell, even now, to do the right thing and pay the money back.

At a recent meeting, the administrators said that there were buyers for much of the plant and machinery—Mr Gallie mentioned the movement of goods in and out. Who were the buyers? Simclar International, the parent company. We have to ask ourselves why it needs that additional equipment if there has been such a downturn in the market. The reason is that the contracts have been transferred. The highly skilled workers in my constituency who are turning up at the job centre desperate for work are being told that there is a company looking for their skills. It is called Flexible Recruitment Services, and the workers would have to be willing to travel to Dunfermline. Guess who the principal owner of the contract agency FRS is—Simclar International.

Questions have to be asked and answered. I am grateful to the minister, who responded quickly and came to the constituency on the Monday following the closure and called for a DTI investigation, which was the right thing to do. I have not had the opportunity to speak about the upskilling, retraining and regeneration of the area, which are important to me as the local MSP, but I

hope that there will be opportunities to do that in future.

I support the amendment in the name of the minister.

10:01

Campbell Martin (West of Scotland) (Ind): I congratulate Rosemary Byrne and Solidarity on bringing the issue of workers' rights to the Parliament, and I acknowledge the immense amount of work that Rosemary Byrne and Irene Oldfather have put in to support the Simclar workers. The treatment of those workers has been an absolute disgrace, and the behaviour of Mr Sam Russell has been little short of capitalist gangsterism. The man is doing it because he thinks that he can get away with it—and he thinks that because of current legislation.

We would do well to learn from history. I come from Ardrossan in Ayrshire. I am proud of the fact that my father was an Ardrossan docker and lay official of the Transport and General Workers Union. Because of his involvement in the docks and in that movement, I am aware of the crucial role that was played by the dockers in Ardrossan in 1912, when they asked for an extra ha'penny a ton for shovelling coal. The employers—the Ardrossan dock labour board—considered that unreasonable and refused to pay it, so the dockers went on strike. Within a week, every worker in every company in the port had come out on strike in support of their comrades. That would not be allowed today, because legislation states that people cannot support other workers. Back then, however, it was crucial that the workers were allowed to support their fellow workers in industrial action.

Although the strike was ostensibly about ha'penny a ton, in reality it was orchestrated by the employers to try to break the unions on the Clyde. That is why Ardrossan became crucial in the fight. We know that it was orchestrated because, on the very day that the Ardrossan dockers went on strike, the employers brought in scab labour—it had been arranged beforehand. The police moved into the port on the same day, taking control on the side of the employers and ensuring that the scab labour could get in. They attacked the workers on strike and members of the Ardrossan public who were supporting the workers. That is reminiscent of more recent industrial action in 1984, when the miners faced the same situation. Perhaps if we had learned from history and the Ardrossan dock strike in 1912 we would not repeat the same mistakes and we would not have the current anti-trade union legislation.

If members are interested, I should say that the Ardrossan dock strike is well recorded in a book that was written in the early 1990s by a Saltcoats man called Billy Kenefick, who is now Dr Billy Kenefick, and a lecturer in history at the University of Dundee. It is well worth a read.

I have said that, because of current legislation, today's trade unions are not allowed to support their fellow workers, but back in 1912 the UK trade unions supported the Ardrossan dockers. A man called Ben Tillett came up from London to speak to the Ardrossan dockers and to support their fight for workers' rights. In Billy Kenefick's book, he is described as a man who was disillusioned with the parliamentary route to social change, and is quoted as saying that he was disillusioned with it

"due to the failure of the parliamentary Labour Party to promote political and economic reform to the benefit of the working classes."

That was almost 100 years ago. New Labour seems to have been with us for much longer than we thought.

It is a disgrace that workers have had to fight so long and so hard for their rights and that they must still fight hard for basic rights. That they must do so has happened not by chance but because there are exploitative employers and because legislation lets those employers get away with exploiting. We must scrap the anti-trade union laws and scrap the Government that supports them.

10:06

Bill Aitken (Glasgow) (Con): This has been an extremely unhappy debate. I have never been a trade unionist, but I have been made redundant—it happened six months before the Parliament came on stream, so there were no real issues for me. However, I compare and contrast my employers before I was made redundant with Simclar. When I was being made redundant, people were given every possible chance to relocate, generous payments were made and a lot of money was spent on enabling people to get counselling and to consult employment practitioners to find out how their problems could be sorted out. By contrast, Simclar's conduct has been little short of disgraceful. It has shown callous disregard for its employees at every stage in the process and has failed to realise the damage that its actions can cause to wider industrial relations. It is hardly surprising that there is bitterness in the Irvine area. Once that bitterness is allowed to fester, it will make moderate people militant and militant people more militant.

For once, Conservative members have no criticisms to make of the Scottish Executive's handling of matters. Allan Wilson deserves great

credit for moving into action effectively and for demanding a DTI inquiry, the results of which we await with considerable interest. We should consider the direction in which to go when we receive those results, not before. The First Minister's comments on what has happened have been moderate and sensible; indeed, they contrast starkly with the comments of Simclar's chairman, whose language has been extravagant and counterproductive, to say the least.

A way forward must be considered. Everyone accepts that it is not easy for 430-odd people in an area such as North Ayrshire to go down the road, but the Executive is due credit for its endeavours in trying to obtain a constructive solution for those who have been most affected by what has happened.

Adam Ingram correctly said that Ted Heath coined the phrase "the unacceptable face of capitalism" in somewhat different circumstances. The unhappy episode that we are considering demonstrates how things can go very wrong when businesses behave irresponsibly, but what has happened is not typical, so we should not overreact. I have talked about my experiences in that respect.

Let us await the outcome of the DTI inquiry. Campbell Martin's arguments were interesting, but, they are, with respect, for another day. They would provide good debating material for a future parliamentary debate. We must consider the plight of the Simclar workers and find constructive solutions to individuals' problems. When the DTI report is published, we can consider whether the Parliament and the Executive can do anything to avoid a repeat of this shoddy affair.

10:10

Mr Kenny MacAskill (Lothians) (SNP): This has been an excellent debate; indeed, it has been one of the few debates on workers' rights in which uniform views have been expressed by members of Solidarity right through to members of the Conservative party. Members recognise the importance of the issue and the manifest injustices to which the Simclar workers in particular have been subject.

Redundancies and workers' rights have been a theme in the debate, but the situation at Simclar in Ayrshire is at its heart. Irene Oldfather's speech was one of the best speeches that I have heard for a long time in the chamber—indeed, the Presiding Officer was correct to be rather indulgent in the time that he gave her. If Mrs Oldfather had spoken for considerably longer, members would have been equally interested and captivated. She encapsulated the manifest wrongs that have occurred and must be remedied.

I hope that the minister will answer the questions that my colleague Adam Ingram asked. We accept that the minister is limited and constrained in what he can say—quasi-judicial matters to do with the DTI, for example, are involved—but we have been heartened by his quick actions in meeting representatives and ensuring that there is communication with the DTI. We ask him to clarify the issues that Adam Ingram raised, but also to take on board the uniformity of members' views and the unity in the chamber. Members believe that the actions of Mr Russell and Simclar are unacceptable, and the minister has our full backing for taking whatever action he can take. Even with an election looming, we should not indulge in petty point scoring. We should sort out a fundamental injustice and address actions that besmirch employers in Scotland. I agree with Bill Aitken in that respect. What has happened is not a normal course of action for employers in Scotland. It is unacceptable, but—thankfully—unusual.

Redundancies frequently happen, but they are a blow to people. Sometimes we forget the pain that they bring. They bring periods of employment to an end. We must recognise that employment is important to people, and its importance lies not simply in defining who a person is or in letting people bring home money that enables them to look after themselves and their families; its socialisation aspects are also important. If a person has contributed a great part of their life to a job, irrespective of how humble that job is, losing that job can be a serious body blow. Statutory redundancy payments in this country are not kings' ransoms. The golden farewells that may occur in the City of London are not the norm for those who are made redundant in country areas or in Scotland. We must recognise that workers' dignity is affected by redundancies and that they must be treated with dignity.

Sacking workers by text message is unacceptable. Local authorities have sent redundancy notices by taxi, which is an equally unacceptable way of treating people who have contributed a great part of their lives to an employer. They will have received pay, but they will have contributed a lot.

Members have spoken about workers' rights. The Scottish National Party's position is that part of the problem in the United Kingdom is that we have not sought to codify and enshrine what workers' rights are. We have considered giving people legal immunities in a piecemeal way. We must consider the European model at some stage, which is not to give various people legal immunities but to clarify what the rights of workers are. We must take a pan-European approach and seek to reach the same levels that Denmark has reached. As someone who supports the European Union, I say that if the European Union spent more

time promoting the rights of workers than the rights of prisoners, it would receive more support and there would be a greater understanding of its social and economic importance.

10:14

Allan Wilson: I welcome the comments that have been made by Kenny MacAskill, Bill Aitken and Phil Gallie and hope that, at decision time this evening, the Parliament will send out a clear, fundamental message to employers that certain practices are completely unacceptable to the people of Scotland, whom this elected Parliament represents.

I agree with Kenny MacAskill and Bill Aitken when they say that this incident is not typical of employment practice or employers in Scotland. Employers, trade unions and employees take a much more enlightened approach across the board than this incident has shown. It is to our nation's shame that such an event should have taken place in such a manner at those factories.

I hope that I have given Adam Ingram and the whole chamber the assurances that have been sought. We acted quickly when the matter was brought to our attention, and all the unanswered questions that Irene Oldfather raised during her commendable speech today—and when she first raised the matter at First Minister's questions last week—have been put to the DTI. The issues are under investigation and I hope to speak to DTI ministers on Monday next week to pursue them further.

Kenny MacAskill also made important points about our living in a wider European market. The impacts and effects of globalisation have been mentioned. They affect the whole world, as the global supply chain stretches around the world.

It is not true to say, as some have said today, that workers in the United Kingdom are any less protected than are workers anywhere else in Europe. In some respects, blue-collar workers have more protection in the UK than they have in many other EU member states. Employers in the UK, as in other member states, are under a statutory obligation to consult employee representatives about proposed collective redundancies. The consultation must cover ways of avoiding redundancies, reducing their number or mitigating their effects—none of which took place in the case of Simclar.

I know a bit about the subject because, like Bill Aitken, I was once made redundant; in fact, I was sacked for having the temerity to join a trade union and go on strike. Employee representatives or employees who believe that their rights under the provisions that I mentioned have been infringed may seek a protective award of compensation

from an employment tribunal. If the tribunal finds in the applicant's favour, it may award up to 90 days' pay to each affected employee. I understand that the trade union Community is currently pursuing those issues, and I wish it well in its endeavours. As has been mentioned, and as I understand the situation, those unfortunate workers received absolutely no redundancy payments, although many of them were hard-working employees who had given, in some cases, in excess of 20 years' service to their employer.

In an insolvency situation, as was the case with Simclar, employees have preferential status in insolvency proceedings. In effect, that gives their claims priority over the company's general creditors, and over creditors who have taken security over the assets by way of a floating charge. Preferential status does not extend priority over the status of creditors who have taken fixed-charge security. However, actions can be taken under the provisions of schedule 6 to the Insolvency Act 1986 to ensure preferential status for employees' claims for holiday pay, wages up to £800 in the four months immediately preceding the date of insolvency and certain occupational pension contributions that have been deducted from employees' pay in the four months preceding the date of insolvency. Again, I hope that all reasonable efforts will be made to ensure that whatever rights and entitlements the Simclar workers have are secured and that appropriate moneys are paid to them.

I do not have enough time to go into the detail, but I assure Phil Gallie that employers and trade unions in this country have agreed that entitlement to redundancy payments should be reviewed. The Government is currently engaged in that review and, as part of the Warwick agreement with trade unions, there was a manifesto commitment to increase the fixed payment. Therefore, these entitlements are under review with a view to strengthening workers' rights and ensuring that the employer's voice is also heard in the process.

I hope that we can unite at decision time this evening and send a clear message to Simclar that such practice and procedure are not acceptable in modern Scotland.

10:20

Tommy Sheridan (Glasgow) (Sol): First, I want to indicate that the Solidarity motion has wide support outside the chamber. I have a letter here from Bob Crow, of the National Union of Rail, Maritime and Transport Workers, which reads:

"Dear Tommy

Thank you for contacting me to advise me of the motion being put forward by Rosemary Byrne to the Scottish Parliament on 15th February.

If enacted, the Trade Union Freedom Bill will significantly enhance the ability of Trade Unions to protect the interests of millions of working people.

The RMT has been actively involved in the campaign for a Trade Union Freedom Bill as an important step to strengthening trade union rights and as such we fully support the motion."

Another letter, from Bill Hayes, the general secretary of the Communication Workers Union, states:

"I am pleased to offer the full support of the CWU for your motion on workers' rights and the Trade Union Freedom Bill to be debated by the Scottish Parliament on 15th February 2007.

CWU has actively supported the development of the Bill and the campaign to have it made law."

A letter from Mark Serwotka of the Public and Commercial Services Union says

"I am very pleased to offer the full support of PCS for your motion on workers' rights and the Trade Union Freedom Bill to be debated by the Scottish Parliament on 15 February 2007. PCS has actively supported the development of the Bill and the campaign to have it made law.

I hope your important motion is carried."

It is important that that wider support is recognised here.

I welcome the consensus that has been generated around the specific treatment of the Simclar workers. We all welcome the condemnation of Mr Russell and the way in which he has treated his workers with total and utter disregard, despite their loyalty during many years. However, such treatment is not as isolated as some members would have us believe. The workers at Selectron would argue about that, and the workers at NCR in Dundee were gathered into the canteen to be shown a video message from America telling them that they were being sacked. Incidents of poor employment practice in Scotland are not isolated: there is a growing and general pattern of employers not treating their workers with dignity.

If we accept the Executive's amendment, we condemn the Simclar experience, and that is right. However, accepting it would delete from the motion all reference to the trade union freedom bill. In other words, we would delete any idea of putting into legislation the necessary framework to prevent Simclar from being repeated over and over again.

During Jackie Baillie's speech, which exposed her high quality as an MSP, she asked the SNP whether it supports the trade union freedom bill. It is unfortunate that, as yet, the SNP does not seem to be willing to say that it supports the bill. Of course, the problem is that the amendment from Jackie Baillie's party would delete from the motion any reference to the trade union freedom bill.

Jackie Baillie: Will the member take an intervention?

Tommy Sheridan: I thank the member, but I do not have time.

The bill, which was supported by the last Labour Party conference at which motions could be discussed—in 2005—is Labour Party policy. It is also Trades Union Congress policy. Our motion has the support not just of general secretaries of major UK-wide unions, but of the TUC and the Scottish Trades Union Congress.

Mr Stone: It is a pity that Mr Sheridan did not give way to Jackie Baillie. Would he like to address the point that she raised about his treatment of employees in the Parliament?

Tommy Sheridan: We have no problem with our party's treatment of employees. I have to say that the matter is none of Mr Stone's business because it is about personal relations within a party. I give him this commitment: whatever the National Union of Journalists decides we should do, we will do. We will not take part in petty political squabbling when we have important issues to decide.

Frances Curran: Will the member take an intervention?

Tommy Sheridan: No.

Mr Stone and Ms Baillie have refused to support the trade union freedom bill, the establishment of workers' rights—

Jackie Baillie: Will the member give way?

Tommy Sheridan: Ms Baillie has already had her turn; she should sit down.

That Jackie Baillie has refused to support the trade union freedom bill exposes the scant regard that she has for real workers' rights. She can talk a right good game. She can come to the aid of former SSP workers—it is an interesting alliance, if Jackie Baillie is speaking up for them—but the fact is that she refuses to support the trade union freedom bill despite the measure being Labour Party policy and TUC policy. It is sad that the Executive seeks to delete reference to the bill from our motion.

Campbell Martin made an excellent speech in which he referred to the industrial dispute of 1912. On Monday night, I had the pleasure of sharing a platform with Ricky Tomlinson, who spoke on behalf of the campaign for justice for the Shrewsbury 24, who were criminalised for their part in picketing strikes in 1973 in the context of the abusive practices of employers on construction sites across Britain. At that meeting—a packed meeting in Liverpool—the point was made that workers had more rights in 1972-73 under a Tory Government than they have today under a new

Labour Government. It was also pointed out that workers had more rights in 1906 than in 2006, because the Trades Disputes Act 1906 gave workers the right to strike and the right to withdraw their labour; workers do not have that right under new Labour. Labour has refused to repeal the blitzkrieg of anti-trade union legislation that the Tories introduced and enacted throughout the 1980s. After 10 years in office, Labour still refuses to repeal that legislation.

The trade union freedom bill has attracted cross-party support from 187 MPs, including 170 MPs from the Labour Party alone.

Frances Curran: Will the member take an intervention?

The Presiding Officer: The member is in his last minute.

Tommy Sheridan: By agreeing to the motion, the Scottish Parliament could send a message to Westminster about the trade union freedom bill, which will have its second reading in two weeks' time on 2 March. We have the opportunity to say to Westminster that we in the Scottish Parliament support the trade union freedom bill and the fundamental right of workers to withdraw their labour.

Frances Curran: Will the member give way?

The Presiding Officer: No. He is winding up.

Tommy Sheridan: As Tony Woodley, of the Transport and General Workers Union, has said,

"If workers do not have the right to withdraw their own labour then they are serfs not citizens at work."

We need to establish not just the right to work but the right to withdraw labour. That is why the trade union freedom bill is so important and that is why I appeal to members not to allow the deletion of the reference to the bill in the motion that we will agree to today. With regret and sadness, I remind members that Allan Wilson, a former trade union official, has moved an amendment to the motion that would delete reference to our support for that bill.

The Presiding Officer: Wind up, please.

Tommy Sheridan: Unfortunately, the Labour Party says some things before it enters office and does the opposite once it is in office. We need workers' rights—

The Presiding Officer: Wind up, please, Mr Sheridan.

Tommy Sheridan: That is why we need the trade union freedom bill to be supported.

I support the motion—in Solidarity's name.

Education

The Presiding Officer (Mr George Reid):

Before the debate on school education starts, I must inform members that I am the only Presiding Officer available today and that I require a 10-minute break for a briefing before First Minister's question time. In consequence, I will need to suspend the meeting between 11.30 and 11.40. Therefore, speeches in this debate should be of around four minutes, with the exception of speeches from the Greens, for which I will allow three minutes.

The debate is on motion S2M-5570, in the name of Brian Monteith, on school education.

10:29

Mr Brian Monteith (Mid Scotland and Fife) (Ind): Presiding Officer, will you clarify how long I have for my opening speech?

The Presiding Officer: A little over four minutes.

Mr Monteith: I am rather hopeful that this debate on schools will be better tempered than the previous debate, but one never knows.

I was surprised to see that an amendment to my motion was lodged, as I had thought that the motion would allow members to contribute to the debate in a variety of ways while raising any concerns that they have. By applauding the work of Her Majesty's Inspectorate of Education and supporting its strategic objectives, the motion allows members to say, for example, "We have concerns about modern studies so we want to know what HMIE can tell us about that," or "We have concerns about special needs education"—which was the subject of the amendment that was not accepted—"so we want to know what HMIE is doing about that." The motion is constructed to allow a broad discussion. Indeed, it will even allow Conservative members to unveil their new education policy, which was revealed only last week. However, rather than talk that up, I will leave them to do that.

I became interested in what HMIE does because I read its reports regularly and I visit schools as a result of the reports that it publishes. Every time that a school in Mid Scotland and Fife is the subject of an HMIE report—be it a good or bad report—I try my best to visit the school to find out people's experience of the inspection, what improvements they are working on and how they are building on the education that they deliver. Anyone who undertakes such visits—I know that I am not the only member who does so—finds that teachers and head teachers have gone through quite a trying experience. The inspection can be

very testing and it can put people under a great deal of pressure.

Inspections can result in changes in schools. I have visited several schools after the publication of their HMIE report—as we all know, the process involved in publishing the reports takes some time—only to find that the head teacher was no longer in place because the leadership issues that had been highlighted were now being dealt with. It is a good thing that HMIE reports can bring about a process of change that tries to make schools better. When we make such visits to schools, we also sometimes find that people have a sense of pride and achievement in the fact that their hard work and good delivery of education have been recognised by those who witnessed and reported it on behalf of Her Majesty's inspectorate.

All those things happen as a result of HMIE reports. I could go on and talk further about the great work that HMIE does, but it is not incumbent on me to do so and I know that the minister will do a great deal of that. I can probably say now that I agree with every word that the minister says about HMIE doing a good job.

As with a previous motion for debate that I lodged, my motion today seeks to draw members' attention to the regularity of inspections and the accountability of the inspectorate. I am signed up to the idea that there should be regular inspections. It appears to me that we should ensure that, during a pupil's journey through school, there should be at least one inspection during their years at primary school and one during their years at secondary school. However, through the diligent work of the *Times Educational Supplement* and parent-teacher associations, we have found out that the most recent inspection for some 32 schools goes as far back as 1983, and some 280 have not had an inspection since 1995. That is a rather shocking figure. I hope that HMIE will address that by building into its programme a policy that ensures that full inspections are carried out in those schools.

The other issue that I want to raise—I leave it with the Parliament as an issue to be considered in future—is the accountability of HMIE. Is the inspectorate accountable to us through the minister? Is it accountable to the public, the pupils and teachers? In my role as Audit Committee convener, I look at how our committee conducts itself. Every month or so, we call before us chief executives of agencies or accountable officers from departments. When I look at the work of the Education Committee—I mean no disrespect to that committee; indeed, I served on its predecessor committee for four years—I cannot find an occasion when the chief inspector has been brought before it to explain in full glory the

work of the inspectorate. I am happy to be corrected on that if I am wrong.

The Presiding Officer: Wind up, please.

Mr Monteith: I am just about to wind up, Presiding Officer.

I propose that the inspectorate should come before the Education Committee annually to explain its annual report and all the good work that it does so that its policies can be examined. That is the sort of accountability that the Parliament is about. I hope that members will welcome my suggestion as a way of encouraging more discussion of education.

I move,

That the Parliament believes that Her Majesty's Inspectorate of Education (HMIE) plays a vital role in raising standards of attainment and enhancing the learning of pupils and students at all stages of school and college education and supports its strategic priorities of promoting public accountability through inspection and reporting, working with other organisations to build the capacity of high-quality education and informing education policy development through knowledge of the whole education system, while managing and developing HMIE as a best value public body.

10:34

The Deputy Minister for Education and Young People (Robert Brown): I welcome the terms of Brian Monteith's motion and the opportunity to pay tribute to the work of Her Majesty's Inspectorate of Education. It might be worth saying that both the Education Committee and education ministers have regular dialogue with Graham Donaldson, the chief inspector. His work and that of his colleagues is very much appreciated.

All members agree that high-quality education is crucial, both to ensuring that children and young people in Scotland realise their full potential and to securing Scotland's future as a highly skilled and internationally competitive nation. Through its inspection activity, its wider aspect reporting and the extensive provision of expert advice and good practice, HMIE plays a vital role in ensuring that every child benefits from such high-quality provision.

I remind members that Scottish education is a significant success story. We are in the top third of Organisation for Economic Co-operation and Development countries and have shown steady improvements in literacy and numeracy. According to the programme for international student assessment, our 15-year-olds are among the highest performing in the world, and only three countries had significantly higher attainment levels in maths, science and literacy. It is right to set that context at the beginning of this debate.

HMIE confirmed that success in its highly influential report "Improving Scottish Education". As the senior chief inspector, Graham Donaldson, noted,

"Inspection evidence shows that Scottish education does many things well and some things particularly well. Most learners are well supported and well taught ... Parents report high levels of satisfaction about their children's schooling."

Margo MacDonald (Lothians) (Ind): Can the minister explain why the chief inspector of schools says that standards of literacy and numeracy have risen while, at the same time, universities complain that they have to run basic literacy classes before students can take advantage of university teaching?

Robert Brown: I accept that there is a series of issues to consider. The whole purpose of having inspection and local authority monitoring systems is constantly to improve and round up the quality of Scottish education.

We have invested heavily in our educational success and will continue to do so to ensure continuous improvement and the raising of standards in the future. Every child should benefit from that.

The inspection system, which is the subject of today's debate, is a world leader and highly regarded on the international stage. HMIE contributes regularly to thinking about quality improvement in countries across the world, most recently in the Czech Republic and Chile. The document "How good is our school?" has proved to be a particularly powerful motivator and has been translated into a number of foreign languages, and HMIE quality indicators are in use in many countries across Europe, Africa and South America.

Although Brian Monteith touched on the following, he did not develop the point. In 2002, we committed to ensuring that the inspection results will be published for every primary school by 2009 and for every secondary school by 2008. That is a huge undertaking, but we are on track to achieve it—in fact, HMIE is ahead of its targets. By the end of March this year, 1,626 primary and 350 secondary schools will have been inspected.

No matter how rigorous the inspection process—it is certainly rigorous, as Brian Monteith said—a one-off visit to a school is not enough on its own to ensure that children and young people receive the standard of education that they should expect.

HMIE has rigorous follow-through processes, but it is primarily local authorities that are accountable and responsible for the provision and quality of education in schools. Every education authority was inspected between 2000 and 2005

and a further round of inspection is now under way.

Self-assessment, quality assurance, local authority quality improvement officers, monitoring of complaints and, ultimately, inspection by HMIE are among the tools in our armoury. If HMIE becomes aware of serious complaints about educational provision, it can and does bring forward the planned date of inspection. Our system for ensuring the accountability of our schools is robust and successful. Scottish education is the healthier for that.

10:39

Fiona Hyslop (Lothians) (SNP): I, too, support the motion and welcome its terms. We place on record our recognition of HMIE's valuable work in Scotland's education system. I am pleased, however, that the minister has burst Brian Monteith's bubble. In many respects, Brian Monteith is not up to date with what is happening in inspections, HMIE's role in relation to the Parliament and the Education Committee's scrutiny of HMIE.

It is interesting that in the six years between 2002 and 2008 all secondary schools in Scotland will have been inspected. That is what I think Brian Monteith is looking for, but it is already happening. Between 2002 and 2009, all primary schools in Scotland will also have been inspected.

Mr Monteith: I know that the member takes a great interest in the affairs of Linlithgow. Can she tell me whether she is satisfied that seven primary schools were not inspected between 1983 and 1995?

Fiona Hyslop: Far be it from me to defend a Labour-Liberal Democrat Executive, but there were 14 years of Conservative Government between 1983 and 1997. I understand that the member was a member of the Conservative party during that time, so he must take some responsibility and blame for what happened in that period.

We should move on and look to the future. We have to move towards a culture of continuous improvement in schools, including self-assessment. Schools should not live in fear of the dreaded HMIE visit. Peer-assessment and self-assessment should be part of the culture in education, not just at school level but at pupil level. If we look forward to the types of assessment and inspection that we want, I think that we are moving in that direction.

I record my gratitude to Graham Donaldson for his regular appearances before the Education Committee in the past four years, not least to speak about additional support for learning. I

commend the approach in an amendment to the motion that was unfortunately not accepted: there are particular issues to do with additional support for learning that HMIE could rightly address on its regular inspections. I would like that to happen in the future—it is an area in which there could be improvement.

Mr Monteith: Will the member give way?

Fiona Hyslop: I am sorry, but I will continue if I may. There is a big agenda issue with HMIE's role in the curriculum for excellence. If we are to change the culture of Scottish education and ensure that teachers have ownership, that they regain and retain their professionalism and that they have control of what goes into their teaching, they must have HMIE's support and know that they will not be criticised for making developmental use of their professionalism to try different things and ensure that more time is spent on the curriculum and less on assessment. The silent partner in any such change would be the Scottish Qualifications Authority. We have to ensure that the SQA and HMIE serve the curriculum for excellence and that the curriculum serves the pupils. It is sometimes possible to change the route of a Titanic, but if we are to change the route of Scottish education, we have to start seeing progress for pupils.

If I have one criticism of Brian Monteith's motion, it is that he does not mention that we must ensure that any improvements in Scottish education are, first and foremost, pupil centred. He will have realised the importance of that from the Audit Committee and Education Committee inquiries and from some of the issues to do with McCrone. In that spirit, I commend the motion and thank the member for bringing it to the chamber.

10:42

Lord James Douglas-Hamilton (Lothians) (Con): Fiona Hyslop has made a very good speech and I welcome the fact that the independent members have raised the important work of Her Majesty's Inspectorate of Education. The inspectors are a group of immensely highly qualified men and women whose reputation for engaging in the pursuit of excellence says a great deal for their professionalism and integrity. In discussing the current work of the inspectorate, which I regard as admirable, we must think about how education should best be run in the future.

For us, delivering education back into the hands of the teaching profession, combined with reasserting statutory parent power, must, through evolutionary cultural change, be at the centre of the strategy. I will therefore focus on three key areas: devolved school management, teaching

and the curriculum, and the necessity to reinstate school boards.

The policy of devolved school management is strongly supported by us and the Executive. DSM funding is that which is devolved to individual head teachers to spend. Ministers claim a target of devolving 80 per cent, and eventually 90 per cent, of funding to head teachers' control, but the reality does not match the rhetoric and it is patchy. The proportion of the total education budget that is actually devolved to our local authorities ranges from 95 per cent down to only 57 per cent. We must evaluate the list of budgetary areas that the Executive advises, but does not compel, local authorities not to devolve. DSM guidance should be bolder and aim for more consistent outcomes throughout Scotland.

Of course, another factor that limits the extent of true devolution of spending to schools is the excessive paperwork and bureaucracy that they face. My second point is that, as well as being highly qualified and worthy of trust, head teachers and teachers are best placed to know the specific needs of their communities, schools and pupils. Although the safeguard of some national strategic guidance should be retained, we should give heads more flexibility to implement unique solutions. That would give more prominence to the inspectorate's role of sharing with schools details of best practice. If head teachers had more freedom to innovate, there would be more best practice to share—for example, they would be able to work up their own continuing professional development policies for their teachers.

Margo MacDonald: If every headmaster had complete freedom to set their own priorities, how could we avoid a situation in which parents decided that they preferred the management of a particular school to that of the school next door, which would unbalance the whole school system?

Lord James Douglas-Hamilton: It is obviously important that parents have a say but, ultimately, the head teacher must make the decision. More decisions should be in local control. Parents have a part to play in influencing that process, but decision making should be in the hands of head teachers.

Thirdly, it has been said that

"Teachers continue to regard the matter of indiscipline and how to solve it as their number one priority."

Those are not my words, but the words of Sandy Fowler, who is the convener of the Educational Institute of Scotland's committee on pupil indiscipline. We have long repeated our view that head teachers should be given more powers to permanently exclude the very small number of persistently disruptive pupils, but the Executive's response has been to refuse to publish detailed

figures on violence in schools and to complain about our having the temerity to follow up the matter through a freedom of information inquiry. Our message to the Executive is extremely clear: if it does not like our investigations, it should publish the information. After all, only a very rash minister would wish to play down disruption in schools. Moreover, a fundamental principle is at stake—the Scottish public have the right to know.

We want head teachers to have the freedom to shape the organisation, ethos and discipline regimes of their schools. More decisions being in local control would fit in with a more comprehensive implementation of devolved school management. I reassure Mr Brian Monteith that our manifesto plans will be revealed before long.

10:47

Peter Peacock (Highlands and Islands) (Lab):

It is a pleasure to open for the Labour Party. In many respects, today is a remarkable day. It is remarkable for me because this is my first speech as a back bencher after almost eight years in Parliament. It is also remarkable in that Brian Monteith has brought together the words “education” and “consensus”, which I do not think has ever happened before—he is usually an extraordinarily contentious man when it comes to education. I suspect that the subject of the debate has been chosen principally because it is the only thing on which the other independent members can agree with Mr Monteith.

That said, the motion gives us the opportunity to examine the inspection system. There is no doubt that people in many countries of the world look with great envy on Scotland’s inspection system and its history. Our inspectorate has high-quality staff who have great experience and who possess insights into school education that bring enormous benefits to our system as a whole. It is no accident that countries throughout the world look to Scotland to learn about our education system and about our inspection system, in particular. Many countries are adopting our system wholesale.

As Brian Monteith said, we often think that inspection is principally about inspection of institutions, but the inspectors also conduct themed inspections of subjects such as maths or modern studies, which offer insights into the system as a whole and act as a best-practice exchange—an important part of their role, which I would like to be developed further. From time to time, the inspectors produce a state of the nation report—Robert Brown mentioned “Improving Scottish Education”. In addition, they can give ministers access to insights into the system that help to inform policy decisions.

As Fiona Hyslop and others have said, individual inspections are regarded as being extremely tough and rigorous and many schools face the prospect with a high degree of trepidation, but in my experience of going round the system over recent years and further back in time, despite that initial trepidation, the experience is almost invariably good. Education is about learning and because teachers understand learning, they learn from the process, as do head teachers, and improvement occurs as a result.

Brian Monteith made the important point that any shortfall that is found should be brought to light. That is part of the purpose of the inspection system. He also rightly said that, invariably, change occurs as a result of an unfavourable inspection, either through the removal of the head teacher or through other changes that improve the quality of the education. Even when the education in a school is mostly good, but deficient in parts, improvement occurs.

Mr Monteith: I have another example of a situation in which teachers and head teachers welcome inspection reports. When a report identifies that a school building is letting the pupils down, the head teacher can use it to argue for greater investment in the school infrastructure from the local authority.

Peter Peacock: Brian Monteith makes a valid point.

I turn to the frequency of inspection, which is a difficult issue that we must examine. It is hard to strike the right balance: we must hold inspections at a proper frequency and not have a system that becomes an imposition on teachers and head teachers because all they think about is the next inspection. I think that the balance is broadly right at present, but inspection needs to be underpinned by the principle of self-evaluation by schools, which Fiona Hyslop mentioned. As Robert Brown said, “How good is our school?” helps with that. We have more to do in inculcating the culture of self-evaluation and self-improvement.

In that regard, local authorities have a role to play. They are responsible for quality assurance and they have staff who visit schools regularly, which inspectors cannot do. When I was Minister for Education and Young People, I found that there was occasionally a disjunction between a local authority’s view of a school’s quality and the inspectors’ view of it, which is alarming. Over the past few years, such disjunction has been evident in Argyll and Bute and in Dumfries and Galloway. There is a great deal of scope for more work to be done between inspectors and the school quality assurance system to ensure that there is a much clearer conjunction of interests and much greater clarity about precisely what is being measured so

that parents can be reassured, not just at inspection time but between inspections, that the system is working for them.

The Presiding Officer: We move to the open debate. I ask that speeches be brief.

10:52

Iain Smith (North East Fife) (LD): I, too, welcome the debate. Like Peter Peacock, I was surprised to read a motion in the name of Brian Monteith about consensus. In today's politically correct times, the debate could be referred to as a parenthood and baked-fruit product debate.

It is important to have consensus in a debate on HMIE because one of the key strengths of that body as it has developed in recent years has been its consensual approach to the inspection process. It tries to involve schools in developing its inspection process in order to show them that it is about working with them to improve young people's education. HMIE has moved away from a confrontational approach, whereby the prospect of the inspectors' arrival induced fear in teachers. Brian Monteith mentioned that inspections are a trying experience for schools; perhaps he could help to make matters less trying by not visiting them when they have just had an inspection. It is important that rather than regarding inspection as a trying experience, schools view it as an opportunity to work with the inspectorate to find ways in which they can improve.

Peter Peacock made an important point about self-improvement. By their nature, inspections are a spot check in a particular week. Schools must evaluate and improve what they do every day of the year throughout their children's education, not just when an inspection is due. We have moved away from the situation in which a school would receive investment or benefit from improvements only when a new head teacher arrived or when an inspection was due, and we must ensure that that continues to be the case. It is important to acknowledge that the Scottish Schools (Parental Involvement) Act 2006 will help parents to have greater involvement in ensuring that evaluation and improvement take place in schools every day.

It is also important to acknowledge that HMIE has a much wider role than just inspecting schools. That traditional role is important—given that the first inspector of schools was, I believe, appointed in 1840, it is a role with a long history—but HMIE is also involved in the overall improvement of Scotland's education. Peter Peacock mentioned the "Improving Scottish Education" report, in which HMIE draws on the experiences of inspections over a number of years to find out where improvements are needed in Scottish education. That document is an important

snapshot of where Scottish education is and what needs to be done to improve it.

The role that HMIE plays today, not only in the inspection but in the development of education, is extremely important in ensuring continuous improvement. I refer to its work with agencies such as Learning and Teaching Scotland, the people who are involved in implementing the curriculum for excellence, and those in the teaching profession more generally.

Our approach in Scotland can be contrasted positively with that down in England. I remain very concerned about the role and nature of the Office for Standards in Education, the equivalent of HMIE south of the border. Although Ofsted recognises that most schools in England are performing well, it takes a much more confrontational stance in its inspections. Schools fear that they may be subject to special measures or to notices to improve—such things do not exist in the Scottish system. Obviously, HMIE recognises that some schools need improvement, but it does not go down the formal route of deeming a school to be a failing school, which does no good for a school's staff or pupils. All schools should be deemed to have the ability to improve; they should not be deemed to be failures. It is important that local authorities in particular respond to the role that HMIE plays.

My final plea goes to the local education authority in my constituency, Fife education. I ask it to respond to the very serious criticisms of the quality of buildings at Madras college. I hope that it will bring forward an action plan for a new Madras college and a new secondary school at the Tay bridgehead in north-east Fife.

10:56

Robin Harper (Lothians) (Green): I well remember the time, in 1964, when I was awaiting with a dry mouth and sweaty palms my very first inspection. It was the inspection at the end of my first year of teaching—the one that would determine whether I would continue as a teacher, or not. Those days are long past. As Peter Peacock rightly said, people nowadays, both departmentally and individually, welcome inspections, which are now seen as being extremely helpful.

I will spend a couple of minutes talking about the promotion of good practice. In doing so, I have taken the narrow focus of the eco-schools initiative and how HMIE could, and should, be encouraging such good practice. Seventy per cent of Scottish schools are already in the eco-schools initiative. If we look at the health-promoting schools initiative, we see that it has demonstrated what can be achieved in promoting change in pupils' attitudes towards their fitness and health and their

behaviour. We now need to apply that approach to sustainable development education, which offers a unique opportunity to equip our young people with the skills and attitudes that they need to ensure the health of our society, our planet, and the building of social capital in their communities.

A visit just yesterday, in which Sylvia Jackson MSP hosted pupils from Kinross high school and associated primary schools in the area, gave me an insight into pupils' feelings on the sustainable development education that they receive at school and from RSPB Scotland. It is clear that the pupils feel that they benefit hugely from the experience of outdoor activities in education, not only in terms of their personal development and empathy towards the environment, but in the invaluable support that such activities give to the academic side of their studies. I took away from the visit an appreciation of the living reality that SDE gives to book learning, and how it reinforces and extends pupils' understanding.

The week before last, the John Muir Trust and Ross high school gave a presentation at Parliament that reinforced my growing perception—indeed, I would go so far as to say, my growing knowledge—that for all subjects, but particularly for biology and geography, outdoor experiences are not an add-on, but an essential part of education. I now have a real sense that outdoor experiences are so essential that they can be regarded as the only and the best way of doing things.

By using practical outdoor activities such as gardening and polytunnel agriculture, less popular subjects have become the most popular subjects. I refer in particular to biology. That is the experience in Hamilton grammar school and doubtless of all other schools that take up the eco-schools initiative. By incorporating activities such as composting, waste recycling of paper and so on, in a cross-curricular way, Hamilton grammar school has inspired the way in which lessons in geography, biology, chemistry, maths and home economics are taught. In six years, the teaching of biology at Hamilton has moved on from one class at standard grade to four classes at intermediate grade and there has been a massive improvement in exam performance.

The strength of both sustainable development education and international development education is the emphasis that they place on pupil engagement in planning and target setting. That must be valued by HMIE, and measured and commended as the overall level of creativity in our schools must also be valued. The great contribution that HMIE could make in this regard is by assessing bottom-up approaches, computer networking, and staff and parental involvement. If

it were to do so, it could change to an enormous degree how our schools operate.

11:00

Ms Rosemary Byrne (South of Scotland) (Sol): I welcome the debate that Brian Monteith has brought to the chamber, although I was a bit surprised to hear that he is disappointed that I lodged an amendment to his motion. Everyone in the chamber is aware that I have a lot to say on additional support needs. I felt that that area could have been boosted somewhat in the motion.

I acknowledge the role of HMIE and the job that it does in education. Much progress has been made over the past few years in boosting that and in greatly improving the system. Like Robin Harper, I remember being very nervous about HMIE inspections, although they are not so far in the past for me as they are for him. I remember finding the experience very daunting. If inspections are done in a positive and non-threatening manner, the feedback that teachers and schools get is one of the good ways in which the system can be improved. Along with quality assurance and self-evaluation, inspections can successfully improve the education system, but only if they are done properly.

In my speech, I will focus on equality of opportunity for all. I would like to see HMIE inspections place greater focus on class sizes, for example. In a town that has two or three schools, the intake of primary 1 pupils can lead to 18 in a class in one school and 30 in a class in another school. That will come as no surprise to members—we know it from experience, but it is not equality. I would like HMIE to look much more closely at the standards and level of children who are taught in big classes. We have not done enough research on that, so we need more.

I would also like to see more being done on school meals. Some children in deprived areas still do not have a breakfast club, but magnet schools in middle-class areas do. Middle-class parents are not only vocal but prepared to put in the money to pay for a breakfast club. That is not equality. A good breakfast in the morning is a good start for our children, so I would like to see HMIE scrutinise that area. Last week, I received a letter from a school in the Borders in which I was told that children at two schools in the Borders do not receive hot school meals. That is not equality. Indeed, I believe that they are the only two schools in Scotland in that category, but I am open to correction on the matter. I want HMIE to pick up on such issues.

I also want to see equal access in our schools to sports facilities, music and drama. At the moment, local authorities decide whether or not to employ a

drama teacher, for example. That is not equality. I want HMIE to scrutinise that.

I am very pleased that specific inspections now take place with regard to additional support needs. We have had one in relation to autism and we are about to have one in relation to dyslexia. HMIE needs to look very carefully at what is being provided for young people who have additional support needs, in which category I include young people who have social, emotional and behavioural difficulties. All too often, those young people and their parents are missed out in the interviews that take place. We need to ensure that the parents of those pupils get the chance either to fill in a questionnaire or to be interviewed on their child's additional support needs. I would also like there to be focus on assessment of such children, identification of their support needs, and planning and reviews. At the moment, a big issue for many parents relates to the Scottish Qualifications Authority's concessions for exams. Practice around the country is patchy, so I want HMIE to place a much greater focus on those areas.

I welcome the debate. I thank the Presiding Officer for calling me and I am glad that I was able to make this speech. I will support Brian Monteith's motion, but I regret that my amendment, in which I expanded on the terms of the motion, was not accepted.

The Presiding Officer: We move to wind-up speeches. Again, I stress that members should keep to four minutes. I am advised that I have missed out Richard Baker. I am so sorry, Mr Baker.

11:04

Richard Baker (North East Scotland) (Lab): How could you, Presiding Officer?

As we are short of time, I will cut to the chase. All members have welcomed HMIE's reports on schools, so there is no need for me to repeat those remarks, other than to say that I think that the reports are invaluable. Instead, I will speak briefly about HMIE's other work, which has involved commenting on local authorities' school estates reviews. I did not agree with everything that HMIE said about the review in Moray, which would originally have led to the closure of perfectly sustainable rural schools—although there is better news on that today—but it is nevertheless right for HMIE to be concerned about the wider issue of how local authorities maximise educational benefit in our schools.

As well as inspections of individual schools, HMIE carries out themed inspections. If possible, I would like HMIE to carry out a themed inspection of consultation processes on school closures, with particular regard to rural schools. That is not

because I think that no rural school should be closed. If a local authority identifies a school as unsustainable because of a falling school roll or other factors, has the evidence to justify that, and has conducted a transparent consultation process, of course the school should close. That will often be sad, because rural schools are at the heart of their communities. However, if the decision is justifiable, the school must be closed.

The problem is that, in the past couple of years, swathes of rural schools, many of which received excellent HMIE reports, have been earmarked for closure by local authorities on arbitrary grounds, with poor consultation with parents, processes that are not transparent and, in the worst cases, direct misinformation to parents as justification for the closure. There has been short-termism and a failure to realise that it is often rural areas that are growing rather than urban ones. In some informal consultation processes, the proposals have seemed to be a fait accompli. The result of all that has been campaigns by parents to keep schools open, which I and many other members have backed. I am glad that, as a result, many schools that were earmarked for closure have been saved, but I am sure that everyone agrees that that is not the best approach to the management of the school estate. Those campaigns are a result of poor consultation processes. The processes have stalled rather than encouraged reasonable and rational reviews of school infrastructure. It is very probable that schools that are unsustainable have not been closed because they were bundled in with the process for schools that are clearly sustainable.

If possible, a consideration of the consultation process would be an excellent themed inspection for HMIE to take on. The inspectorate could disseminate examples of best practice and ensure that local authorities embark on transparent consultation processes that involve parents fully throughout. That would ensure far better management of local schools infrastructure, while rightly maintaining decisions at a local level, and would enhance HMIE's work to ensure excellent provision through its reviews of individual schools. The motion rightly identifies HMIE's good work. On the issue of consultation and other matters, HMIE can make a further positive contribution to education provision throughout Scotland.

11:08

Mr Frank McAveety (Glasgow Shettleston) (Lab): I welcome Peter Peacock to the bad boys benches at the back of the chamber. Looking at the members who are seated in the back rows confirms my view about those seats.

There is unanimity among members on the benefit of HMIE's work. That is a bit of heresy for

me, as a former schoolteacher, who, like many other members, experienced the dread of inspections and the cupboard rummaging when the inspectors asked how we had acquired various resources and curriculum materials that perhaps contradicted some of the inspectorate's principles on copyright. That is my opening confession. However, HMIE certainly benefits pupils' education.

Brian Monteith has raised three fundamental issues. One is how we ensure a worthwhile frequency of HMIE reports, so that individuals in schools get the benefit of those rigorous reports and can continue to improve. The second is about the value of HMIE reports. Members have mentioned the role of schools when they are found to have both strengths and weaknesses. That is a welcome contribution by HMIE. The third and most important issue is how we engage with teachers, pupils, other staff and parents to ensure that we have a philosophy of trying genuinely to improve the quality of education in schools.

Obviously, debates will arise about what HMIE can assess. We have heard good comments about that from members. It strikes me that the broad principles on which HMIE should base its work are similar to those of schools that operate the philosophy in "How good is our school?" First, HMIE needs to consider the ethos and values of schools, as they can influence and shape the future development of our young citizens. Secondly, it must consider the leadership in schools, not just at head teacher level, but at subject and curriculum level, as well as other good role models in the janitorial and support staff. Thirdly, it should consider the range of activities that are provided; Robin Harper identified that issue. Good state and private sector schools provide a range of activities for youngsters to ensure that they develop. HMIE tries to address those issues, as well as other strengths and weaknesses.

I have taught and been an elected representative in the west of Scotland. The schools in which I taught were in some of the most challenging neighbourhoods in Scotland, if not the United Kingdom but, at secondary level, I have not yet encountered what I consider to be a failing school, although I have encountered failing elements within schools. The frustrating part is that systems have not been put in place to address those issues, week by week or year by year. Departmental failings and attitudinal failings among some staff and others in schools arise consistently. Quality assurance identifies ways in which we can deal with such issues.

We can create a culture of improvement and HMIE is absolutely central to that. However, the culture is predicated on partnership. In my area,

Eastbank academy and St Mungo's academy have demonstrated that culture of improvement. Children in those schools, which are in the most disadvantaged part of Scotland, have better work destinations than pupils from any other school in Glasgow and the west of Scotland. That is a remarkable achievement. That work can be assisted through the work of HMIE and through other assessment frameworks.

11:11

Dave Petrie (Highlands and Islands) (Con):

The debate has been good. As another former teacher, I have experienced HMIE inspections, which I found to be fair, balanced and comprehensive, with any identified shortcomings followed up, often with necessary staff changes, as Peter Peacock said. HMIE's responsibility runs from pre-school education through to further education colleges and community learning. It is responsible for promoting quality and attainment standards in Scottish education through inspection. It gives guidance to schools on self-regulation, which schools use to judge their performance against Executive targets. I agree with members' comments that that is extremely important. HMIE is also responsible for promoting the review of the national curriculum. I agree with Robin Harper that it is extremely important that we promote the eco-school ethic and with Rosemary Byrne that we must focus on extra-curricular activities.

Overall, the Conservative party strongly supports HMIE's work, which it carries out with professionalism and integrity. However, that work exposes the major shortcomings of our education system. I will raise a few issues with the minister. Half of secondary 2 pupils and a quarter of primary 7 pupils fail to meet the expected levels of literacy and numeracy. The Executive stopped collecting full results from local authorities on pupil discipline because of the failing record on that. I do not disagree entirely with the minister on the PISA report but, among the OECD countries, Scotland had one of the largest drops in the attainment level of 15-year-olds. Last year, 15 per cent of school leavers did not enter work or education. We have had a lot of talk about those who are not in education, employment or training, on which Scotland has the worst record in the UK. More than 18 per cent of pupils play truant. Rosemary Byrne mentioned class sizes, an issue that Fiona Hyslop has often raised in the past. The average size of mathematics and English classes in S1 and S2 is about 30. All teachers throughout Scotland accept that the Executive's target for May of an average size of 20 is not going to happen.

An HMIE report in January 2007 pointed out the failure of the McCrone deal to improve pupil

attainment. Attainment among S4, S5 and S6 pupils has not improved and there has been a failure to raise the performance of the lowest-attaining 20 per cent of pupils.

Rosemary Byrne touched on mainstreaming, on which HMIE produced an interim report in 2004. We opposed the Education (Additional Support for Learning) (Scotland) Act 2004. I am all in favour of social inclusion, but a case can still be made for special schools. I have taught pupils with particular needs in schools—they do wonderfully well, but they still need additional support. We recommend that consideration be given to limited special school facilities.

HMIE's 2003 report "Moving to Mainstream: The inclusion of pupils with special educational needs in mainstream schools" found that, with the right support, in schools that already have good practice in place for mainstreaming those with special educational needs, mainstreaming benefited all pupils. However, such success is limited and even the most successful schools have not been able to meet the needs of all pupils. That has resulted in a fall in the number of special schools and the expertise within them.

Brian Monteith asked about Conservative policy. We are committed to giving head teachers increased powers; to redefining the roles of the Executive and local authorities; to reducing the bureaucracy and regulation in local authorities; and to restoring school boards. Let us hope that the Executive is listening.

11:15

Mr Adam Ingram (South of Scotland) (SNP): The debate has been useful. The Scottish National Party thanks Brian Monteith for raising the subject—he is a man who could never be accused of lacking ideas, nor is he slow to give us the benefit of them. While I do not agree with most of what he comes up with, I admire his fecundity. If Brian Monteith does not return to the Parliament after the election in May, this place will be the poorer for it.

As it happens, the SNP will support the motion in Brian Monteith's name. HMIE undoubtedly has a key role in improving Scottish education. Its senior chief inspector, Graham Donaldson, mapped out the route we should be following in that regard in his report on the subject last year. He spelled out the key challenge that is faced by us all—politicians, professionals and parents—in the following terms:

"While many of our young people perform well in school and beyond, too many do not develop sufficiently the competences, capabilities and values which are vital for the future success and well-being both of themselves and of Scotland as a whole. For many, that future success will depend on participation in learning once they leave school

... However, over 20% of adults report difficulties with literacy and numeracy and too many young people aged 16 to 19 are not in education, employment or training."

In other words, the performance of the lowest-attaining 20 per cent of our school pupils has been flatlining for some considerable time. We must break that inertia if we are to progress as a nation. The chief inspector emphasised the need for high-quality leadership, for creating space for imaginative teaching and for more rigour in the development and certification of core skills. He argued that HMIE must make the maximum impact with the minimum intrusion in the system.

I turn to the issues that were raised in the debate. Brian Monteith is entirely mistaken in saying that the senior chief inspector is not accountable to Parliament for his organisation. He has responded every time to the Education Committee's many requests to him over the past four years. The minister explained the changes to the inspection regime, which have been approved by the committee. Fiona Hyslop addressed the issue of culture change, and the very great need to reduce assessment overload and move towards self-evaluation in quality assurance. It was a pleasure to see Peter Peacock in the chamber, this time extolling the virtues of the Scottish inspection system, which is world class.

All that said, neither the inspectorate nor the school system can operate in isolation from its environment. The United Nations Children's Fund report that was published the other day starkly revealed the alienating nature of British society. The United Kingdom is failing its children. Scotland can do better than that. It is time for us to come together to achieve the goal of giving every one of our children an equal chance to succeed in life. The Parliament must grow to meet that aspiration.

11:19

Robert Brown: As a number of members have said, the debate has been useful. We are indebted to Brian Monteith for securing it. I should begin with the shameful declaration that, unlike others in the chamber, I am not a teacher but a lawyer, which perhaps undermines my capacity to speak on the matter. I echo other members in welcoming back to the chamber Peter Peacock, with his great wisdom and experience in this area. We have all benefited from his contribution to the debate.

Given the timescale, I will concentrate on issues relating to HMIE. I would say, though, that I have a sense from the expositions from Lord James Douglas-Hamilton and Dave Petrie about Conservative policies that they are nitpicking on the edge of education, rather than engaging with the real issues. Major changes have been made in areas such as school buildings, teacher numbers,

quality improvement and the curriculum for excellence, and many other themes have informed the work of the Parliament over the past eight years.

Dave Petrie: Will the minister take an intervention?

Robert Brown: I had better proceed, if the member does not mind.

As the Executive said in “Ambitious, Excellent Schools: Our Agenda for Action”, delivering excellence in education requires both professional freedom and public accountability. We need to build on our world-renowned system of inspection to ensure further sustained improvement in our education system and our schools. As has been said by a number of members, we need systems that are proportionate and which focus on outcomes, promote self-evaluation and provide targeted support to those who are struggling.

In answer to Brian Monteith’s point about accountability, it may be worth emphasising that HMIE is an executive agency of the Scottish ministers. As an executive agency, it operates independently and impartially, while remaining directly accountable to Scottish ministers for the standards of its work. It operates in a framework that is laid down by ministers for that purpose.

As part of the broad sweep of action set out in “Ambitious, Excellent Schools” we have in hand action in relation to inspection and the wider support that HMIE provides to the education system. An excellence standard for school and education authority inspection has been introduced, and a number of schools have come through with flying colours. HMIE is developing a range of materials to support the guidance that is already in place on the definitions of the key characteristics of excellent schools.

Inspections result in change and, indeed, in recognition of the pride and achievement in schools. Brian Monteith touched on that earlier, and Frank McAveety echoed that when he talked about the ethos in schools. The culture of self-improvement that was touched on by Peter Peacock and Iain Smith is a central theme. There are education systems that do not have the approach that is typified by HMIE. Last year, when I went on a ministerial visit to Denmark, I was somewhat surprised to discover that Denmark does not have an inspection system. We operate in a different environment in that regard. The central point, though, is that the thrust for improvement should lie with schools, teachers and education authorities.

Iain Smith contrasted the Scottish system with what many members would regard as England’s inferior system, although, admittedly, that system has a different structure. A number of good points

were made about issues of sustainable development and outdoor education. How can we have a debate about education without a mention of outdoor education by Robin Harper? Additional support needs have also been mentioned.

We need to look further ahead, too, to consider what form inspection should take after the generational cycle is complete in 2008-09. Inspection is not a burden and should not become so. Responsibility for improvement rests with schools and individual teachers. In many ways, what we are talking about is capacity in the system to secure continuous improvement, and that capacity has increased substantially. The emphasis on educational leadership and the culture of improvement is important in that regard. We are rightly demanding ever-higher standards and accountability and inspection will remain a key part of that. Inspection will need to be right touch and proportionate and based on the substantial intelligence that we have about the strengths and weaknesses of individual schools.

I support the motion.

11:23

Margo MacDonald (Lothians) (Ind): I hope that members will forgive me if—purely because of the constraints of time—I do not refer to all the speeches. I support Brian Monteith in his basic thrust, which is that someone should inspect the inspectors. Who watches the watcher? I am grateful to the minister for explaining the chain of management and accountability.

I read HMIE’s report “Improving Physical Education in Primary Schools” and found that it contradicted itself. For example, while paragraph 2 said that there was quite a good standard of teaching, paragraph 4 talked about a lack of confidence in physical education teachers. I hope that the Presiding Officer will indulge me, because I will confine my remarks to that subject. I would like to be able to question the inspector about those apparent contradictions. According to paragraph 3.1 of the last report that I read, only 30 per cent of schools had programmes that were very good. The report stated clearly that visiting teachers made a huge difference, but it also referred to the lack of confidence among the classroom teachers who now take physical education in accordance with the target of two hours’ PE a week for schoolchildren. It said that they often lacked the confidence to explain their attitudes and their reasons for programming physical education as they did.

Those issues are detailed and definitive. To be frank and with all due respect, ministers who are merely lawyers, such as Robert Brown, would probably not be able to answer my questions when they come before the Education Committee.

Robert Brown: Does Margo MacDonald accept that the purpose of having visiting PE specialists is to provide teachers with extra input and expertise? If she has particular issues on PE, I would be happy to meet her to discuss them in more detail, if that would be of help.

Margo MacDonald: I thank the minister for that offer. It would be in the spirit of the debate for me to say that we will talk about it.

The report concluded:

"Key issues for education authorities to consider, include:

- ways of supporting schools and teachers through staff development in
 - developing effective programmes
 - teaching and assessment in physical education
 - managing physical education;
- the provision and deployment of visiting teachers of physical education; and
- ways of supporting schools in developing outward-looking programmes".

That is quite a bundle. It appears that not all is well in physical education, although, if one were to read the report from cover to cover, one could gain the impression that things are getting better and, as Fiona Hyslop and Adam Ingram pointed out, the inspection rate seems to be improving.

Brian Monteith spoke historically and was right to do so in order to point out that we had to catch up. The report makes his point for him: a great number of questions are left unanswered by the written report and the inspector's appearance before the committee. He was not there to report on, answer questions about or explain his own work; he was there to comment on other people's work. I ask the minister to take the matter away and think about whether PE as a specialist area would benefit from the inspector having to be accountable to Parliament, perhaps through the Education Committee.

I invite members to support the motion heartily at decision time. It has been a pleasure to work with Brian Monteith. I am surprised that members have mentioned that he is a contentious person, because I have found him to be a pussycat.

The Presiding Officer: For the reasons I gave earlier, I suspend the meeting until 11.40 am.

John Swinburne (Central Scotland) (SSCUP): On a point of order, Presiding Officer.

The Presiding Officer: You are just in, Mr Swinburne.

John Swinburne: It is more a point of information than a point of order. What would the procedure be if none of the Presiding Officers was able to fill the chair?

The Presiding Officer: We do not even consider that eventuality, which has not arisen.

11:29

Meeting suspended.

11:40

On resuming—

Question Time

SCOTTISH EXECUTIVE

General Questions

Business-University Links

1. Mr Frank McAveety (Glasgow Shettleston) (Lab): To ask the Scottish Executive what action is being taken to promote links between business and universities. (S2O-12052)

The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson): Links between business and universities are a vital element of our economic development strategy. The Executive and its agencies are doing a great deal to strengthen those links. The knowledge transfer grant and the SEEKIT and SCORE programmes—the Scottish Executive expertise, knowledge and innovation transfer programme and the small and medium-sized enterprises collaborative research programme—have been specifically designed for that purpose. The new interface programme is specifically targeted at allowing business to access the expertise and experience in our universities.

Mr McAveety: I thank the minister for that response and welcome the contribution that he has outlined. Would he support further developments, particularly in major areas of economic regeneration? Businesses in such communities could link up with universities to promote the benefits of the knowledge economy in Scotland.

Allan Wilson: I would indeed. Such collaborations and developments are vital in growing our economy, which is of course the Scottish Executive's number 1 priority. As we discussed this morning, as manufacturing moves east to low-cost destinations, it is vital that we compete on our skills base, knowledge base and ability to innovate and invent. Our Scottish higher education institutions are world leaders in that regard. It is important that we use our knowledge and experience and commercialise research and turn it into jobs here in Scotland.

Alasdair Morgan (South of Scotland) (SNP): Would the minister say that businesses in Dumfries and Galloway benefit from courses such as the one on matters relating to tourism that is offered by the University of Glasgow at the Crichton campus?

Allan Wilson: I am sure that they do. As the member knows, we will debate the Crichton campus this evening. I understand that the Scottish Further and Higher Education Funding Council is in discussions with partners on how best to deliver course content. I am sure that Mr Morgan would agree that the important thing for the south of Scotland is that there is a breadth of courses available for people to take advantage of.

Hospital Procurement (Glasgow)

2. Ms Sandra White (Glasgow) (SNP): To ask the Scottish Executive what its position is on the statement by Glasgow's new children's hospital clinical advisory group that "procurement of the adult and children's hospital as a joint PFI project was seen to be the most appropriate way forward". (S2O-12000)

The Minister for Health and Community Care (Mr Andy Kerr): Although we note the view of Glasgow's new children's hospital clinical advisory group, it is premature for us to comment as the appropriate procurement method will be determined through an auditable business case process based on value for money and affordability. The outline business case is scheduled to be submitted to the Health Department in early summer.

It should be appreciated that the redevelopment of the Southern general hospital site is one of the largest and most complex health care projects being delivered in the United Kingdom. It is crucial therefore that the service model is fully thought through and that appropriate infrastructure is put in place to support the chosen model of care. NHS Greater Glasgow and Clyde proposes to co-locate on the site paediatric, maternity and adult services and in doing so deliver the most appropriate configuration of health care services for the people of the greater Glasgow and Clyde area.

Ms White: The minister will be aware that, throughout the consultation period, the people of Glasgow were continually assured that the hospital would not be financed privately. The minister's predecessor, Mr Chisholm, pledged £100 million to that end. Now we are being told that, without more money, the new hospital will have 25 per cent less land capacity, which will lead to a reduction in services. Does the minister support private finance for the project or have the people of Glasgow been seriously misled—yes or no?

Mr Kerr: I am unable to comment on that, because I do not have any of the documentation that would verify it. NHS Greater Glasgow and Clyde has not yet produced the full business case. I look forward to receiving it and will of course take a decision based on it in terms of value for money and affordability. We are talking about one of the

most complex health care projects in the United Kingdom.

Bruce Crawford (Mid Scotland and Fife) (SNP): Will the minister rule out private finance for the hospital?

Mr Kerr: I cannot rule out something that does not exist in the first instance. However, the hospital would not be built with the £10 billion black hole in the Scottish National Party's budget and the view that it continually adopts that puts patients after dogma.

Small-scale Hydroelectric Power

3. Murdo Fraser (Mid Scotland and Fife) (Con): To ask the Scottish Executive how it is encouraging the development of small-scale hydro power schemes. (S2O-12015)

The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson): Small-scale hydro developers gain extra income under renewables obligation schemes, which provide significant incentives and encourage new schemes. In November 2006, the forum for renewable energy development in Scotland agreed to establish a hydro sub-group to promote further development. The group will examine the potential for more hydro power in Scotland with a particular focus on support for small-scale hydro developments.

Murdo Fraser: The minister will know that I have been corresponding with him about the delays that small-scale hydro developers face in obtaining section 36 consents. However, I raise another issue with him today.

The cost of the planning application process includes a non-returnable fee that is payable to the Scottish Environment Protection Agency for the granting of a controlled activities licence. A developer of a small hydro proposal that generates 1.2MW has to pay an upfront, non-returnable fee of some £22,000 with no guarantee that the application will be successful. Does the minister accept that such fees put a barrier in the way of small-scale hydro developers, whom we should be encouraging if we are to meet our renewable energy targets?

Allan Wilson: I agree that an appropriate balance needs to be struck between protecting the environment—particularly the water environment—and promoting renewable energy development, including small-scale hydro schemes. As I understand it, the power sector was well represented in the early discussions on the charging scheme and, as a result, SEPA reduced the proposed charges for smaller schemes and increased the number of projects that could gain exemption from annual charges. Of course, the charges have to be offset against the additional

income that accrues through the renewables obligation certificate mechanism.

We can certainly ask our colleagues in the Environment and Rural Affairs Department to consider whether the charging regime acts as a disincentive or a barrier to future small-scale hydro production.

Mr John Swinney (North Tayside) (SNP): Does the minister agree that another disincentive to the development of small-scale hydro schemes is the extremely tortuous planning process that they have to go through? On the assumption that the Government is sympathetic to small-scale hydro projects, can the minister suggest any way in which the planning process can be made more straightforward—without any relaxation of the necessary checks and balances—to try to ensure that we get more progress on an area of policy that has had little progress in recent years?

Allan Wilson: I accept much of what the member said, but not his final comment. There has been significant progress in renewable energy development as a whole in the current session of Parliament. However, I accept that the planning processes should be streamlined and made more conducive to future renewable energy development.

The issue is partly about the training of planners in the local authority planning system. We are reviewing Scottish planning policy 6 and the advice that we give local authority planners on future renewable energy development. It is hoped that the revised planning guidance will streamline the process, speed up applications and ensure that appropriate developments are undertaken—and inappropriate ones are disposed of—more speedily.

Genetically Modified Potatoes

4. Rob Gibson (Highlands and Islands) (SNP): To ask the Scottish Executive what advice it has given to the Department for Environment, Food and Rural Affairs ahead of the European Council of Ministers meeting to review the application for approval to plant BASF's genetically modified potato EH92-527-1 on a commercial scale in Europe. (S2O-11990)

The Deputy Minister for Environment and Rural Development (Sarah Boyack): The Advisory Committee on Releases to the Environment considers the GM variety that the member mentions to be as safe as the conventional variety. The Scottish Executive therefore agreed that the United Kingdom should vote in favour of the application.

Rob Gibson: I am interested in the minister's answer. We do not know in detail what she advised, particularly given the views in Scotland

about the nature of our food and the image that could be projected if a GM crop is grown.

We believe that the environmental liability directive has to be transposed into Scottish law soon and that consultations on the separation distances between GM crops and conventional crops are still at the consideration stage. Does the minister agree that, short of Scotland being directly represented in Europe, we have to find a stronger argument to protect Scottish food? If we do not oppose crops of GM potatoes that produce industrial starch for paper making, more and more GM crops will come in and threaten the clean image of Scotland.

Sarah Boyack: First, it would have been helpful if the member had listened and responded to my answer. The Scottish Executive agreed with the UK Government that it should vote in favour of the application. There were extensive discussions with ACRE. The application was not agreed to when it was first considered. The company was sent back to rework its information and was told that it could not use the potato as animal feed. A lot more information was presented and, when the application came back a year later, it was approved. We must be clear that it went through the correct processes.

On Rob Gibson's comment about future decisions, it would be premature to initiate a consultation. There are continuing discussions at the European level and the Scottish Executive is fully involved in debating the role of GM products.

The Executive's position on the matter is clear and I stated it in my first answer to Rob Gibson's question. He should go and do a bit of homework. This particular crop is not going to be grown in Scotland or the rest of the UK, but it has been agreed under EU procedures with our careful consideration after taking scientific advice.

One Plus

5. Rosie Kane (Glasgow) (SSP): To ask the Scottish Executive which employment, training and personal development services formerly provided by One Plus are now being provided by other agencies and which agencies are involved. (S2O-12012)

The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson): The situation is still developing, but information that has been received to date suggests that a large number of labour market trainees have been placed with new providers. A wide range of local authorities, local enterprise companies, colleges and child care and social care providers from both the public and private sectors have been involved in making alternative arrangements for trainees.

The Executive is in negotiations with alternative providers regarding the sustainable employment service. Similarly, negotiations to re-establish key parts of the wider advice and support services that were formerly provided by One Plus are at an advanced stage.

Rosie Kane: Is the minister aware that the services that existed under the One Plus banner were integrated, which meant that people who attended were offered other things that were connected, such as training, mentoring, child care and counselling, in a one-stop shop? That lifted a lot of the barriers to education. What will the minister do to ensure that such a cohesive approach is in place so that there is inclusion? Can he guarantee that the organisations that pick up the slack will not be overwhelmed by the influx of ex-One Plus trainees and workers to the detriment of the services that they already provide?

Allan Wilson: I am well aware of the integrated and co-ordinated services that One Plus provided in my constituency and other members' constituencies. As Rosie Kane says, it was important that those services were integrated in the way that they were. It was a devastating blow for the Scottish Executive as well as for the employees of One Plus when the organisation closed its doors, because we depended on it for the delivery of large parts of our social and child care policies.

As I said in my first answer, we have engaged vigorously with other providers to ensure that, wherever possible, services have been picked up by local authorities, social care organisations and others and that those services are integrated. Ministers remain in discussions on how best to take forward the successor organisation to One Plus to ensure that our social and child care policies are put into effect as efficiently as possible in the affected localities.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): Will the minister join me in welcoming Amicus learning representatives to the chamber? Does he endorse the approach that Amicus and employers have developed to encourage lifelong learning among union members and workforces?

Allan Wilson: Indeed. I am a long-term supporter of workplace learning and the trade unions' role in encouraging such learning, so it gives me great pleasure to welcome the Amicus delegates to the chamber. *[Applause.]*

I pay tribute and give due credit to the work that all unions do in the workplace to promote lifelong learning—literacy and numeracy in particular—among their members and other employees, whose experience of conventional education might not have been the best. It is vital that such people

are encouraged back into learning. In that context, trade unions can reach people whom other agencies often cannot reach. That is why we have given strong financial support to union learning representatives and workplace learning.

Care of the Elderly (Orkney)

6. Mr Jim Wallace (Orkney) (LD): To ask the Scottish Executive what representations it has received regarding the delivery of care services for elderly people in Orkney. (S2O-12019)

The Deputy Minister for Health and Community Care (Lewis Macdonald): Orkney Islands Council has made a number of representations to the Executive. I met council representatives and Jim Wallace in December to discuss those issues. George Lyon met council representatives earlier this month.

Mr Wallace: I am sure that at our meeting on 20 December the minister got the full flavour of the challenges and difficulties that the council faces in the context of the islands' fast-rising elderly population. As a result of the meeting, the council agreed to consider seeking the assistance of the joint improvement team in establishing a managed care network. In return, the Executive agreed to consider a pilot project between the council and the Executive, as well as funding. The minister knows that the council's convener has subsequently written to indicate the council's willingness to find out whether the joint improvement team can help. Will the minister take this opportunity to announce that he will support that initiative? Will he also confirm that the Executive is considering the potential for a pilot project on the delivery of elderly care services, as well as the wider funding issue?

Lewis Macdonald: The meeting in December was constructive. I welcome the indication from Orkney Islands Council that it thinks that the joint improvement approach has potential and might help. I am pleased to report that officials have been able to work with the council and provide support in preparing a bid under the shared services approach, which is a significant step in the direction of greater joining up of the services that public agencies provide in Orkney. If the council wants to consider further measures, beyond that bid, it should work up proposals. Colleagues in local government are always receptive to innovative proposals and I am prepared to consider the potential for improving the delivery of services.

Congestion (Aberdeen)

7. Richard Baker (North East Scotland) (Lab): To ask the Scottish Executive what action it is taking to reduce congestion in Aberdeen. (S2O-12035)

The Minister for Transport (Tavish Scott): We are working with Aberdeen City Council and Aberdeenshire Council to complete the Aberdeen western peripheral route, which will remove through traffic from the city. We will continue to work with the north-east Scotland transport partnership to improve transport infrastructure and tackle congestion.

Richard Baker: The minister is aware that the Haudagain roundabout is a key pinchpoint for congestion in Aberdeen. Does he agree that progress must be made expeditiously on that issue? Can he confirm that action to address the issue by the Executive, NESTRANS and Aberdeen City Council will not be delayed until the completion of the western peripheral route?

Tavish Scott: I take Richard Baker's point about the Haudagain roundabout. Anyone who lives in the north-east or travels through the area, as I do, appreciates the roundabout's importance and the difficulties that motorists and heavy goods vehicles and the freight industry must contend with.

I assure Mr Baker that we are working closely with Aberdeen City Council on improvements and additions to the roundabout, which are tied to the redevelopment of Middlefield. The council has carried out a part 1 Scottish transport appraisal guidance assessment and a part 2 assessment is under way. Proposals that emerged from the part 1 STAG appraisal include a single-lane or lane-filter road connecting North Anderson Drive and Auchmill Road through Middlefield. Those proposals and other measures will continue to be considered.

Crime Prevention (Scottish Prison Service)

8. Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): To ask the Scottish Executive how the Scottish Prison Service is working with local communities to prevent crime. (S2O-12022)

The Minister for Justice (Cathy Jamieson): The Scottish Prison Service works directly with local communities and partner agencies to prevent crime in a variety of ways, which include such initiatives as the prison me no way project and the routes out of prison project, which is an element of the choose life initiative. The SPS has been working closely with the new community justice authorities by contributing to the development of their area plans, and it has appointed four CJA liaison managers.

Jeremy Purvis: Will the minister commend the Prison Service staff who are working with the No-Way Trust and who were in my constituency two weeks ago, working with third-year pupils from Galashiels academy to show them the consequences of offending behaviour? Will she correct what I believe to be an error, which is that

SPS staff have to volunteer and take holiday time to work with the trust in helping to prevent crime in our communities? Will she address that as a matter of urgency?

Cathy Jamieson: I am aware of the work of that project. In response to a question from John Home Robertson, who was impressed with the work that was undertaken at a school in his constituency, I have asked my officials to look further into the matter. I will report back to both members in due course.

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-2719)

The First Minister (Mr Jack McConnell): I look forward to seeing the Prime Minister this afternoon, not least because I will be able to present him with a tie like the one I am wearing, which was designed by the children of Mulbuie primary school in the Highlands—they designed the golden broom tartan for the year of Highland culture. [*Applause.*]

Nicola Sturgeon: The tie looks very nice. We, too, look forward to seeing the Prime Minister this afternoon.

When the First Minister took office, he said that he would always listen to the people of Scotland. When he meets Tony Blair later today, will he tell him what the former First Minister, Henry McLeish, had to say—that Scotland is sick of Labour's "negative", "extreme" and "London-based" approach to politics?

The First Minister: I think that the nationalists might be in for a surprise this afternoon. It beggars belief that Ms Sturgeon is prepared to come here and talk about leaders from London. There is only one group in this Parliament that is led from London, and that is the Scottish National Party.

Nicola Sturgeon: Is it not the case that the First Minister still does not have the courage to say those things to Alex Salmond's face? Referring to Alex Salmond on 23 November, the First Minister said:

"I will be delighted to debate with him over the next five months."—[*Official Report*, 23 November 2006; c 29651.]

Is it not the case that, every time the First Minister has had the opportunity since then, he has run away?

When the First Minister sees Tony Blair this afternoon, will he tell him some hard truths? Will he tell him that four out of five Scots are opposed to his plans to replace the Trident nuclear weapons system? In the words of the First Minister, that decision will have a huge impact on Scotland. Will he tell Tony Blair what 100 top scientists, academics, lawyers, church leaders and MPs—many of them Labour MPs—have said today: that if the decision to replace Trident goes ahead, the United Kingdom will lose all moral authority to tell other countries to disarm or to desist from developing nuclear weapons? Or will

he simply continue to toe the Trident line, proving that he is just as out of touch on the issue as Tony Blair?

The First Minister: I am sure that there will be a continuing debate on that issue. I will be delighted to talk to the Prime Minister this afternoon about how we take forward our shared agenda, building on the fact that, yesterday, with employment at 76.1 per cent, Scotland had the highest level of employment since records began—and a quarter of a million new jobs since 1997. I will be delighted to talk to the Prime Minister about the fact that, here in Scotland, we are leading the rest of the UK in reducing child poverty; more than 100,000 youngsters have been taken out of poverty since 1997. Here in Scotland, we are also leading the rest of the UK in reducing pensioner poverty; more than 120,000 pensioners have been taken out of relative poverty since 1997.

Those improvements and others are thanks to the partnership between Scotland and the rest of the United Kingdom and the economic stability that the nationalists could never deliver, but which is here for us in the fifth-largest economy in the world. At the same time, the dynamism, innovation and power of the Scottish Parliament is making a difference here in Scotland, which is leading the UK and, in some areas, the rest of Europe.

Nicola Sturgeon: I am sure that the First Minister will be happy to tell the Prime Minister what he wants to hear; the question is whether he will have the guts to point out some hard realities in Scotland.

I hope that the First Minister and I agree on the need to give every child the best possible start in life. For that reason, if for no other, will he tell Tony Blair in no uncertain terms that when 250,000 Scottish children still live in poverty, a decision to spend £25 billion on weapons of mass destruction would be absolutely indefensible? Will the First Minister speak up for Scotland when he meets Tony Blair, or will he just go along to listen to his master's voice? *[Interruption.]*

The First Minister: I do not want to return to a theme, although I realise that members are enjoying it, but it is a bit rich for a member of the party that is led by the Dick Whittington of Scottish politics—someone who goes looking for the bright lights of London at every chance he gets—to talk about her master's voice.

What Nicola Sturgeon says about the money that she claims would be saved by not having Trident is contrary to her party's stated position. Angus Robertson—in London—who is her party's spokesperson on defence and foreign affairs, made it clear last October, on behalf of Alex Salmond and the whole Scottish National Party, that all the savings the SNP claims would arise

from not having Trident would be spent on conventional defence forces. If the party that flip-flopped on a Scottish currency, flip-flopped on a deficit and an oil fund, flip-flopped on public-private partnerships and tried to flip-flop on higher education expenditure is now flip-flopping on defence expenditure, Nicola Sturgeon needs to be more honest in the chamber and say so.

It is absolutely clear that the best way to tackle child poverty in Scotland is, first, to be part of the fifth-largest economy in the world and to have the economic stability and strength of the United Kingdom as our foundation. We are using the powers of devolution to put children first, to give them a chance through education and to ensure that their parents have child care. We are using the resources and imagination that are at our disposal to ensure that Scotland continues to lead the rest of the UK in taking children out of poverty and giving their families the best possible and most prosperous quality of life.

Nicola Sturgeon: If Trident is a benefit of the union, it is no wonder that more and more people in Scotland support independence. Is it not the reality that whereas our priorities are health, education and crime, the First Minister's priority is weapons of mass destruction? Is it not the case that the more often Tony Blair comes north to talk Scotland down, the more people are reminded of why they want to see the back of Labour? I remind the First Minister that people are sick of the scaremongering, the sleaze, the illegal wars and the weapons of mass destruction, and that they are deeply disappointed in a First Minister who will stand up to none of that. I suggest that, instead of attacking the SNP, he should concentrate on getting his house in order.

The First Minister: What matters to me is the fact that the United Kingdom has a minimum wage for the first time. We should be proud of that. The Labour Government delivered that and the SNP did not even turn up to vote for it against the Tories. Scotland has between 30,000 and 40,000 modern apprenticeships, which are funded by a strong UK economy but delivered in Scotland, which is leading the rest of the UK. We have had increases in child benefit and improvements in child care. We have the highest employment rate in the UK and the second-highest rate in the whole of Europe. That is an economic union and devolution dividend for Scotland that ensures that our country is more prosperous than it was and on which we can build a better future for Scotland. Even though that is happening, the SNP will not talk it up, because all it wants to do is talk Scotland down. The devolved Government is not only talking but building Scotland up. We will have a further chance to do so.

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-2720)

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

Miss Goldie: Last week at First Minister's question time I asked the First Minister whether he was in favour of introducing road tolls throughout Scotland—whether he will carry out the wishes of the Secretary of State for Scotland and Secretary of State for Transport, who wants tolling on roads throughout the UK. In character, the First Minister entertained us with his usual bluster and waffle, so I will try again: is the First Minister in favour of tolls on Scotland's roads?

The First Minister: Last week I said that there were no plans to have even a pilot project in Scotland. However, the Government's debate on road user charging is important. It is worth having that debate if it could lead to a fairer distribution of charging for motorists on our roads and could help rural motorists in Scotland, by the scheme being right. At this stage it is only a debate, and it is right that it should take place.

Miss Goldie: It is all very well for the First Minister to pretend that he has made his position on road tolling clear, but he should speak to the Minister for Transport, the self-styled viking. Last week the First Minister told me:

"There are currently no plans to pilot such a scheme in Scotland."—[*Official Report*, 8 February 2007; c 31953.]

That is fine, but this week Tavish Scott said:

"We need to make it happen more quickly in Scotland."

Is that the official policy of the Lib-Lab pact? If not, will he seek Mr Scott's resignation as Minister for Transport?

The First Minister: No, and no.

Miss Goldie: I think that the First Minister's tie has gone to his head. The answer is simply not good enough. The people of Scotland look for and should get clear political leadership. It has been an interesting week. On Wednesday Tavish Scott announced that there will be a new Forth crossing. On Monday he announced that we need to make quicker progress on road tolling in Scotland. The people of Scotland are now expected to believe that one of the announcements is Government policy and the other is not. The coalition Government is shambolic. The Scottish Conservatives oppose any additional nationwide charges for using Scotland's existing roads. The public want to know what the position of the Lib-Lab pact is.

The First Minister: I hesitate to say that Annabel Goldie is tying herself in knots, but the position is absolutely clear. The UK Government has begun a debate on road user charging. In my view it has done so quite legitimately, because of the technology that exists in this country today, because motorists have genuine concerns about the way in which they are currently charged to use Scotland's roads and to own and use their vehicles, and because we have international obligations on emissions and a commitment in Scotland and in the United Kingdom as a whole to tackle emissions. We need to take a radical look at how motorists will be charged in the future. It is right and proper to begin that debate, not least because the Conservatives introduced motorway tolls in the United Kingdom when they were in government and it is incumbent on the rest of us to decide what to do with the system they introduced.

As I have made absolutely clear in the chamber, there are no current plans to pilot road user charging in Scotland. The Executive has no position in support of road user charging or against a debate taking place on the issue. The point that I made last week—that we in Scotland have a particular interest in the matter—remains. That interest is in rural Scotland, where road user charging would have to be implemented very carefully so as not to have a detrimental impact on those who have to use their vehicles to get about their area, because they have no public transport alternatives. I make that point clearly, as a sensible injection into the discussion. I hope that we can get away from posturing on the issue and look 10 years ahead, and that the political parties in Scotland and throughout the UK will adopt a position that encourages genuine debate and leads us to a conclusion that may be sustainable beyond one party being in power.

The Presiding Officer (Mr George Reid): There are two constituency supplementaries.

Dr Elaine Murray (Dumfries) (Lab): Is the First Minister aware that the court of the University of Glasgow decided yesterday not to admit any undergraduate students to the Crichton campus in Dumfries in September? Does he recognise and value the particular contribution that the University of Glasgow makes to the courses on offer to students in Dumfries? Will he do whatever he can to facilitate negotiations between the University of Glasgow and the Scottish Further and Higher Education Funding Council with the aim of enabling Glasgow to retain its presence at Crichton?

The First Minister: Ministers are committed to the Crichton campus on at least its current scale and to encouraging and enabling discussions to take place towards ensuring that the campus has a continuing, viable and increasingly successful

future. In fact, this week, the Deputy First Minister spoke to the funding council and others to keep the discussions on the right track.

However, we live in a country where politicians do not instruct universities what to do, so, initially, the decision on student places is for the University of Glasgow—I want to make that clear—but we are determined that any reduction in University of Glasgow student places at the Crichton campus must be taken up by other universities to ensure that the provision of higher education in the south of Scotland at least remains at its current level.

As Elaine Murray will know, part of the complication in the decision is that the nature of the courses offered by Glasgow is not always available from the other university that is currently active on the campus. That is why sensible discussions have to take place to ensure that we get the right provision in the future. We are determined that there will be provision and that the number of places will at least remain at their current level.

Peter Peacock (Highlands and Islands) (Lab): Will the First Minister update the Parliament on the announcement today by Diageo plc of a £100 million investment to expand its Scotch whisky operations in Scotland, including a preferred location at Roseisle on Speyside for a new malt distillery? When he meets the Prime Minister later today, will he buy him a dram to celebrate the decision?

The First Minister: I would be delighted to do that. I congratulate Diageo. This is the biggest investment in the Scotch whisky industry for many years, and it will result in new jobs in Speyside, Fife and Glasgow. There will be £100 million investment in total, which will include the establishment of a brand new malt distillery on Speyside and significant expansion, particularly at Leven. That is good news. It is a great investment by Diageo, which is to be congratulated and supported in making the announcement today.

Public Sector Workforce

3. Dr Jean Turner (Strathkelvin and Bearsden) (Ind): To ask the First Minister how the Scottish Executive capitalises on the experience of, and rewards, the public sector workforce. (S2F-2721)

The First Minister (Mr Jack McConnell): Recent pay modernisation has ensured that pay policies are fair and consistent and provide incentives for staff to join and stay in the national health service. Throughout the public sector, employers are encouraged to provide incentives for performance, and in many areas reform has delivered more rewarding career structures.

Dr Turner: I would like to draw attention to the nurses in the health service whose experience is important considering all the changes that are taking place. Many think that the agenda for change has been an agenda for misery—nurses with 20 to 40 years' experience have found themselves being downgraded. They are in financial misery and feel extremely undervalued. How can the First Minister capitalise on those nurses' experience and turn around their lack of morale?

The First Minister: I must say that I do not recognise that picture. There are always strains and tensions when a new pay structure is implemented, but there is no doubt among the nurses I have spoken to that the more flexible pay structure and arrangements in the health service give them new career opportunities and new opportunities to develop their skills.

Alongside that, we now have nearly 20 per cent more medical consultants, 12 per cent more qualified nurses, 23 per cent more qualified allied health professionals and nearly 10 per cent more dentists than we had at the time of devolution.

There have been significant improvements in the health service in Scotland during the Parliament's lifetime. We must recognise that the health service ultimately survives and thrives on the hard work and skills of the workforce. It is vital that we do all that we can to encourage and support those who work in it.

Dr Turner: That sounded good, but the First Minister and I must speak to different nurses. Many nurses have told me that they feel undervalued. If a nurse with 43 years' service can find that their pay has suddenly been docked by £200 a month, which can affect their pension, a message will be sent to nursing staff coming into the service that sincere and hard-working people who are constantly upgrading their skills through personal development plans are being undervalued. Nurses have told me that it could take two years to review decisions that have been taken. How can the First Minister help such nurses in the unfair situation in which they find themselves?

The First Minister: I would be happy to ensure that the Minister for Health and Community Care provides Jean Turner with a detailed outline of the various measures that are in place.

The commitment to improve the knowledge and skills of nurses and other health service professionals is absolute and is in place as a result of the actions of the devolved Government. How individual nurses are affected by the agenda for change is clearly a matter to be dealt with by the arrangements that have been put in place. People will have concerns about individual cases,

but appeals mechanisms exist to deal with those concerns. The changes in grading systems, the injection of additional resources, the new career structures and the opportunities to develop and then use new skills is good news for the vast majority of people in the health service—not just nurses—the health service itself and patients. Not only should we continue to travel in that direction, we should speed up our pace in that direction.

Ship-to-ship Oil Transfers

4. Christine May (Central Fife) (Lab): To ask the First Minister what steps are being taken to ensure an effective emergency response in the event of an oil spillage resulting from ship-to-ship oil transfers around Scotland's coastline. (S2F-2729)

The First Minister (Mr Jack McConnell): The approval of oil pollution emergency plans is a matter that is reserved to the United Kingdom Government, but the Scottish Executive would take a leading role in any response to an actual or potential oil spill incident in Scotland. In that regard, the Fisheries Research Services maintains an all-year-round initial point of contact for Her Majesty's Coastguard, harbour authorities and other interested parties.

Christine May: It has been alleged that last year's clearwater Forth exercise highlighted significant communication difficulties and that if those difficulties were replicated following an actual oil spill they would result in unacceptable delays and confusion in any response. Regardless of whether that is the case, does the First Minister believe, as I do, that to reassure my constituents and other people who live around the Forth, this year's exercise, which is due to be organised and led by Fife Council, should simulate an emergency following a spillage from a ship-to-ship oil transfer operation, as such an exercise has never been carried out?

The First Minister: Those who must deal with emergencies should determine what exercises to undertake as part of the clearwater exercises, which take place each year. Christine May's idea is useful and constructive, but those who are involved at the front line should determine their contingency planning each year. That said, I urge them to consider Christine May's suggestion as one of the options for this year.

Bruce Crawford (Mid Scotland and Fife) (SNP): Is the First Minister aware that there has been a fair degree of cross-party consensus on ship-to-ship oil transfers? At the Environment and Rural Development Committee meeting last week, the Deputy Minister for Environment and Rural Development, Sarah Boyack, stated:

"it is up to Forth Ports to decide whether to apply for a licence."—[*Official Report, Environment and Rural Development Committee*, 7 February 2007; c 4101.]

However, on 25 July 2006, the Minister of State at the Department for Transport stated:

"As this is for a devolved purpose, it is the responsibility of the Scottish Executive to determine whether a licence would be required for ship-to-ship transfers in the Firth of Forth."—[*Official Report, House of Commons*; 25 July 2006; Vol 449, c1308W.]

Will the First Minister clarify the situation? Is it for the Scottish ministers or Forth Ports to make a decision? Who is right?

The First Minister: As I have not seen the quotation from the United Kingdom minister, I would be happy to provide Bruce Crawford with a written response to his question.

Mr Mark Ruskell (Mid Scotland and Fife) (Green): On 17 January, the First Minister's Government submitted legislation to the Environment and Rural Development Committee that could have given ministers the power to make a decision on ship-to-ship oil transfers. Instead, the First Minister chose to leave that decision to Forth Ports plc, an unelected, unaccountable private company that has a direct conflict of interest. Is it not the case that the First Minister is more interested in resurrecting previous speeches about the environment than putting in some hard work to govern Scotland, to put in place the right legislation and to protect the environment?

The First Minister: That is certainly not true. The devolved Government can be very proud of its record on the environment. The fact is that Scotland's recycling rate has increased from 6 per cent to 25 per cent. Not only have we set the most ambitious targets on renewable energy in the United Kingdom ... we are marching towards meeting those targets and we have the potential to go further. Not only are we delivering the existing generation of renewable energy but we are supporting world-leading technology in wind and wave power that we hope will lead the rest of Europe and the world—rather than fall behind as we did on wind power under the Tories.

There is a host of other areas in which we have set ambitious targets for dealing with carbon emissions and so on. This devolved Government has a record on the environment that is absolutely in touch with the issues that matter to the people of Scotland and the future of our children for generations to come. We will continue to take that approach.

Mr Andrew Arbuckle (Mid Scotland and Fife) (LD): Has the Scottish Executive discussed—or will it—with the applicant for the proposed ship-to-ship oil transfers whether it will consider moving to the inherently safer and better-resourced location in Scapa flow?

The First Minister: That is a matter for the appropriate authorities and agencies. Of course the agencies of our devolved Scottish Government are involved in making appropriate representations on this matter and advising on it. To suggest otherwise is wrong. It would not be appropriate for us to get into a situation where we dump on or encourage the use of different locations for this sort of activity. It needs to be dealt with on a proper, scientific basis and that is exactly what will happen.

Consumer Safety (Poultry)

5. Richard Lochhead (Moray) (SNP): To ask the First Minister what measures the Scottish Executive is taking to reassure consumers at home and abroad that Scottish poultry is safe. (S2F-2731)

The First Minister (Mr Jack McConnell): Food safety is a matter for the independent Food Standards Agency. The agency has been active in the media, repeating its advice that an outbreak of avian flu does not pose a food safety risk for consumers. It has also posted the advice on its website. We support the FSA's efforts where it is appropriate and helpful to do so.

Richard Lochhead: The First Minister no doubt shares the alarm expressed by many people that the United Kingdom apparently continues to import meat products from Hungary despite the fact that that was not supposed to happen. In the words of the UK Secretary of State for Environment, Food and Rural Affairs, it happened only because of a "lapse in biosecurity".

Is the First Minister aware of the strong feeling in the Scottish farming sector that while farmers in Scotland have bent over backwards to prevent disease and promote biosecurity on their own farms, the same cannot be said for UK Government departments, which are failing to control the very complex import and export routes for meat products, particularly from countries that have a history of animal disease? Will the First Minister investigate those very serious concerns and protect the interests of Scotland's farming communities?

The First Minister: It is inappropriate, on this matter as on so many others, for the nationalists to try to turn an issue about safety into a constitutional issue by making it into a matter of Scotland versus the rest of the UK. It is entirely inappropriate to seek to turn the discussion in that direction.

The issue is about how we deal with avian flu and other food safety problems. The best way to do that is to work in partnership not only with farmers and other food producers here in Scotland but with those south of the border who are faced

with such outbreaks and challenges. We also need to ensure that there is a consistent approach throughout the European Union and, if possible, beyond. That is precisely why the Scottish Executive Environment and Rural Affairs Department works in partnership with the Department for Environment, Food and Rural Affairs. In that relationship there are times when communication can fall short of the standards that we would expect, but that is why we learn from every incident. We in Scotland have taken a particular strength from the way in which we have dealt over the years of devolution with issues such as the initial foot-and-mouth outbreak six years ago and the more recent incident in Fife last spring. That expertise is helping the rest of the UK to handle its problems more effectively.

European Convention on Human Rights (Prisoners)

6. Phil Gallie (South of Scotland) (Con): To ask the First Minister what the total cost has been of providing legal aid and compensation to people serving prison sentences for claims under the European convention on human rights since its incorporation into Scots law. (S2F-2723)

The First Minister (Mr Jack McConnell): Since 2000, the total cost of legal aid and compensation in such cases has been approximately £2.3 million.

Phil Gallie: To judge from comments that have been made elsewhere, there might be some surprise at the low level of funding that the First Minister suggests. That makes me wonder whether other costs are hidden elsewhere.

I point out to the First Minister that the European convention on human rights would be better labelled in Scotland as the European convention on prisoners' rights. I point out to him the shambles in our bail laws, in slopping out, in the telephone messages issue and in voting rights for prisoners. When will he bring sanity back to our justice system?

The First Minister: Bringing back some consistency between the questions and the supplementaries might be more of a challenge.

Phil Gallie is surprised that the total for claims is low because the figures have, at least by implication, been exaggerated elsewhere. In this country, where people have a legal right to go to court and there is a legal aid system in place, it is right and proper that people should have the chance to apply for legal aid and that their applications should be treated consistently through the normal processes independently of the Government and ministers. That is what happens. By far the greater part of the sum I mentioned is legal aid payments. In some cases, people will

have won their case; in others, they will not. Access to justice is important. It would be very dangerous to start picking and choosing who has access to justice.

Point of Order

12:32

Chris Ballance (South of Scotland) (Green):

On a point of order, Presiding Officer. Last Thursday, the Parliament voted down the Executive's proposal that the Parliament

"commits to a replacement crossing across the Forth and calls on the Cabinet to commit to preparatory work to start immediately".

Yesterday, the Minister for Transport, Tavish Scott, said:

"Cabinet agreed today to take forward the replacement crossing. Work will continue to assist a final decision ... on where the crossing will be".

In making that announcement, the minister clearly acted directly contrary to the will of Parliament as expressed in a decisive vote in the chamber. He has also behaved in a deeply disrespectful way to members of the Parliament, who voted against the proposal just six days before. Presiding Officer, I seek a ruling from you at decision time on whether the minister is in breach of rule 3.1 of the ministerial code of conduct, which requires that

"The Scottish Executive should be accountable to the Scottish Parliament",

and of rule 7.3 of standing orders, which requires that members show respect to members of the Parliament.

The Presiding Officer (Mr George Reid): I have just received notice of this point of order. I will reflect on it and, if appropriate, I will comment at decision time.

12:33

Meeting suspended until 14:15.

14:15

On resuming—

Question Time

SCOTTISH EXECUTIVE

Education and Young People, Tourism, Culture and Sport

Schools (New Build)

1. Dr Elaine Murray (Dumfries) (Lab): To ask the Scottish Executive how many new schools have been built since May 2003. (S2O-12060)

The Minister for Education and Young People (Hugh Henry): On 29 January we announced the achievement of our commitment to the renewal of 200 schools since 2003. That includes 110 new-build schools.

Dr Murray: The minister may be aware that Dumfries and Galloway Council intends to announce the preferred bidder for its public-private partnership schools building programme next month, and that the contract will be signed in the summer. Does the minister share my concern that, if Alex Salmond becomes First Minister in May and pulls the plug on PPP, instead of construction starting in the autumn, plans for new schools in Heathhall, Lockerbie and Moffat in my constituency will have to be shelved?

Hugh Henry: The possibility of Alex Salmond becoming First Minister is fairly remote. However, in the unlikely event that that happened, Elaine Murray would be right to be concerned. Contracts under our plans—and under the plans that are under way in Dumfries and Galloway—would be cancelled.

Peter Peacock wrote to Fiona Hyslop and the Scottish National Party to ask how its projects would work, but there has been no reply. I have written twice, I think, since then, but there has been no reply. Perhaps Elaine Murray's powers of persuasion might enable us to get the information that so far has been refused.

Fiona Hyslop (Lothians) (SNP): The Minister for Education and Young People, in a personal capacity as a Labour candidate, may have written to me, but I have not received any such letter. The minister has continued to talk about such a letter in committees in the Parliament, so I took the trouble to write to him not only at John Smith House but at Victoria Quay, and to e-mail him, to explain the Scottish futures trust as proposed by the SNP. If the minister had any courtesy or respect, he would acknowledge that.

It is essential that we replace the school estate in Scotland. Under the SNP, the school building programme will progress—but we will introduce a not-for-profit Scottish futures trust. Is the minister aware that in his constituency, if a better interest rate had been achieved from the market for procurement, it is probable that two extra secondary schools, like Gleniffer high school, would have been built? That could not happen because of the excess profits that the minister's Administration is wasting because of PPP finance.

Hugh Henry: That is just absolute nonsense. The SNP's plans are not only uncoded but unproven. We have no way—and nor does the SNP—of knowing whether those plans would work. Many questions remain unanswered. The SNP's proposals are asking people in Scotland to take a great leap in the dark. Like many other things about which the SNP is trying to kid the Scottish electorate, it will be not only a leap in the dark but a leap into danger.

Social Workers

2. Euan Robson (Roxburgh and Berwickshire) (LD): To ask the Scottish Executive how many social workers there are and whether the figure has increased in recent years. (S2O-12024)

The Deputy Minister for Education and Young People (Robert Brown): There were 4,855 whole-time equivalent social workers employed by Scotland's local authorities in October 2006. That is 25 per cent more than the 3,873 whole-time equivalent social workers employed by local authorities five years ago.

Euan Robson: I thank the minister for that most encouraging news—an increase in the number of social workers of 25 per cent is valuable. Does the minister plan to continue the fast-track graduate recruitment scheme? If so, what will be the timeframe? Does the minister agree that that scheme is part of an overall package for social work, and that, if the social work sector wishes to advance, it should value its own profession and commend itself to the general public whenever possible?

Robert Brown: The fast-track scheme was a particular response to past difficulties in recruitment. It has been successful in bringing new blood into the profession, but many employers have said that it is time for a new approach.

We continue to support post-graduate routes into social work through a bursary scheme. That scheme has supported 320 new students this year—and that figure too has gone up 25 per cent over the past three years. As part of our implementation of "Changing Lives", we are talking to employers about new approaches to social work

recruitment, in the context of recruitment issues that have arisen in recent years. To take up Euan Robson's last point, "Changing Lives" is designed to focus the social work profession in a modern way. It is based on valuing and supporting the work that social workers do for Scotland.

Scott Barrie (Dunfermline West) (Lab): I note the welcome increase in the number of social workers by 25 per cent over the past five years. Does the minister agree that, as welcome as that increase is, the issue is not just about absolute numbers, but about the job that social workers are doing? Does he agree that social work cannot be and is not a stand-alone profession and that the key to effective social work practice is proper interagency working, so that it is not only social workers who are responsible for that effectiveness but everyone who is caring for vulnerable people, who must all work together?

Robert Brown: I absolutely agree with Scott Barrie and could not have put that better myself. I am well aware of Scott Barrie's background in social work and of his knowledge of the issues. He will be aware, as will everyone in the chamber, that the challenging "Changing Lives" agenda is designed to modernise the way in which social work operates, to ensure that it is much more client focused, that as little time as possible is spent simply shuffling paper around and that as much time as possible is spent engaged in action, in partnership with other professionals, that will make a difference for, among others, Scotland's children.

Alasdair Morgan (South of Scotland) (SNP): Does the minister agree that, however much success he has with recruitment, much of it is vitiated by the failure to retain staff, particularly in children and families social work? How does he envisage the Executive addressing that problem?

Robert Brown: I am not sure that a major problem has been identified with retention in the profession. However, I agree that the issues of retention, recruitment, training and the valuing of social workers are central to how we deal with the matter.

I do not want to be complacent. It is true that there are differing levels of availability of social work vacancies across Scotland and that there is still work to be done with regard to recruiting more social workers into the profession and on focusing on the work in order to make it a more enjoyable profession than it has been in the pressured days that we have gone through.

Schools (Surveillance Technology)

3. Patrick Harvie (Glasgow) (Green): To ask the Scottish Executive what role surveillance technologies have in schools. (S2O-12069)

The Minister for Education and Young People (Hugh Henry): Local authorities are responsible for the delivery of education in a safe and secure environment for both staff and pupils. It is for authorities to decide what technologies best support the achievement of those objectives.

Patrick Harvie: The Executive has made it clear, not least in the Communities Committee this week, that it favours a completely unregulated approach to the development of those technologies, notably fingerprinting systems, which will be the first such technology to be rolled out in Scottish schools. However, is the minister aware of the strong cross-party concerns on those issues in Westminster? Is he aware that a written answer in Westminster said that

"the British Educational Communications and Technology Agency ... is revising its current guidance on data protection to include specific guidance on biometric technology"?—[*Official Report, House of Commons*, 5 February 2007; Vol 456, c 628W.]

Will that new guidance apply in Scotland? If not, why not? If so, is the Scottish Executive seeking to influence it?

Hugh Henry: Patrick Harvie might have been at a different meeting of the Communities Committee than the one that I was at, given the reference that he made to fingerprinting technology. However, there was a discussion at that meeting about anonymised systems for school meals payments.

We have made it clear that the issue is a matter for the schools to determine. We have made clear what we expect to happen with regard to good practice and we have made clear how we expect the law to be applied. Nothing has changed between Tuesday and today that I can add.

Lord James Douglas-Hamilton (Lothians) (Con): Will the minister accept that, ever since the outrage at Dunblane, sensible security is extremely important in schools for teachers and pupils and for parents, when they visit the schools? Does he agree that a safe and secure school environment is an essential requirement?

Will the minister accept that, where closed-circuit television operates, it is an extremely effective deterrent against a variety of crimes, including fire raising?

Hugh Henry: Lord James Douglas-Hamilton is absolutely right to put safety and security within the context that he mentioned. Not only would we be shocked and horrified if something were to happen that we had done nothing to prevent, but we would all be held to be guilty of neglect. It is incumbent on us to take steps to ensure that technology that is relevant and appropriate is used to encourage a safe and secure environment in our schools.

I appreciate the contribution that CCTV can make in town centres and outside schools in diminishing vandalism, and so on. However, we do not recommend CCTV as a measure to monitor or reduce indiscipline in schools. There is a different context there, and a number of other measures can be used to alert parents to the fact that their child has not turned up for school. Albeit that mistakes can sometimes happen—I heard of one such case today—we should do what we can to ensure that our children are well protected.

Primary Schools (Perpetual Process Improvement)

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

To ask the Scottish Executive whether there are any plans to teach the concept of perpetual process improvement in primary schools in order to create increased receptiveness to learning, as suggested by Professor Umit Bititci and others. (S2O-11992)

The Deputy Minister for Education and Young People (Robert Brown): No.

Jim Mather: I find that disappointing. Does the minister recognise the interest and support that has been forthcoming from the Smith group, in particular Sir Robert Smith, whose Weir Group has used the concept to considerable effect? Will the minister rethink the issue on the basis that the concept would have a beneficial effect in reinforcing the processes of teaching, learning and doing homework, and, in the light of the report this week of the United Nations Children's Fund, in creating and helping to develop a new generation of confident youngsters who feel that their colleagues are kind and co-operative?

Robert Brown: The process and principle of engaging all young people in learning for life are reflected in a number of policies across the Executive and in the practices of local authorities. That almost goes without saying. I am perhaps not entirely alone in the chamber in wondering precisely what Jim Mather is getting at in the particular question that he is asking. He is talking about whether we plan to teach the concept of perpetual process improvement in primary schools. I do not recognise a practical outcome to that.

What I can say is that a curriculum for excellence is stimulating constructive debate on learning and teaching. It is giving those who are involved at every level of Scottish education the opportunity to reflect on the purpose and principles of what they do. The assessment is for learning programme is very much influenced by educational research that suggests that learners learn best when they understand clearly what they are trying to learn and what is expected of them and when they are given feedback about the

quality of their work. That may be what Jim Mather is referring to. It is very much at the heart of what we are trying to do with the curriculum, and considerable progress is being made in that regard. The Executive wants to move forward on the basis of evidence-based approaches to such matters, and the issue is up for grabs, in many ways, with the curriculum for excellence debates that we are currently having.

Literacy

5. Karen Whitefield (Airdrie and Shotts) (Lab):

To ask the Scottish Executive what steps it is taking to improve literacy and encourage children to read books. (S2O-12064)

The Minister for Education and Young People (Hugh Henry):

The Executive is committed to improving literacy and is promoting a variety of initiatives, including the home reading initiative, Scotland reads and bookstart Scotland. Last week, the Minister for Tourism, Culture and Sport committed an additional £1.5 million to bookstart Scotland to encourage parents to read with their children.

As part of a curriculum for excellence, literacy skills have been identified as a key factor in ensuring that our young people become successful learners, effective contributors, confident individuals and responsible citizens. The development of literacy will be a key theme across the curriculum, with all teachers having responsibility for promoting language and literacy development.

Karen Whitefield: I am grateful to the minister for highlighting the important work of bookstart Scotland. I draw the minister's attention to the excellent work that goes on in Airdrie, Petersburn and Newmains libraries in my constituency, where bookstart Scotland sessions are well attended. Does he agree that local authorities must continue to work with their health authority partners to ensure that the bookstart programme's benefits are enjoyed by as many children as possible, both before they start nursery school and once they take up their entitlement to the free nursery places that were, of course, introduced by this Labour-led Administration?

Hugh Henry: I welcome the initiatives in Karen Whitefield's constituency. Indeed, such initiatives are being introduced all over Scotland. We cannot overestimate the significance and value of parents reading to and communicating with their children. Such activity has a beneficial educational impact on the child's learning ability, not only when they enter nursery school but as they progress through primary school into secondary school. Communicating with children at the earliest possible age not only benefits them at the time, but stays with them for life, and we must

encourage anything that can be done to support that. In that respect, bookstart Scotland is a very imaginative initiative. However, we can build on it. I want our children to have the best possible start in life, and I worry about children in families and households in which the value and effectiveness of reading and communication have not yet been established. While that situation remains, we have more to do.

Tricia Marwick (Mid Scotland and Fife) (SNP): Although I agree with everything that he has said, will the minister comment on Fife Council's announcement this week of the closure of libraries in Pitteuchar, Glenrothes, Thornton and throughout Fife?

Hugh Henry: I am not familiar with the specific situation in Fife, but sometimes there are reasons for closing facilities. For example, the population might have changed or there might be a lack of demand. That said, I know from my area that underused facilities can be closed for one reason and then reopened to provide other opportunities for communities. In my constituency, a community learning facility that has been established in what used to be a library is making a remarkable contribution to the community's life not only by helping adult learners but—more important—by allowing young parents to learn skills that they might otherwise not have had a chance to develop.

Edinburgh Zoo

6. Margaret Smith (Edinburgh West) (LD): To ask the Scottish Executive what action it is taking to attract visitors to Edinburgh zoo. (S2O-12023)

The Minister for Tourism, Culture and Sport (Patricia Ferguson): Edinburgh zoo is an extremely successful visitor attraction that, like other attractions in Edinburgh, benefits from VisitScotland's marketing of the city as a great city-break destination.

Margaret Smith: I welcome Scottish Enterprise's recent £1.875 million contribution to the chimpanzee enclosure and other public sector grants that the zoo has received. However, I am interested in pursuing with relevant ministers, given the significant contribution that the Royal Zoological Society of Scotland makes, ways in which the Executive might provide it with greater financial stability and annual support, perhaps to bring it into line with the public sector support that the Royal Botanic Garden Edinburgh receives. Will the minister meet me to discuss how the Executive might be able to support the zoo in ensuring that it achieves its master plan for increasing visitor numbers without having to build housing on the green belt?

Patricia Ferguson: Most of the issues that Margaret Smith has raised are for the zoo's management. However, I am aware that the zoo participates in a number of particularly successful initiatives to encourage visitors. The management of the zoo has shown great strategic vision in setting plans for its long-term development over the next 20 years, which I know have been discussed with Scottish Enterprise Edinburgh and Lothians. Moreover, the office of the chief scientific adviser for Scotland keeps in touch with the zoo on this and other issues, and I hope that the zoo finds those meetings to be helpful.

Mr Jamie McGrigor (Highlands and Islands) (Con): The Royal Zoological Society of Scotland also owns the extremely successful highland wildlife park at Kincaid in my region. Given that Edinburgh zoo attracts more visitors per year than all the other science-based organisations in Scotland put together; that, each year, it educates 25,000 children on conservation and the natural world; and that it acts as an essential barometer with regard to the effects of global warming and climate change on animal and bird species, will the minister explain why there is no official dialogue between the Executive and the zoo's management, unlike that between the Executive and the Royal Botanic Garden Edinburgh? I know that she has recently met the zoo's management once, but would it not be a good idea if there was at least one meeting per year with the organisation?

Patricia Ferguson: In his effort to help Edinburgh zoo, Mr McGrigor is perhaps conflating a number of different issues, and it might help to set them out individually.

I met the zoo's management in its capacity as a visitor attraction, and I am very happy to work with it, or any other visitor attraction, and VisitScotland to ensure that it maximises its potential. However, as Mr McGrigor rightly identified, the zoo also has an important role in animal and species preservation. The Executive has a dialogue with it on that subject and, as I pointed out, the zoo is meeting the office of the chief scientific adviser in the near future. However, any further discussions about the possibility of funding for the zoo's science base would be for the Scottish Executive Enterprise, Transport and Lifelong Learning Department, and I am happy to pass Mr McGrigor's suggestion to the appropriate minister.

Finance and Public Services and Communities

Affordable Housing (Highlands)

1. John Farquhar Munro (Ross, Skye and Inverness West) (LD): To ask the Scottish Executive what action it is taking to increase the

availability of affordable housing in the Highlands. (S2O-12027)

The Minister for Communities (Rhona Brankin): We are doing a great deal to provide affordable housing in the Highlands. Through Communities Scotland, the Executive is investing £33.6 million to improve the availability of affordable housing in the Highlands, which represents a 30 per cent increase on last year's housing investment programme. Overall, our housing investment in the Highlands has more than quadrupled since 1997-98.

I was pleased to visit Inverness last month and see one of the first households in the city to benefit from our innovative homestake shared equity scheme, which is aimed at helping those on low incomes get on to the property ladder. Since its launch, more than 200 other homestake houses have been approved in the Highlands.

John Farquhar Munro: I thank the minister for that encouraging reply. I am sure that she will be aware of the distinct lack of affordable housing in the Highlands, which is proving to be an impediment to retaining our young people. Has the Scottish Executive ever considered sponsoring more community land trusts in the Highlands as a way of making more housing affordable for young people who so desperately need new homes?

Rhona Brankin: I am prepared to look at any innovative suggestion for increasing the number of affordable homes. We are passionately committed to increasing the number of such homes for people in the Highlands. When I visited Inverness recently, I met a young nurse, Janet MacMillan, who was one of the first people to benefit from the homestake project. That is a shared equity model, so we are already introducing innovative ways of dealing with the problem in the Highlands, but I would be prepared to consider any other innovative approach.

Mr Alasdair Morrison (Western Isles) (Lab): Does the minister agree that it is singularly depressing that Highland Council tenants are having to endure an increase in rents and a freeze on repairs and infrastructure development while, across the Minch in my constituency, tenants are now part of a community body, the Hebridean Housing Partnership, under which there is a five-year rent agreement, a programme of home renovation and repairs, and a £15 million Scottish Executive fund to build 300 homes in the Western Isles in the next three or four years? That will constitute the largest home building initiative there since the Ministry of Works in the 1940s and 1950s. Does the minister further agree that those who campaigned for a no vote in the Highlands should hang their heads in shame?

Rhona Brankin: I agree that the result of the ballot in the Highland Council area was extremely disappointing. People in the Highlands had what we thought was a terrific opportunity to benefit from a huge amount of funding. I agree with Alasdair Morrison that we welcome the Western Isles decision. We think that people there have taken the right decision, as they are going to be able to unlock a huge amount of funding. As he mentioned, some 300 new homes in the Western Isles is good news.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): Does the minister agree that there is a chronic shortage of affordable housing in Lochaber, and does she agree that public money should be used for real priorities? Does she agree with George Lyon and me, who have both argued that there should not be a marine national park, which would cost several million pounds a year, and that that money would be far better spent on providing affordable housing in Lochaber?

Rhona Brankin: Fergus Ewing would not necessarily expect me to agree with him, as a marine national park could bring massive benefits to the Lochaber economy. Overall, there has been a huge increase in affordable housing in the Highlands. Indeed, as I said, investment in such housing has more than quadrupled since 1997-98.

Maureen Macmillan (Highlands and Islands) (Lab): Is the minister aware of what Communities Scotland's housing inspection report said about Highland Council's provision of houses for homeless people? It gave the council only a fair mark for that provision. One area in which the council fell down was the need to provide appropriate temporary accommodation and to eliminate breaches of the Homeless Persons (Unsuitable Accommodation) Order 2004—in other words, people were put into bed-and-breakfast accommodation. Can the Executive give any more support to Highland Council to overcome those shortcomings?

Rhona Brankin: I am aware of the number of breaches of the unsuitable accommodation order in the Highland Council area. However, I think that the most recent statistical bulletin shows that there has been a slight decrease in the number of breaches.

Communities Scotland is working with Highland Council to consider ways in which the problem of the provision of houses for homeless people can be resolved. We would like progress to be faster, but I reiterate that the money that has been made available for affordable housing in the Highlands has more than quadrupled since 1997-98 and that, since last year, there has been a 30 per cent increase in the housing investment programme. That huge investment in affordable housing in the Highlands will make a difference to people's lives.

Community Group Funding (Comhairle nan Eilean Siar)

2. Mr Alasdair Morrison (Western Isles) (Lab):

To ask the Scottish Executive what consideration has been given to any problems raised by Comhairle nan Eilean Siar in respect of funding for community groups. (S2O-12057)

The Minister for Finance and Public Service Reform (Mr Tom McCabe): The comhairle asked us to allow it flexibility to treat certain funding that it provides to community groups as capital expenditure rather than revenue expenditure. We have considered the issues that are involved in some depth, with a view to being as accommodating as possible. We are currently consulting the Convention of Scottish Local Authorities, Audit Scotland and the Chartered Institute of Public Finance and Accountancy, and I expect to be in a position to reach a final decision in the near future.

Mr Morrison: I thank the minister for quickly reconstituting the COSLA, Audit Scotland and CIPFA group to consider the views that were raised with him by me and the vice-convenor of the comhairle, Angus Campbell. Does he agree that the new arrangements should be put in place as soon as possible to allow community groups and the comhairle to get on with delivering their work in many communities in the Western Isles?

Mr McCabe: I understand why the request would be beneficial to the council, which is why we have acted in the way that we have. I said that we would do our best to reach a decision on the matter as soon as possible, and I will ensure that our officials pursue the issue with haste.

Public-private Partnerships

3. Ms Wendy Alexander (Paisley North) (Lab):

To ask the Scottish Executive how the use of PPP has helped to deliver major infrastructure projects on time and reduced subsequent maintenance costs. (S2O-12032)

The Minister for Finance and Public Service Reform (Mr Tom McCabe): Recent reports on operational public-private partnership contracts have confirmed that the vast majority have been delivered on time and to cost and quality targets, that they are meeting public service requirements and that they represent excellent value for money. The focus on whole-life costs and the integrated nature of PPP contracts ensures that facilities are fit for purpose and well maintained over the life of the contract.

Ms Alexander: Is the minister concerned that a move away from the well-established PPP model could seriously disrupt the delivery of a new or refurbished school every week, to which the Executive has committed itself?

Mr McCabe: Such a move would bring projects to a crashing halt. Certain parties in the chamber are prepared to do that, but they will be called to account in a few weeks' time when parents, grandparents and professionals who deliver education in our communities express their views about the intention of those parties to bring projects to a halt and stop the massive progress that has been made in education throughout Scotland.

Rob Gibson (Highlands and Islands) (SNP):

How will the minister ensure that the necessary sums will be spent on Scottish Water's Seafield waste water treatment plant, which was developed using a PPP approach, to cap the obnoxious smells that affect thousands of residents of Leith and east Edinburgh? How will the Scottish Executive ensure that that happens within the current rules, which prevent public subsidies for PPP projects? When will the necessary sums be spent?

Mr McCabe: The real smell is of the Scottish National Party's policies, which would wreck not only educational opportunities but every other opportunity that innovative contracting brings to various aspects of Scottish life. The SNP might want to concentrate on smells, but the Administration is concentrating on improving Scotland and putting in place whatever innovative contract procedures are necessary to ensure that we do that.

Compulsory Purchase Orders

4. Cathie Craigie (Cumbernauld and Kilsyth) (Lab):

To ask the Scottish Executive within what time frame compulsory purchase orders should be completed. (S2O-12038)

The Deputy Minister for Communities (Des McNulty): There are statutory timescales for particular stages of the compulsory purchase process, but there is no overall timeframe for the completion of a compulsory purchase order from start to finish.

I am well aware of the member's interest in the compulsory purchase order for Ainslie Road and Maclehose Road in Cumbernauld, which the Executive received in October 2006. Other essential papers in relation to the order were received in November and December. Those matters are all currently under consideration.

Cathie Craigie: I am grateful to the minister for his response and for the fact that he is aware of the compulsory purchase order that has been submitted by North Lanarkshire Council. I know that he is also aware of the problems that are associated with the flats and the unacceptable conditions in which the residents have to live. This case has been going for a considerable time and it

has been a difficult one to deal with. However, as I understand it, there are only three objections to the compulsory purchase order when there could have been 108. Surely that shows that the majority of people want to see the order progressed as quickly as possible. Will the minister guarantee that that will happen within weeks rather than months?

Des McNulty: There are legal processes to be gone through. The consideration that we have to undertake includes checking whether the order has been drawn up properly and whether the local authority has carried out correctly all the procedures that are required of it. Depending on the outcome of that consideration, the Executive will advise North Lanarkshire Council of its response to the order—the order will be confirmed, further steps will be required of the council, or the order and objections will be referred to a public local inquiry. It is in everyone's interests that we get the speediest possible resolution to this problem. I am well aware of the distress that is being experienced by the member's constituents.

Mr David Davidson (North East Scotland) (Con): The minister will be aware that the Scottish compulsory purchase order reimbursement scheme has not been reviewed for many years, whereas the English scheme is reviewed annually to take account of rising house prices. In light of the houses that will be lost to the Aberdeen western peripheral route, will the minister ensure that the Scottish system is updated immediately so that it is fair and on a par with the scheme in the rest of the United Kingdom? Rumour has it that the minister believes that he is a unionist; he now has an opportunity to display that. It would be helpful to get such an update under way before we conduct any more negotiations on purchases of houses.

Des McNulty: One of the advantages of devolution is that we do not blindly follow the English model in all circumstances. We recognise the interest in the issue, which is why a review of the home loss payment levels is currently under active consideration. These matters are invariably complex and any change in payment levels would have an impact beyond the compulsory acquisition of any given property. We will consider the issue very carefully and come forward with proposals in due course. I am particularly anxious that all the implications should be fully explored. We will make our conclusions known as soon as we are in a position to do so.

Public Procurement (McClelland Review)

5. Ms Maureen Watt (North East Scotland) (SNP): To ask the Scottish Executive when it expects to act on the recommendations of the McClelland review of public procurement and the

subsequently established advisory group. (S2O-12006)

The Minister for Finance and Public Service Reform (Mr Tom McCabe): Significant progress has already been made in implementing the McClelland report's recommendations. The Executive has established the public procurement reform board to oversee implementation of the report. Information about the board's work is published in the procurement section of the Executive's website.

Ms Watt: The McClelland report estimates the value of public procurement in Scotland at £8 billion. Westminster's estimate of the value of public procurement is £125 billion for the UK as a whole, which would mean that Scotland's share is roughly £10.5 billion although, given that the public sector is larger in Scotland than it is in England, the figure is likely to be higher than that. Will the minister admit that he has no idea how public sector spending helps or hinders Scottish businesses? Is it not time that the Scottish Executive followed the lead of the Irish and Norwegian Governments in using e-tendering for public procurement, which has resulted in a significant boost to their indigenous small and medium-sized enterprises?

Mr McCabe: It might have escaped the notice of the Scottish National Party as it pursues its single issue of independence for Scotland—irrespective of the impact that that would have on Scotland—but we have established an organisation called e-procurement Scotland, which is growing by the week, with the intention of taking a much more comprehensive approach to public procurement in Scotland. I appreciate the point that is made about the figure in the McClelland report. The whole point of commissioning the report was that we needed to get a much broader view of the extent of public procurement and its impact on business in Scotland.

Our intention in ensuring that there is a far better procurement system for the public sector in Scotland is to give the taxpayer better value for money, to ensure greater transparency and to create greater access within the Scottish market to the opportunities that exist. It is false to pretend that all we have to do is close down markets and close our doors to the rest of the world and somehow that will make everything better in Scotland. Such an approach has proved to be disastrous in other parts of the world and it would be disastrous here too.

Council Tax (Pensioners)

6. Iain Smith (North East Fife) (LD): To ask the Scottish Executive what the average council tax bill is for a pensioner household. (S2O-12026)

The Minister for Finance and Public Service Reform (Mr Tom McCabe): Information on council tax bills by household type is not held centrally. Based on the most recent information from the family resources survey, the average council tax paid by pensioner households in 2004-05 was £603, which is approximately half the band D average. The council tax bill paid by pensioners in 2007-08 will rise on average by 1.9 per cent, which is well below the rate of inflation.

Iain Smith: Does the minister agree that many pensioners who are on a low income and who pay no income tax still have to pay a very large share of their income—the minister mentioned an average bill of more than £600—on council tax? Does he accept that many of those pensioners would face a huge increase in their bill as a result of any council tax rebanding and revaluation? Does he also accept that the same pensioners would pay nothing at all—not a penny—under a local income tax scheme?

Mr McCabe: No, I do not accept all those assertions.

Many pensioners in Scotland who do not pay income tax qualify for the council tax benefit that is currently on offer. One of the difficulties in Scotland is that not enough pensioners take up that benefit. I believe strongly that we must apply our minds to how we can encourage many more of the pensioners who are on the lowest income to access that benefit. It must also be pointed out that many people of pensionable age who are not in paid employment generate an unearned income through a variety of other sources and through that would incur an income tax bill.

Simclar

7. Phil Gallie (South of Scotland) (Con): To ask the Scottish Executive whether any adjustment will be made to the local government finance settlement to local authorities in Ayrshire to address the impact of the closure of Simclar Ayrshire. (S2O-11994)

The Minister for Finance and Public Service Reform (Mr Tom McCabe): The local government finance settlement that was approved by Parliament last week confirmed record levels of funding for local government. Core revenue funding for councils in Ayrshire in 2007-08 will increase by £28 million. It will be for each council to determine how it uses those additional resources to meet local needs.

Phil Gallie: Will the minister check what level of financial support has been provided to Simclar Ayrshire in order to retain it in Ayrshire over the years? Would we be able to reclaim that money from Simclar International, the Simclar parent company? Finally, will the minister assure me that

no public money will be channelled to Simclar International in Scotland in the future?

Mr McCabe: On the first point, I can certainly ask my colleagues in the Enterprise, Transport and Lifelong Learning Department to supply that information, and we will then write to Mr Gallie.

I would not like to give an absolute commitment that no public funding would ever be directed towards that company if at some point in the future it came up with an innovative proposal that might provide sustained employment in Ayrshire or any other part of Scotland. We would be duty bound to look at ways in which we could assist such proposals. I hope that the misery and bad luck that are being experienced by those individuals in Ayrshire will not be repeated and I hope that there will be opportunities to provide useful replacement employment not only in Simclar but in other companies.

It is not always the case that public funding brings relief to people in Scotland, whether in Ayrshire or anywhere else. For instance, we have given considerable additional finance to local authorities in the recent past. Thankfully, in North Ayrshire, that resulted in a council tax increase of 2.4 per cent and a 1.5 per cent increase in East Ayrshire. Sadly, however, the poor individuals in Conservative-controlled South Ayrshire were burdened with a 3.9 per cent increase. Clearly, in some parts of the country, it is not all about money.

Points of Order

14:56

Alex Neil (Central Scotland) (SNP): On a point of order, Presiding Officer. I have given you notice of my point of order. As you know, the Justice 1 Committee will publish its report on the McKie case and the Scottish fingerprint service this afternoon. I believe that the Scottish Executive and the press are getting advance copies of the report prior to the press conference that is to be held by the committee convener. However, advance copies have been refused both to the McKie family and to the Scottish Criminal Record Office officers who are the subject of the report.

I accept that this would normally be a matter for the convener and the committee rather than for you, Presiding Officer. However, the matter raises fundamental issues about the human rights of the people involved and it has basic implications for the whole Parliament, not just for the Justice 1 Committee. I ask you to look at the situation, because it is unacceptable that the press and the Scottish Executive have prior warning of what is in the report but the people who are the subject of the report are being refused the same accommodation.

The Presiding Officer (Mr George Reid): I thank you for the advance notice of your point of order, which will now be in the *Official Report*. I must tell you, however, that it is entirely a matter for the committee concerned and I am afraid that you should raise it with the convener.

Phil Gallie (South of Scotland) (Con): On a point of order, Presiding Officer. I apologise for being unable to intimate it to you in advance, but it arises from a response that I received from the Minister for Finance and Public Service Reform, Tom McCabe. I referred carefully to other money that would be available to the Ayrshire councils, but the minister referred to existing provision and to the council tax rate that was set by South Ayrshire Council. I point out that that rate was as a result of a £12 million deficit left by Labour when the council was taken over recently by the Conservatives.

The Presiding Officer: I think that you have made your point, which will also be in the *Official Report*.

Business Motion

14:58

The Presiding Officer (Mr George Reid): The next item of business is consideration of business motion S2M-5580, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Adult Support and Protection (Scotland) Bill.

Motion moved,

That the Parliament agrees that, during Stage 3 of the Adult Support and Protection (Scotland) Bill, debates on groups of amendments shall, subject to Rule 9.8.4A, be brought to a conclusion by the time limit indicated, each time limit being calculated from when the Stage begins and excluding any periods when other business is under consideration or when a meeting of the Parliament is suspended (other than a division following the first division in the afternoon being called) or otherwise not in progress:

Groups 1 - 4: 25 minutes

Groups 5 - 8: 45 minutes

Groups 9 - 12: 1 hour and 10 minutes.—[George Lyon.]

Motion agreed to.

Adult Support and Protection (Scotland) Bill: Stage 3

15:00

The Deputy Presiding Officer (Trish Godman): The next item of business is stage 3 proceedings on the Adult Support and Protection (Scotland) Bill. Members should have in front of them the bill as amended at stage 2—SP bill 62A—the marshalled list, which contains all the amendments that have been selected for debate, and the groupings, which I have agreed.

The division bell will sound and proceedings will be suspended for five minutes for the first division of the afternoon. The period for voting on the first division will be 30 seconds. Thereafter, I will allow a period of one minute for voting on the first division after a debate. All other divisions will be 30 seconds.

Section 6—Visits

The Deputy Presiding Officer: Group 1 is on visits: accompaniment by a doctor. Amendment 1, in the name of Dr Jean Turner, is the only amendment in the group.

Dr Jean Turner (Strathkelvin and Bearsden) (Ind): Amendment 1 seeks to ensure that when a council officer enters someone's house or place of residence—which could be anywhere, for example a nursing home or a hospital ward—to determine whether the person is an adult at risk of harm, they will be accompanied by a doctor, who, preferably, will be the person's own general practitioner, if they can be found. I have made the proposal because I realise from my own experience how traumatic it is to enter someone's home to section them or to have them removed for treatment because they are self-harming.

We must remember that the numbers of elderly people and people with special needs in the community will grow. Many elderly people who live in their own homes are terrified of being taken into a nursing home or some other form of accommodation. The issue was highlighted for me recently, when one of my constituents refused any help from NHS 24. If we had been able to send in a doctor, the situation would have been resolved quite easily. I know from past experience that doctors often enter situations that they think they will not be able to manage, but as soon as the person sees a doctor from their practice or one whom they know, the situation is defused.

Amendment 1 would also allow the medical examination that is envisaged under the bill to be undertaken in the adult's home, so it would not be

necessary for them to be removed to another place.

As a former GP, I recognise that my proposal might place an additional burden on GPs, but the evidence that the Health Committee received suggested that it would not be an enormous burden. Doctors would have to make such visits on only a handful of occasions a year. I commend the amendment to Parliament.

I move amendment 1.

Euan Robson (Roxburgh and Berwickshire) (LD): Amendment 1 is similar to an amendment that was debated at stage 2. Although I recognise the good intentions behind it, I have reservations that its provisions would be inflexible, and might give rise to circumstances in which a visit could not go ahead because a GP was not available.

The intent of amendment 1 could be secured perhaps in secondary legislation, but probably in a code of practice or guidance. That would be better than cementing it into statute in a way that could lead to unforeseen undesirable situations arising.

The Deputy Minister for Health and Community Care (Lewis Macdonald): Although I acknowledge the value of Jean Turner's experience and recognise that it will often be the case that a GP is an appropriate person to be involved, I share Euan Robson's reservations. As he said, at stage 2 the Health Committee considered whether a doctor should be present for all visits under section 6. Amendment 1 would require a GP to attend when a visit was prompted by concerns about a person's well-being and would mean that reasonable steps would have to be taken to ensure that the GP was from the adult's practice.

Section 8 already provides that the primary person sent by the council may be a health professional and that no one other than a health professional can conduct a medical examination of an adult who may be at risk. It quite deliberately allows flexibility in the choice of who that health professional should be. On occasion, the best person will be the adult's GP or another GP who is registered at the same practice. However, in other cases the health professional with whom the adult is most familiar and who can most readily assist them will be a district nurse or mental health professional. In those circumstances, that person's presence would be more appropriate, therefore we should retain the flexibility that the bill currently provides.

On that basis, I ask Dr Turner to seek leave to withdraw amendment 1.

Dr Turner: On most occasions when section 6 will be used, a medical problem will be present in the background, which could be solved quickly,

kindly and sensitively by the presence of a GP. The bill is about adult support and protection and the least intervention that is required to help people. It would be a kindness for a general practitioner to be present—as I said, they should preferably be a GP whom the person knows, although I know that that might not always happen. I honestly do not think that it is too much of a burden or too difficult to find a GP. A GP has to be found when someone has to be sectioned under the mental health legislation, and it is perfectly easy to do that.

I press amendment 1.

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

Members: No.

The Deputy Presiding Officer: There will be a division. As this is the first division, there will be a five-minute suspension.

15:06

Meeting suspended.

15:11

On resuming—

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

FOR

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)
 Petrie, Dave (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Sheridan, Tommy (Glasgow) (Sol)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)

Cunningham, Roseanna (Perth) (SNP)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 18, Against 84, Abstentions 0.

Amendment 1 disagreed to.

Section 8—Medical examinations

The Deputy Presiding Officer: Group 2 is on the right to refuse consent to medical examinations. Amendment 2, in the name of the minister, is the only amendment in the group.

Lewis Macdonald: Part 1 will introduce new measures to protect adults who are at risk of harm. For stage 3, we have lodged only two amendments to part 1, after significant changes were made at stage 2. Part 1 will place a duty on relevant bodies to co-operate in investigating and responding to harm and will also provide rights of entry to allow that to happen. [*Interruption.*]

The Deputy Presiding Officer: One moment, minister. There is far too much noise. Conversations can be held outside the chamber.

Lewis Macdonald: At stage 2, Nanette Milne submitted an amendment that sought to strengthen individuals' rights during interviews or medical examinations by ensuring that they would be made aware of their right to refuse to participate prior to any proceedings taking place. At that stage, I offered to come back with an amendment on medical examinations that was consistent with the provisions on interviews that we introduced at stage 2. Along with those provisions, amendment 2 will make it clear that action under the bill is intended to support adults, by ensuring that they are fully informed of their right to refuse consent to either an interview or a medical examination before it takes place. Amendment 2 responds to concerns that were raised in the Health Committee.

I move amendment 2.

Amendment 2 agreed to.

Section 11—Criteria for granting assessment order

The Deputy Presiding Officer: Group 3 is on the criteria for granting assessment orders. Amendment 3, in the name of the minister, is the only amendment in the group.

Lewis Macdonald: Amendment 3 also responds to a point that the Health Committee discussed at stage 2. In this case, Shona Robison lodged an amendment on assessment orders and I offered to produce an Executive amendment at stage 3 that would be consistent with Euan Robson's amendment on removal orders, to which the committee had agreed.

The intention behind amendment 3 is to ensure that a person who is the subject of an assessment

order is assessed in a place that is suitable and available for either an interview or a medical examination. The intention has always been that a person who is the subject of an assessment or removal order should be assessed in or removed to a suitable and available place. Amendment 3 will make that intention explicit in the bill.

I move amendment 3.

Amendment 3 agreed to.

Section 49—Persons authorised to perform functions under this Part

The Deputy Presiding Officer: Group 4 is on authorised persons: council officers. Amendment 4, in the name of Dr Jean Turner, is the only amendment in the group.

15:15

Dr Turner: Amendment 4 seeks to ensure that council officers who have the power to enter premises and remove an adult at risk of harm are social workers with at least 12 months' experience since qualifying. The Health Committee was concerned when it first received the bill that council officers are to be given such serious powers. Being removed against one's will is beyond most folk's hopes and fears. They hope that it will never happen to them, but it could happen to any one of us. Council officers should be fully qualified and experienced enough to be able to handle the situation with great sensitivity. As the bill stands, any council officer may undertake the task.

The deputy minister has recognised the issue and is committed to introducing regulations to restrict the definition of a council officer. He has been kind enough to issue a draft of the regulations laying out the proposals. I am grateful for that courtesy and for the time that he gave me prior to lodging my amendments. However, the draft regulations propose that as well as undertaking a week's training, which I support, those eligible to use the extensive powers under the bill will require to be qualified social workers with only six months' experience. That is not enough; they should have 12 months' experience.

The regulations also propose that the first visits under the act, which will determine what happens next—whether somebody is taken away to be examined or is subject to a banning order and so on—may be undertaken by managers of adult day care or home care services. That is not appropriate, as there could be a conflict of interest if there were complaints about those services.

I lodged amendment 4 because I have witnessed situations in which extremely vulnerable people were dealt with, and it takes a high degree

of experience to cope in such situations and to tone down a situation that might easily blow out of all proportion. Such situations must be handled with care and with the least intervention. The powers under the bill to enter premises to investigate or remove people should be used only by qualified social workers with a minimum of 12 months' experience. In fact, I would make that 24 months, but in the spirit of compromise I have said 12 months in the amendment.

I move amendment 4.

Scott Barrie (Dunfermline West) (Lab): Although I accept the spirit of amendment 4, we should be serious about the reality of people who are employed in our local authorities. While the 24 months that Jean Turner indicated is her preferred option would be far too restrictive, I argue that 12 months is perhaps too restrictive as well. People should not underestimate the seriousness with which council employees will approach the powers that we are giving to them. To suggest that someone will go in willy-nilly and not treat the matter in the way in which we hope that they will is somewhat disrespectful to people's training and experience, which they may have gained before they were qualified. Introducing a restriction of 12 months would be going too far. We should resist amendment 4.

Euan Robson: I agree with Scott Barrie. There is a risk with amendment 4 that we would be trying to manage the work of social work departments by statute, which would not be appropriate. It is a matter for the exercise of discretion by the social work departments of local authorities.

Robin Harper (Lothians) (Green): I have consulted social work departments on amendment 4 and I have not received anything other than a general feeling that it would be sensible.

Lewis Macdonald: I agree with Scott Barrie that the intentions behind Jean Turner's amendment 4 are favourable, but the Executive's position is to resist it, because the approach that is set out in the draft regulations that I have circulated, which recognise that different functions are involved, is the right one. Council officers who perform functions that relate solely to visits may include, for example, day care managers who are also skilled and qualified people. However, a qualified social worker will be required to pursue a protection order. Therefore, the draft regulations will further limit the group of officers who are permitted to carry out those functions.

The views of social work professionals and colleagues in the Scottish Social Services Council were sought on the draft regulations. The proposed approach will provide some flexibility with regard to persons who may carry out more basic functions, but it will ensure that only

appropriately qualified and trained persons are authorised to perform roles that relate to assessment and removal. However, the detail of the draft regulations still needs to be worked through with the Association of Directors of Social Work, and therefore will be subject to wider consultation.

On the basis of that approach, we will resist amendment 4.

Dr Turner: I accept what Scott Barrie said about previous experience, but we do not know what an individual's experience prior to becoming a social worker will be. We also do not yet know what the regulations will be. Therefore, I press amendment 4.

The Deputy Presiding Officer: The question is, that amendment 4 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 McGregor, Mr Jamie (Highlands and Islands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)
 Petrie, Dave (Highlands and Islands) (Con)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Sheridan, Tommy (Glasgow) (Sol)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gibson, Rob (Highlands and Islands) (SNP)

Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 23, Against 64, Abstentions 0.

Amendment 4 disagreed to.

After section 51

The Deputy Presiding Officer: Group 5 concerns independent advocacy services and guardianship orders for adults with incapacity. Amendment 9, in the name of the minister, is grouped with amendments 13, 14 and 27. If amendment 14 is agreed to, amendment 27 will be pre-empted.

Lewis Macdonald: The amendments in this group relate to part 2 of the bill, which amends the Adults with Incapacity (Scotland) Act 2000.

Members of the Health Committee will recall that, at stage 2, I accepted two amendments in the name of Shona Robison, which stated that the sheriff must take account of any views that are

expressed on an adult's behalf by someone who provides independent advocacy services. On reflection, I realised that Ms Robison's amendments applied only to applications for intervention or guardianship orders and that it would be more desirable to ensure that the sheriff should take the views of the adult concerned into account in any kind of proceedings under the 2000 act. Those could include applications for renewal of a guardianship order or replacement of a guardian.

Having accepted Shona Robison's point, it is appropriate to broaden the provision into a general one, for the avoidance of any doubt. Amendments 9, 13 and 14 will ensure that the sheriff must take views that an independent advocate expresses on behalf of the adult into account in any type of proceedings under the 2000 act.

Amendment 27, in the name of Nanette Milne, relates to an application for guardianship under the 2000 act and is intended to ensure that the sheriff considers not only whether other lesser measures under the act would be sufficient to enable the protection of the adult's interests, but whether other existing legislative provisions would be sufficient to do so.

Amendment 27 is unnecessary. Of course we want the sheriff to take account of the powers that are available to the local authority under, for example, the Social Work (Scotland) Act 1968, but the sheriff already has discretion. The provision that Nanette Milne seeks to amend already ensures that the sheriff will have to be satisfied that there are no means under the 2000 act by which the local authority can act, but they will also be bound by the general principles in section 1 of the 2000 act and will have to be satisfied that the benefit for the adult that is being sought can be achieved only by way of an intervention under that act. Nanette Milne's amendment 27 might also restrict the sheriff's discretion, so we ask her not to move it.

I move amendment 9.

Mrs Nanette Milne (North East Scotland) (Con): Amendment 27 is a minor amendment, but it would extend the scope of section 51 of the Adults with Incapacity (Scotland) Act 2000 to other legislation. The minister has assuaged my concerns. I will not move amendment 27.

Amendment 9 agreed to.

Section 53—Powers of attorney

The Deputy Presiding Officer: Group 6 is on powers of attorney and foreign solicitors. Amendment 23, in the name of Nanette Milne, is grouped with amendments 24 to 26.

Mrs Milne: Amendment 23 is designed to provide a mechanism for certifying powers of attorney when the granter is abroad. It would allow certification by a wider class of professional, including qualified and practising lawyers, notaries public, commissioners for oaths or similar in any jurisdiction outwith Scotland where the granter is present.

The reason for amendment 23 is that it has been reported to the Law Society of Scotland that some solicitors have encountered significant practical problems in having powers of attorney certified when the granter is abroad. The current certification provisions in sections 15(3)(c) and 16(3)(c) of the Adults with Incapacity (Scotland) Act 2000 refer to certification

“by a solicitor or by a member of another prescribed class”.

Although the term “a solicitor” is not qualified, the public guardian has not been willing to accept certification by a solicitor in any jurisdiction other than Scotland. The bill as it stands will amend the term “solicitor” to “practising solicitor”, making it clear that only a practising Scottish solicitor may certify. That will cause problems where a person currently in another country desires or requires to grant a Scottish power of attorney.

Amendments 24 to 26 are consequential to amendment 23.

I move amendment 23.

Lewis Macdonald: The Executive does not support amendments 23 to 26. As members will recall, amendments were passed at stage 2 to clarify the definition of “solicitor” for the purposes of sections 15 and 16 of the 2000 act. We lodged those amendments following consultation with the relevant interests on whether the definition should be limited to a solicitor practising in Scotland. That proposal found support, therefore only practising solicitors, practising advocates and registered medical practitioners can currently give the certificates that are required under sections 15 and 16 of the 2000 act. They are members of professions that are subject to professional regulation and they carry professional indemnity cover, which is necessary and appropriate protection for people who grant powers of attorney.

Broadening out the class to include foreign solicitors would raise questions as to how such professional regulation and protection could be assured. Of course, we are dealing with legal mechanisms under Scots law, and there is the important question whether a foreign solicitor could properly advise a person who is granting power of attorney about its effect under Scots law. Accordingly, I ask Nanette Milne to withdraw amendment 23 and not to move amendments 24 to 26.

Mrs Milne: I listened carefully to the minister's explanation, in which he made valid points about foreign solicitors.

Amendment 23, by agreement, withdrawn.

Amendments 24 to 26 not moved.

Section 54—Accounts and funds

The Deputy Presiding Officer: Group 7 is on withdrawers, notice of change of address and duration of certificates etc. Amendment 10, in the name of the minister, is grouped with amendments 11 and 12.

15:30

Lewis Macdonald: The amendments in the group again relate to adults with incapacity and are technical amendments to new part 3 of the 2000 act.

Amendment 10 provides for a seven-day time limit for notifying the public guardian of a change of address of the adult or the withdrawer. Amendment 11 provides that the register that is maintained by the public guardian must be updated when the authority of the withdrawer is suspended or terminated.

Amendment 12 provides that the public guardian may specify a time limit for the validity of certificates of authority to provide information about funds, open a bank account and transfer specified sums. That will provide certainty and remove the possibility of open-ended authority. The amendment provides that the public guardian can cancel certificates of authority and that, if she does so, she must notify the appropriate person.

I move amendment 10.

Amendment 10 agreed to.

Amendments 11 and 12 moved—[Lewis Macdonald]—and agreed to.

Section 60—Intervention orders

Amendment 13 moved—[Lewis Macdonald]—and agreed to.

Section 61—Guardianship orders

The Deputy Presiding Officer: I point out again that, if amendment 14 is agreed to, I will not call amendment 27 because of pre-emption.

Amendment 14 moved—[Lewis Macdonald]—and agreed to.

The Deputy Presiding Officer: Group 8 is on adults with incapacity and transitional guardians. Amendment 15, in the name of the minister, is the only amendment in the group.

Lewis Macdonald: Amendment 15 reflects the purpose of an amendment that Nanette Milne lodged at stage 2.

The bill contains a provision that requires all transitional guardians—that is, pre-2000 act curators, tutors dative and tutors at law—to renew their guardianships under the 2000 act, if appropriate, within two years of the provision coming into effect or within two years of the person attaining the age of 16, whichever is the later. Without such a renewal, their authority to act as a guardian will cease.

Nanette Milne's amendment at stage 2 sought to avoid the risk that some adults would lose their guardians because the requirement to renew was not specifically drawn to the guardian's attention. Amendment 15 requires the public guardian and the local authority to take reasonable steps to notify transitional guardians of the requirement to renew their guardianships. It therefore meets the objective that was discussed at stage 2.

I move amendment 15.

Mrs Milne: I thank the minister for his comments. Amendment 15 certainly satisfies my concern and I am happy with it.

Amendment 15 agreed to.

After section 63

The Deputy Presiding Officer: Group 9 is on the power to help incapable adults benefit from social services. Amendment 16, in the name of the minister, is grouped with amendment 16A.

Lewis Macdonald: Amendment 16 clarifies local authorities' powers in relation to the provision of services to adults with incapacity under the Social Work (Scotland) Act 1968. The amendment aims to address an issue about the use of court orders under the Adults with Incapacity (Scotland) Act 2000. I explained the background to and rationale for the amendment in my letter of 7 February to the convener of the Health Committee, and copies of that letter are available to members today.

Practice in applying for orders under the 2000 act varies among local authorities. We do not believe that it is always necessary to obtain a guardianship order when an adult with incapacity is to be moved to residential accommodation. For example, it would not be necessary in a case in which there was no disagreement about the service to be provided, if the adult appeared to be content with the move and there was no question of their being deprived of their liberty. Our policy is to ensure that community care services are provided as quickly as possible after an assessment and without the case going to court unless that is necessary.

However, it has become clear from the consultation on the draft guidance that, because some local authorities have doubts about the extent of their legal powers, they seek a court order in every case. Clearly, a consequence of that can be that an adult who lacks capacity has to wait unnecessarily in a hospital bed for which they no longer have any clinical need when a suitable place is available for them in a more appropriate care setting.

Having consulted on this issue, we have come to the conclusion that clarification of the law would be helpful. Amendment 16 therefore seeks to clarify the powers of local authorities in relation to the provision of community care services to adults with incapacity. It also seeks to ensure that the principles of the 2000 act are applied when a local authority takes any steps using the powers.

Of course, local authorities, as public authorities, must comply with the European convention on human rights. The power under the 1968 act does not allow local authorities to take steps that would deprive the adult of his or her liberty. Local authorities will still have to judge when it is appropriate for the power under the 1968 act to be used. We will therefore issue guidance to help local authorities make such judgments. Clear guidelines will be set out as to when it may be appropriate to use the power. By clarifying the legal position, amendment 16 will assist local authorities.

Nanette Milne's amendment 16A seeks to add an additional provision to amendment 16, to prevent a local authority from taking steps under the 1968 act if it is aware that an application for an intervention or guardianship order, which would cover the steps in question, is likely to be made. Amendment 16 already provides that the power under the 1968 act cannot be used when a proxy is already in place with the power to take the decision in question, or when an application for an intervention or guardianship order is currently before the courts. Those provisions impose clear restrictions on the use of the power. I therefore do not believe that amendment 16A is necessary.

Amendment 16A also risks introducing the unintended consequence of preventing a local authority from using the power in the 1968 act when it is aware that an application is likely to be made but has no control of when that application will be made. In such circumstances, there would clearly be a risk that the application would not progress.

We have already issued draft guidance to assist local authorities in deciding when it is appropriate for an application to be made for an order under part 6 of the 2000 act, and when it may be appropriate to use its power under the 1968 act. The guidance makes it clear that certain criteria

must be met before the power under the 1968 act is used. One of those criteria would relate to a court application being made in the first place, which would clearly indicate that there was no agreement on the proper course of action. In such circumstances, the local authority should act accordingly. We intend to make all such points clear in the final version of the guidance.

I hope that what I have said gives Nanette Milne the reassurance that I know she is looking for and that she will not move amendment 16A.

I move amendment 16.

Mrs Milne: I welcome amendment 16, which covers many of the Health Committee's concerns. The intention behind amendment 16A was to extend amendment 16 so that it covered possible applications. I accept the minister's argument that amendment 16A might lead to delays if a local authority did not know when an application was to be made. I will therefore not move amendment 16A.

Amendment 16A not moved.

Amendment 16 agreed to.

After section 67

The Deputy Presiding Officer: Group 10 is on the revocation of compulsion orders and applications to the Mental Health Tribunal for Scotland. Amendment 17, in the name of the minister, is grouped with amendments 18 and 20.

Lewis Macdonald: This group of amendments and the following two groups deal with the Mental Health (Care and Treatment) (Scotland) Act 2003, which will be amended by the bill.

Criminal justice and mental health legislation already makes provision for the protection of the public from those who, by reason of a mental illness, may pose a risk of further serious offending. The legislation does so by allowing a court to impose a compulsion order, or a compulsion order together with a restriction order. A compulsion order allows for the detention in hospital of a patient and for the provision of treatment.

When a compulsion order is imposed together with a restriction order, the period of detention may be without limit of time and Scottish ministers are given powers in respect of the care and treatment of the patient. Decisions in respect of discharge are reserved to the Mental Health Tribunal for Scotland, but Scottish ministers are party to the consideration of such cases and may lead and challenge evidence. The restriction of liberty in this way for an indeterminate period of time is limited to circumstances in which such restriction is necessary.

Amendment 17 adds an additional test to the criteria for the revocation of a compulsion order when that order is in place in combination with a restriction order. The additional test is that the tribunal is not satisfied that it continues to be necessary for the patient to be subject to the compulsion order. In practice, that means that, if the tribunal does not consider that the order continues to be necessary, it may discharge the order. In such cases, the patient will then become a voluntary patient.

I should emphasise that discharge follows treatment, testing out and, when on-going care and treatment are required, the creation of a robust and established care regime. It is not a step that is lightly taken. In considering the position that they wish to adopt in individual cases, Scottish ministers will consider reports from clinicians, the police and others as appropriate and will oppose discharge when they consider that the protection of the public warrants that approach.

That change means that the tests for imposing and lifting the order will be the same. That will satisfy the expectation that the restriction of liberty continues when it is necessary, but not when it is not necessary. There will now be consistency between the criteria in part 10 for the lifting of compulsion and restriction orders and those in part 9 for the lifting of compulsion orders, in so far as both parts of the 2003 act will now refer to the necessity test.

Amendment 17 ties in with amendments that were agreed to by the Health Committee at stage 2. Those amendments introduced a necessity test in relation to the criteria for the discharge of prisoners who are transferred to hospital for treatment of a mental disorder. Amendment 17 makes no change to the arrangements that are in place for patients suffering from a mental disorder who are detained in order to protect any other person from serious harm. In such cases, the tribunal has no power to order discharge from the compulsion order. If, following discharge, the patient's mental health deteriorates, the power is available to detain them under the civil provisions of the 2003 act.

Amendment 17 is supported by the Mental Welfare Commission and the Royal College of Psychiatrists.

Amendment 18 relates to applications to the Mental Health Tribunal. It will apply when the tribunal is considering whether it is under a duty to carry out a two-year review of certain types of order. It will also apply when Scottish ministers are considering whether to refer a case to the tribunal for a two-year review.

One of the conditions for such reviews is that no application has been made in the relevant period

to revoke or vary the order. The amendment will ensure that any applications that are made in the relevant period but are subsequently withdrawn are treated as never having being made. That will ensure that the tribunal will review and make a determination in all cases in line with the policy that cases should be reviewed at least once every two years. Without the amendment, there is a risk that, as a consequence of withdrawn applications, the tribunal might not review a case for a period of time in excess of two years, so defeating the intention of Parliament.

Amendment 20 is a technical amendment.

I move amendment 17.

Amendment 17 agreed to.

After section 67C

Amendment 18 moved—[Lewis Macdonald]—and agreed to.

Schedule 2

REPEALS

The Deputy Presiding Officer: Group 11 is on the repeal of section 142 of the Mental Health Act 1983. Amendment 19, in the name of the minister, is the only amendment in the group.

Lewis Macdonald: Amendment 19 repeals, for Scotland, section 142 of the Mental Health Act 1983, which has already been repealed for England and Wales. Section 142 relates to the payment of a mentally disordered person's salary and pensions directly out of moneys provided by Parliament or the consolidated fund. The paying authority can distribute the person's pay or pension as it thinks fit, which offers the funds no formal protection. The mechanisms that are available under the Adults with Incapacity (Scotland) Act 2000 are now available for any future cases that might arise and we consider that the section should, therefore, be repealed.

I move amendment 19.

Amendment 19 agreed to.

Section 71—Commencement

The Deputy Presiding Officer: Group 12 is on the commencement of certain provisions in parts 2 and 3A. Amendment 21, in the name of the minister, is grouped with amendment 22.

15:45

Lewis Macdonald: These are technical amendments relating to part 2, which deals with adults with incapacity, and part 3A, which deals with mental health. They relate, first, to amendment 16, which clarifies the powers of local

authorities. The amendments bring that provision into effect on the day after the bill receives royal assent, to ensure that any doubts about the extent of local authorities' powers are removed as soon as possible.

Secondly, the amendments relate to two stage 2 amendments to the Mental Health (Care and Treatment) (Scotland) Act 2003, on the discharge of patients from compulsion. It is considered advisable that those amendments should be introduced as soon as is practical.

I move amendment 21

Amendment 21 agreed to.

Amendment 22 moved—[Lewis Macdonald]—and agreed to.

Long title

Amendment 20 agreed to.

The Deputy Presiding Officer: That ends consideration of amendments.

Adult Support and Protection (Scotland) Bill

The Deputy Presiding Officer (Trish Godman): The next item of business is a debate on motion S2M-5362, in the name of Andy Kerr, on the Adult Support and Protection (Scotland) Bill.

15:47

The Deputy Minister for Health and Community Care (Lewis Macdonald): I am delighted to move the motion in support of such an important bill. It is important because it sends a clear message that abuse or neglect of the most vulnerable in our society is not acceptable. It is also important because it will mean that adults can benefit from similar levels of protection to those that are currently afforded to children when they require that protection. Above all, it is important for people in our communities who are at risk of harm—intentional or otherwise—and who are unable, for whatever reason, to safeguard themselves or their interests.

The road to this point has been a long one. Back in 1993, the Scottish Law Commission published a report that highlighted an increasing awareness of the abuse, deprivation and exploitation that can be experienced by some vulnerable adults and a lack of appropriate legislation to tackle those things effectively. That report was followed, in 1997, by a draft bill that sought to provide solutions to the concerns that were raised in the report. Since then, there has been significant legislative action by the Scottish Parliament in the form of the Adults with Incapacity (Scotland) Act 2000 and the Mental Health (Care and Treatment) (Scotland) Act 2003. Those ground-breaking pieces of legislation have improved the lives of some of the most vulnerable people in Scotland. However, gaps in legislative provision remain.

Although the existing legislative framework achieves much, it does not offer any additional protection for those who are mentally well and who are capable, but who are, nonetheless, frail and at risk of harm. The bill is designed to address that gap in protection; to complete the suite of legislation to support the most vulnerable in our society; and to remove any uncertainties about the duty to act when an adult may be at risk of harm. It signals a step change in the way in which we view adult protection.

Sadly, we know all too well that abuse can and does happen. It can happen in regulated care settings, such as care homes, but it can also happen in family homes. It can happen in relationships of trust, when it can be difficult for those who are suffering harm to speak out and get

the help that they need to improve their situation. In such circumstances, individuals can feel pressurised into retracting allegations of abuse, harm or neglect—sometimes because they rely on the person who is harming them to provide for their everyday needs; and sometimes because of fear of reprisal or a fear that they will not be believed.

The bill brings together a range of measures that will complement the existing legislation. It clarifies roles and responsibilities, and it removes uncertainties about the duty to act. That means that, if harm or abuse is suspected, practitioners will have a means of getting through the door to assess the reality of an individual's situation. The bill will help practitioners to investigate circumstances in which individuals may have capacity to choose but, for a variety of reasons, are unable to exercise that choice. Moreover, it will mean that, if carers are under stress, their needs will be recognised and they will be supported. More widely, the legislation creates obligations on public bodies to co-operate and provides a statutory basis for adult protection committees across Scotland.

The sensitive nature of adult protection has been highlighted throughout the passage of the bill, which seeks to strike a difficult balance between respecting the rights of individuals to choose how they want to live and offering appropriate support and protection to those who need them most. Although it will not turn difficult decisions faced by practitioners into easy ones, the legislation will give them, for the first time, a full range of options to take appropriate action to protect those who are at risk of being harmed.

Local authority interventions will not always be made in the form of the various orders that can be made under the bill. However, in the few cases that require more robust action, the local authority will be able to take it, subject always to the safeguards that are built into the bill. I expect that the very fact that the powers in the bill are available will ensure that, in the majority of cases, they will not need to be used.

The bill's helpful amendments to the Adults with Incapacity (Scotland) Act 2000, the Mental Health (Care and Treatment) Act 2003 and the Social Work (Scotland) Act 1968, some of which were agreed to this afternoon, will enhance the operation of those pieces of legislation and, in many cases, will clarify and confirm original policy intentions. For example, one of the amendments to the 1968 act clarifies the rules on ordinary residence. In parallel, we are working with colleagues in the United Kingdom Government and in Wales and Northern Ireland on regulations and revised guidance on cross-border placements.

Although the bill's firm focus is on the needs and safety of victims of harm or abuse, it complements the Protection of Vulnerable Groups (Scotland) Bill, which is currently going through Parliament and is directed at keeping unsuitable people out of the care workforce. That will further strengthen our overall commitment to appropriate protection for adults.

I thank all those who helped to shape the bill in its early stages and throughout its parliamentary passage, including the Adult Support and Protection (Scotland) Bill steering group, which worked with Executive officials and guided the bill team from the outset; the many organisations and individuals who took time to work with the Executive through consultations and meetings, in particular service users who contributed through existing national policy groups; and members of committees, particularly the Health Committee, which carefully scrutinised and considered the bill and recognised the sensitivities inherent in legislation that seeks to balance rights and protection.

I also acknowledge the hard work of Executive's bill team and of the committee and parliamentary clerks, who enabled members to consider the issues and to have the background information that they required. The bill as a whole has greatly benefited from that combined input and will now achieve its intentions in a balanced and proportionate way.

I move,

That the Parliament agrees that the Adult Support and Protection (Scotland) Bill be passed.

15:53

Shona Robison (Dundee East) (SNP):

Although the bill arose from the very tragic Miss X case in the Borders, it has—in the minds of the public, at least—focused on abuse of the elderly. As the minister pointed out in his speech, that problem certainly needs to be addressed. Indeed, I know from my previous experience as a home care manager that too many elderly people are too often at physical, mental or financial risk.

However, the question that many of us have asked—and, to an extent, are still asking—is whether the bill will address that problem. I hope that it will, but it will work only if the system backs it up and only if hard-pressed social work staff are able to pick up whether a problem exists and can act accordingly. In that respect, I welcome the establishment of the adult protection committees, which will give a focus to important work surrounding the protection of vulnerable adults and will allocate responsibility.

If the system does not work, that is a fundamental weakness—we know that system

failure is often highlighted in the high-profile, tragic cases that come up regularly and are put under the spotlight.

There are other questions about whether support packages to keep people safe in their own homes will be put in place and whether carers who are at the end of their tether can be supported to continue to care safely and appropriately. Those questions will be answered only when we see the legislation in action.

Many issues had to be addressed during the bill's passage. The minister referred to the debate about balancing the protection of the individual against their liberty and rights, including the right to be unsafe and to take risks. We are talking about individuals who have capacity, and the idea of overriding someone's consent in such a situation makes many of us feel uneasy. We will certainly watch the implementation closely, and we would suggest careful monitoring by the Scottish Executive Health Department in the first year of operation, especially if we are to satisfy some of the on-going concerns of certain groups—groups representing those with a disability were particularly concerned about the bill.

The definition of an adult at risk has been amended and tightened up, with the three-limb definition, as the minister describes it. In essence, that means that being disabled in itself does not necessarily make someone an adult at risk but that other factors, such as being unable to safeguard one's own interests or being at risk of harm, have to come into play. We were pleased that the definition was changed at stage 2.

Similarly, the term "abuse" has rightly been changed to "harm" to avoid stigmatising carers who may have caused harm unintentionally and who, with the right support, can continue to provide care to the person concerned. Such people are often the main carer and, if the person wants to remain in their own home, a support package must exist to take away some of the pressure that may lead to problems arising.

The rights to resources and reciprocity underpin some of my previous comments and are vital to how effective the bill will be. We have to avoid giving the impression that the bill will, at the stroke of a pen, put an end to the abuse of elderly people and other adults at risk. It will not do that; it is what comes with the legislation that counts. The bill has to be backed up by changes in attitude and in the priority given to the protection of adults at risk. It also has to be backed up by adequate resources to ensure both that care packages are in place to maintain people safely in their own homes and that carers get the necessary back-up, so that the frustrations that can lead to people lashing out at the person for whom they care are avoided.

That is a challenge, given the situation in many parts of Scotland, where we know that budgets are under pressure, particularly in social work, in relation to fulfilling child protection responsibilities. I hope that we do not have to enter into a trade-off locally where competing priorities mean that adults who need to be protected come further down the list. Child protection responsibilities are very important, but we need to ensure that the resources exist so that social workers can also give priority to adults who are at risk.

The bill will deliver people's expectations only if it has the right back-up and resources, and only time will tell whether that happens. With those caveats, the Scottish National Party is happy to support the Adult Support and Protection (Scotland) Bill at stage 3.

15:59

Mrs Nanette Milne (North East Scotland) (Con): As we know, the reason for the bill is the need for an overall framework of support and protection for adults who are at risk of harm. It is complementary to the Adults with Incapacity (Scotland) Act 2000 and to the Mental Health (Care and Treatment) (Scotland) Act 2003, and it should plug the gaps that have been identified in those acts.

Like others, I was at the outset rather sceptical about whether the bill was needed, but the evidence that was given to the Health Committee at stage 1 convinced me that it is necessary, so I supported the general principles of the bill at that time but shared the committee's concerns about many aspects of part 1. In such legislation, there is clearly a need to strike the right balance between the state's power to intervene in a person's life—as part of its duty to protect vulnerable people who are at risk—and the right of those people to their chosen lifestyle. As a result, the committee highlighted several areas in which changes were essential if the bill was to become acceptable and effective legislation.

I am grateful that the minister paid heed to the committee's concerns and, as he promised, lodged at stages 2 and 3 acceptable amendments to take account of most of those concerns. In particular, he has tightened up the definition of an adult at risk of harm; that has been done in response to the concern that was expressed by representatives of people with disabilities that the proposed legislation could threaten the autonomy of people who have fought hard for their independence and who fear losing it if it is perceived that they are unable to cope. Enable Scotland does not think that the minister has gone far enough in tightening up the definition, but I am satisfied that it is unlikely that the amended bill will compromise the autonomy of people with

disabilities who live independently. I am also pleased that the amended bill will not allow the definition to be amended by subordinate legislation.

The replacement of the word "abuse" by the word "harm", the inclusion of the same right to advocacy services that exists under the Mental Health (Care and Treatment) (Scotland) Act 2003, the tightening up of the definition of a council officer who can gain entry to premises and the clarification that granting an order against the consent of an adult at risk is indeed a last resort, have all dealt with the committee's concerns and made the proposed legislation acceptable. One of my remaining concerns is that the minister has not so far responded to the Health Committee's recommendation that no one should be removed from their home without appropriate care and accommodation being available. I would welcome his responding to the effect that he will deal with that matter outwith the primary legislation.

Parts 2 and 3 will simplify and streamline the protection of adults with incapacity in respect of welfare and of management of their finances and property. The bill will significantly benefit that group of vulnerable people.

All in all, I am satisfied that the bill will enhance the protection of a particularly vulnerable section of society and that the amendments to section 1 will protect adults at risk of harm from overintrusion by the state. Nobody wants their privacy to be invaded against their will, or to be removed from their home without their consent, so the safeguards that have been introduced should ensure that the power to override an adult's consent will be used as the last resort only after all other options have been tried and it is necessary to avoid immediate harm. As Shona Robison said, we will, of course, have to see what happens in practice and ensure that systems are in place to cope. However, it is unlikely that the power to override an adult's consent will be needed often. I hope that when its use is necessary, the adult at risk will be treated with respect and sensitivity.

The Health Committee has had to deal with a complex bill, but I am now satisfied that it will fill a gap in previous legislation and protect a group of vulnerable adults who have hitherto been at risk of harm—indeed, some of them have been harmed. During its campaign to expose elder abuse, Age Concern Scotland said that many more elderly people may have been harmed by relatives and carers than is generally realised. The bill should give those elderly people the support and protection that they deserve. It will also allow support services to be made available to those who are at risk of harm through self-neglect or through their inability to cope with the practicalities of daily living. It should give them the help that

they need to continue to live safely in their own homes.

In conclusion, I welcome the bill, although its implementation will have to be carefully monitored. The Conservatives will support the motion on the bill at decision time.

16:04

Euan Robson (Roxburgh and Berwickshire)

(LD): I echo the minister's thanks to the committee's clerks and to the witnesses who came before the committee for their efforts, observations and help in assessing and improving the bill as it has passed through its stages. I am grateful for the way in which the Scottish Executive's bill team engaged with the Health Committee, and I am grateful to the minister for being good enough to act on issues that were raised with him. I think he holds the record for lodging one of the longest amendments that has ever been placed before a parliamentary committee in seeking to replace the whole of part 3 of the Adults with Incapacity (Scotland) Act 2000, on accounts and funds. It is interesting that he was able to do that; it is perhaps a strength of devolution that we have, when we find that we could improve something that we have only recently achieved, the capacity to do it. As was evident today, the minister particularly responded to the issues around the question of being informed about the right to refuse a medical examination. I thank him for those amendments.

It is good to see the passage of the bill. As others have said, it will complement the Mental Health (Care and Treatment) (Scotland) Act 2003 and, of course, the Adults with Incapacity (Scotland) Act 2000. It will introduce appropriate and proportionate measures to protect adults from harm, and will clearly place a duty on councils to make inquiries and to assess whether further action is required. That is the most important point in the bill.

The bill will require councils to set up adult protection committees, which is a valuable development that is complementary to the non-statutory child protection committees that are appearing in several local authority areas. It is quite clear that those committees should work together, so it was helpful to have the minister's assurances on that point at stage 2. It is public policy that those committees should work together, although I have to tell the minister that that is not stated on page 13 of the explanatory notes that were revised after stage 2. I am sure that it could be addressed with local authorities through guidance or in another appropriate way.

One of the general principles of the bill is about intervention. It is worth repeating that a person

who decides to intervene has to be satisfied that intervention will benefit the person for whom the intervention is taking place, and that it is

"the least restrictive option of those that are available which will meet the objective of the intervention."

That very important point must be grasped. It is critical that people who will exercise powers under the eventual act recognise those constraints on how the legislation will operate.

The definition of adults at risk has been improved—Shona Robison was quite correct to say that, as was Nanette Milne. Those who are concerned about people with disabilities should take considerable comfort from the fact that there are now qualifications attached to that definition; factors other than disability have to be taken into account. That should offer some reassurance.

The hierarchy of orders in the bill is particularly appropriate. Assessment is followed by removal and then banning. Clearly the latter two orders should be used rarely or, at least, should be considered to be options of last resort. It is important that that, too, be understood.

One subject about which I lodged an amendment at stage 2 was the keeping of proper records. Section 9, on examination of records, is quite important. At stage 2, the minister was good enough to say that he felt that it was particularly important that proper records be kept. If proper records had been kept in certain past cases, they would not have developed as they did. I hope that guidance for or discussion with local authorities will stress the importance of keeping proper records.

The minister listed several developments that have brought the bill—I hope that it will become an act—to Parliament today. There was the 1993 Scottish Law Commission report and a draft bill in 1997. I will conclude by quoting from the social work services inspectorate report on the case in the Scottish Borders. At paragraph 146, the SWSI made it clear why it feels that this legislation is necessary. The report 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 also be particularly relevant for other vulnerable people who do not lack capacity and who do not have a mental disorder."

There have been developments since those sentiments were expressed in 2004, but I think that that remains the fundamental justification for the bill and I am proud to have played a small part in its development.

16:11

Roseanna Cunningham (Perth) (SNP): Obviously, the bill has potentially far-reaching effects. As I said during the stage 1 debate, the Health Committee had a considerable number of difficulties with the bill. Many members were ambivalent about the bill throughout the committee's consideration of it. That is evidenced in the substantial recommendations that were made at the end of stage 1 following the work that we did, and in the changes that were made at stage 2.

We went out to meet groups of people who would be directly affected by the bill—it was clear that many of those who it is intended will be protected by the bill have significant concerns about the implications of the legislation. In our view, that was unprecedented; we had not come across that before. There has also been a sharp difference of opinion between people who represent the elderly and those who represent some of the other significant groups that are encompassed within the definition of “adults at risk”.

The bill confers 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, for obvious reasons, a particular cause for concern to everybody.

The division of opinion on the bill has been, to a greater or lesser extent, expressed throughout our consideration of the bill, and was the principal reason for the committee's concerns. That division of opinion continues today. We have all had the e-mail from Inclusion Scotland and will have heard Enable Scotland express this morning its continuing concerns about what is being enacted. Coincidentally, I happened to be meeting a group of wheelchair users from my part of the world today—they repeated the concerns that other disabled groups expressed to us.

The bill raises fundamental questions about the limits to state intervention as set against the individual's right to personal autonomy. People want to retain their autonomy regardless of their circumstances.

As I said, the minister took on board most of, if not all, the committee's recommendations. I say to the minister that I still have reservations about the lack of full appeal provisions. No doubt one or the other of us will be found to be right in due course. His extensive concessions at stage 2 were extremely welcome, but to my mind we are in effect giving him the benefit of the doubt at this stage.

Some things need to be recognised. First, the bill is called the Adult Support and Protection

(Scotland) Bill: the emphasis has, for obvious reasons, been on the punitive measures in the bill, but real support must be put in place if the bill is to work properly. That means everything from support for carers right through to making advocacy services available. We must not merely say that people have the right to go to them—we must actively make them available.

Secondly, I do not think that the serious disaffection of disability groups can be ignored. I hope that the minister will agree that, although there is no requirement to have a representative from disability groups on the adult protection committees, it may nevertheless be politic for local APCs to ensure that there is such a representative on the committee, because the difference of opinion between disability groups and groups that represent the elderly suggests that there may be some real problems if disability groups are not represented on those committees.

Thirdly, although we heard in the briefing today that punitive measures would be used “rarely, if ever”, I remind the minister and the rest of Parliament that when representatives from Scottish Borders Council gave evidence, they suggested otherwise. They talked about using the measures once or twice a year in the Borders alone. If we multiply that to get a figure for throughout Scotland every year, it does not count as “rarely, if ever” in my book. I hope that the minister will agree that practice will have to be monitored very carefully indeed.

Once again, I thank all the members of my committee for their participation and all their hard work. I also thank the clerks and various officials for all the work that was done in the background, and I thank the witnesses who gave us evidence. I hope that the concerns that have been expressed throughout consideration of the bill and today turn out to be totally unfounded.

16:15

Dr Jean Turner (Strathkelvin and Bearsden) (Ind): I might have said already that the first time I read the bill, I found it very difficult and felt that many things in it ought to have been fixed before it came to the committee. I commend the minister on taking on board all the changes that we proposed.

The bill today is nothing like the bill that I first read. However, that does not mean that I do not still feel uneasy, because any legislation is only as good as the people who implement it. We all know that there are a lot of vulnerable people out there. More and more people will be living on their own in the community and more and more people will depend on services from local authorities. As Roseanna Cunningham said, it will sometimes be

the lack of services that puts people at risk, especially if they live alone.

The other day, I spoke to a constituent who is not too well and who is more or less getting into the dangerous tea and toast brigade, which is a slippery slope to be on. Once a person has become dehydrated and does not eat well, they do not manage themselves well and sometimes they become very crotchety and grumpy. The reason why I suggested that it would be better to have a general practitioner enter the home is that most of the work will be medical.

We need only look at our televisions these days to see that the aging population needs protection, even those who live in homes. I saw pictures of people with bed sores on "Panorama" the other night. I remember a time when if anyone who was being nursed in hospital or at home by district nurses had developed a bed sore, the nurses would have been absolutely ashamed, but it seems to be an ever-increasing occurrence.

I do not want to say much more except that I hope that the people who implement the bill will take the least restrictive approach, because the bill provides for adult support and protection and people need good services. A woman we met at Enable Scotland said that she feels very strongly that her autonomy might well be taken away if neighbours were to decide, in their great opinion, that she needs to be investigated. The thought that she might be taken from her home is abhorrent to her. It would be abhorrent to most of us who could be in that situation if we were to become unwell for a short time.

I congratulate everyone who has been involved in the bill on their hard work, and I thank them for the help that we received in committee. Most of our improvements and significant concerns have been taken on board. I thank the minister for listening to me, although he did not agree with me. I sincerely hope that my uneasiness will go away when the bill's provisions settle in.

16:19

Janis Hughes (Glasgow Rutherglen) (Lab):

Like my committee colleagues, I thank the clerks to the Health Committee for their support throughout our consideration of this at times rather difficult bill. The work that is done in the committees of Parliament is the cornerstone of what we do. Without the hard work and dedication of the committee clerks, it would be so much more difficult. I very much appreciate their help.

As other members have said, there can be little doubt that the bill's progress has not been plain sailing. Very few bills have engendered such debate and the committee had to deliberate long and hard over its stage 1 report. Initially, there

were questions about the need for new legislation, some of which we have heard about today. We were placed in the unusual position of having to debate not only the quality of the bill, but whether it was necessary. However, I am now convinced that the bill is necessary and that, following its substantial amendment at stage 2, it will be good legislation. As Euan Robson said, it complements other legislation that Parliament has passed; the fact that we are now enhancing existing legislation with additional legislation that will go further in protecting people in our society shows how the parliamentary process in Scotland is evolving.

During the stage 1 debate in November, I spoke of the need to amend the bill to ensure that we would protect vulnerable people in our society while allowing individuals the right to live their lives as they choose to. As Roseanna Cunningham said, the bill's title includes the phrase "Adult Support" and it should never be used as a policing mechanism. That is why it was vital that the definition of adults at risk be narrowed. We had to make it clear that not all adults with disabilities will be subject to the bill's provisions. It is to the Executive's credit that it has done that.

Like other members, at stage 1 I was concerned about the term "abuse". Along with most respondents to the committee's consultation, I believe that it is a pejorative term, the use of which implies intentional—or even malicious—harm. We know that that happens and the bill must protect people who suffer such harm but, as we heard in evidence, the situation is often one of benign neglect. In such circumstances, it is most unhelpful to label someone as an abuser. That is why I am pleased that the Executive has amended the bill to replace the word "abuse" with "harm", which I think is a sensible move that will protect precisely the people whom the bill sets out to protect. Nanette Milne lodged amendments in which she sought to remove the word "serious" from the term "serious abuse", but I believe that there is significant legal precedent to suggest that the courts will be able to deal with that concept.

Another concern that I had at stage 1 related to the section of the bill that would have permitted the definition of adults at risk to be amended by subordinate legislation. As a member of both the Health Committee and the Subordinate Legislation Committee, I shared the views of both committees that that was a wholly unacceptable provision that had to be amended before the bill would be passed. Again, I commend the minister for making the necessary change.

The people who are covered under the Mental Health (Care and Treatment) (Scotland) Act 2003 and under the Adults with Incapacity (Scotland) Act 2000 have a right to independent advocacy services, which are vital to ensuring the protection

of some of our most vulnerable citizens. At stage 1, such a right was not afforded to the people who will be covered by the bill, so the rectification of that situation at stage 2 was a highly positive move.

Although I am happy to praise the Executive for making most of the amendments that the committee asked for, I do not want to sound overly congratulatory. A note of caution has already been sounded. I am disappointed that such a large number of amendments were necessary at stage 2, including—as Euan Robson pointed out—the longest amendment that has ever been considered by a committee. The bill will be good legislation and will make a significant difference to the lives of many people in Scotland but, in its initial form, it would not have fulfilled that function. I hope that the minister and the Executive will take that point on board: it is not the first health bill that has required significant amendment at stage 2. That should be borne in mind for future legislation.

I believe that the Adult Support and Protection (Scotland) Bill is a vital step forward in supporting Scotland's vulnerable adults. I urge Parliament to support it and I look forward to its safe passage at decision time.

16:24

Robin Harper (Lothians) (Green): As someone who did not have the honour of serving on the Health Committee when it considered the bill, I congratulate it on the thoroughness of its work and its many achievements. As Jean Turner pointed out, the bill has been transformed as a result of interaction between the committee and the Executive. It is clear that it is now a much better bill than it was when it was first drafted.

I have always been persuaded of the necessity for some kind of legislation to protect vulnerable groups, particularly vulnerable adults. The minister may recall that, in 2002-03, I began agitating for hate crime legislation to be extended—not necessarily as an interim measure—in order to give the kind of protection that vulnerable adults need and deserve. That was partly the result of research from Enable Scotland which showed the unacceptable levels of harm to vulnerable adults, including disabled people and those who suffer from mental health problems. The sample may have been small, but the results were clear. In those terms, the bill is thoroughly to be welcomed.

As other members said, there is also the recent research from Action on Elder Abuse in which more than 471 incidents were analysed. As other members mentioned, the results show that at least half the harm, theft, fraud and deceptions that those people had suffered was by family members

and people who were closest to the older person. Again, the bill is most welcome in that respect.

The Executive would do well to take on board the points that were made in the debate, particularly those from Roseanna Cunningham. My party voted for Jean Turner's amendment 4. If the minister were to further consult social work organisations such as the British Association of Social Workers, I assure him that he would find that those organisations would look kindly on the Executive's setting out, at the least in regulation or advice, a recommended level of experience for social workers who will place orders under section 49.

I welcome the bill. When it comes to decision time, the Scottish Green Party will support the motion.

16:27

Mrs Milne: I understand that I have to be brief, Presiding Officer. In fact, I will be exceedingly brief. As I said earlier, the Conservatives will support the bill at decision time. We look forward to its implementation in the interests of vulnerable adults.

It has taken a lot of work for the bill to become the acceptable bill that it is today. But for the minister's willingness to take on board the many concerns that the Health Committee expressed, particularly at stage 1 and about part 1, many members would not be giving their support to the bill at decision time.

As Shona Robison and other members said, if the legislation is to be effective in practice, it is necessary that proper systems be put in place. Clearly, it is incumbent on the local authorities to ensure that the systems work.

All of us know about the huge pressures in many local authority areas on our demand-led social work services—particularly our children's support services—that make a hugely disproportionate demand on budgets and staff. It is imperative that the legislation be monitored carefully in practice to ensure that the systems do not let down the vulnerable people whom we are legislating to support. I hope that the minister agrees that monitoring is essential. As I said, the Conservatives will support the bill at decision time.

16:29

Christine Grahame (South of Scotland) (SNP): When Dr Turner referred to the "tea and toast brigade", Roseanna Cunningham and I found ourselves competing with each other to meet the test, although we thought that she had also used the word "tetchy".

More seriously, the Scottish National Party welcomes the recognition—as I think all members do—of the vulnerability of some adults and some elderly people; I chose those words carefully. It is extremely difficult to legislate on what is proportionate, or on the difficult balance between state intervention and individual autonomy, to which Roseanna Cunningham referred.

We must always remember that not only is capacity variable, it is not absolute. When someone says, “No, I don’t want you to come into my home” or “No, I don’t feel threatened”, the authorities have a very difficult decision to make. Somebody has to judge whether that is the case, which is extremely difficult.

It was important that the Health Committee took a hold of the bill and made it workable. However, I say to the minister that some of that work should have been done before the bill even reached the committee, as it was self-evident that parts of it needed to be amended. The committee should not have had to do that, bearing in mind that we have a unicameral system. That issue should be considered during the next session of Parliament.

I will touch on some of the hot spots in the bill, against the backcloth of the issues of balance and proportionality and the fact that capacity is variable and not absolute. Section 13 deals with removal orders. I have faith in Scotland’s sheriffs, who have a great deal of experience in dealing with intricate matters such as interdicts and interim responsibility for the care and protection of children. Sheriffs know what they are doing, so section 13 provides a terribly important protection.

Euan Robson referred to section 9, which is on keeping records. I agree that that is important, but the problem is with people reading the records. In the Borders case, the information was on record, but nobody read it or passed it to somebody else.

Euan Robson: The records in the Borders case were incomplete and, to a degree, inaccurate. The issue was not that they were not available; it was that they were not kept correctly. The issue is about keeping proper records.

Christine Grahame: I do not want to get into that specific incident, but there was information on record that was not followed up. I know that, because I had that information before me. The issue was not just that the records were incomplete, but that there were warning signs that nobody followed up. I see that Euan Robson is agreeing with me on that. The issue comes back to people.

The issue of urgent cases is difficult. It will be difficult for somebody to decide to ban a person when no sheriff is available and they have to go to a justice of the peace. I accept that there will be a time limit, but much will depend on judgments and

the implementation. The introduction of adult protection committees is to be welcomed. They should have been set up before now and they have already been set up elsewhere. The issue is about the interaction between agencies.

Section 45 is on the code of practice. We have said over the years that codes of practice and regulations are where the meat is in legislation. The code will be enforceable in court. That is where the issues of operation come in. It is extremely important for the Parliament to pay attention to those issues. We have passed primary legislation before, only to find difficulties on the ground in following the codes of practice. Sometimes, such difficulties cannot be discovered until legislation is implemented. However, as many members have said, we need monitoring processes.

Roseanna Cunningham commented on the appeals procedure. I am a bit concerned about section 48, which states:

“No appeal is competent against the granting of ... an assessment order, ... a removal order, or ... a warrant for entry.”

That is it. End of story. No appeal procedure is competent. Issues may arise that relate to the European convention on human rights. I hope that the minister is right on that issue, but there may be issues about having no appeal procedure whatever in those instances.

Legislation—whether primary legislation or regulations—and the guidance that is produced under it are mere tools of the trade. At the end of the day, we come back to the people who use those tools. However, I do not want to encourage a blame culture, because being a social worker today is a thankless, complex and ever-demanding task that is underresourced and underpaid. Social workers continually have to make choices about what comes to the top of the pile on their desk and what does not. We ask an awful lot of our social work departments and their management. That is why, although I agree that we should pass the bill because we all accept that it is probably a good thing—my history teacher used to say, “It is either a good thing or a bad thing”—I argue that funding and personnel resources must be put in place.

The Scottish National Party generally supports the bill, but we have caveats to do with the operation and interpretation of the legislation in what is a sensitive area and on the provision of staffing and funding. At the end of the day, I return to Roseanna Cunningham’s point that the bill is not about policing; it is about adult support and protection. We must ensure that we get the balance right between support and protection and that we do not go too far down the road of

protection, which can sometimes mean shutting the stable door after the horse has bolted.

16:35

Lewis Macdonald: We have reached the conclusion of the parliamentary consideration of the Adult Support and Protection (Scotland) Bill. The process has worked as it should. Members, ministers and the Health Committee have sought ways to improve the bill and have achieved a high level of agreement on how to do so.

I welcome the support for the bill from all those who have spoken this afternoon. Euan Robson was right to emphasise that the ability to improve legislation as we learn from experience and practice is one of the dividends of devolution. The parliamentary process exists to enable legislation to be improved before it is enacted as well as after it has been in operation for some years. Rather than seeing the improvement of legislation by the parliamentary process as a failure of Government, we should see it as a success of Parliament and as a good example of how the Scottish Parliament was always intended to work.

The bill puts in place a range of measures to address the needs of many of those people who most need protection from harm. As has been said, the sensitive nature of the personal circumstances that give rise to harm or abuse has understandably resulted in a wide range of views about when it is appropriate for the state to intervene in an adult's affairs. We have sought to clarify the boundary between the reach of the state and the right of the individual to choice and privacy. Above all, though, we have sought to be on the side of individuals who, for a variety of reasons, are unable to exercise choice.

The parliamentary process has highlighted the need for agencies to work closely and thoroughly in identifying, assessing and responding to risk. Throughout that process we have sought to emphasise the rights of the adult at risk: the right to exercise choice and the right to be safe. As a number of members have said, the legislation must now be backed up with a code of practice to provide clarity and consistency for those agencies with duties to act, and for those who will rely on such action. The code of practice will need to be very clear about the application of protection orders. In particular—a point that has been made in the debate—it will need to emphasise how the most restrictive actions should be taken only in the last resort, when there is a risk of serious harm and when all other options have been exhausted.

The code of practice will provide an opportunity to set out an overview of the links between this bill, and existing legislation that supports and protects adults. In particular, it can offer signposts to

relevant provisions in the Mental Health (Care and Treatment) (Scotland) Act 2003 and the Adults with Incapacity (Scotland) Act 2000, both of which have been referred to in the debate. Both of those acts have been amended by this bill to ensure that their provisions deliver what they set out to do.

The code of practice will also provide a steer for the development of adult protection committees, so that due consideration is given to ensuring that the right people are at the table. It is expected that those committees will include service user and voluntary sector representation. We do not wish to place an onerous duty on the committees before they begin to function, but it is reasonable to expect that the broad range of service users will be represented on them. More detailed guidance about the structure and operation of the committees will be provided in the code of practice. There will be a convener, independent of the council, in each case, and there will be sufficient flexibility to build on existing practice, and to share expertise with child protection committees where that is appropriate.

The code of practice will be the framework of the general principles on which decisions should be founded. In relation to protection orders, the principles of the bill are that intervention should always be the least restrictive to the adult and that the decision to override an adult's consent should always be taken when other steps have been exhausted. Of course, in every case the authorisation of a sheriff is required. It will be for the sheriff to weigh up the interests of the adult at risk when considering when to allow an intervention. The sheriff may make or refuse a protection order. We will still give adults at risk, subject to a removal order, the full guarantee under article 6 of the ECHR. Before a removal order may be granted, a hearing must take place before an independent and impartial sheriff or JP, who must be satisfied that the adult is at risk of harm.

A number of members mentioned the importance of monitoring and being aware of how the bill operates in practice. Adult protection committees will be asked to review the use of all protection orders and to report their findings in their biannual reports to ministers. That will give us the necessary evidence of how the bill is operating.

One issue that has been debated throughout is the role of the professional. I have distributed a draft of the order restricting the definition of council officer under the bill and I assure members that we will consult further on that order before we bring it back to Parliament. The next steps will include development of any other orders that need to be in place for the bill's commencement. However, I believe that the definition that is in the draft order

strikes the right balance and provides the right guarantees that the appropriate professionals will act under the bill and implement the measures that we have put in place.

From the initial consultation on protecting vulnerable adults until today, our work has involved discussion with the people whom the bill sets out to support and with their representatives. We are committed to ensuring that that engagement continues as we consider the need for guidance and information not only for professionals, but for adults at risk who need to know about their rights and responsibilities under the bill.

We already have a commitment from our bill steering group members that they will continue to provide support for the implementation of the bill and we will actively seek input from people who have appropriate skills and knowledge as we consider future training and service development needs. Work is well under way to develop risk assessment tools in Scotland. A project supported by the Executive's joint improvement team has taken a multi-agency approach to the identification of risk. We will build on that work to provide practitioners with practical guidance and set the bill's provisions within the context of a wider range of options for managing risk.

Adult protection committees will have a key role in developing the skills and knowledge of practitioners at local level. Their reports to ministers will allow implementation to be monitored and ensure uniformity of delivery throughout Scotland.

The bill does not stand alone in supporting those who fall within the definition of adults at risk from harm; it stands with existing legislation and existing policy. People are influencing more and more the design and delivery of the services that they use. With an increase in the take-up of self-directed care, people will be ever more able to exercise choice and control in finding support that suits their individual needs.

Christine Grahame: I am interested in the adult protection committees' reports back to ministers. The minister talked about uniformity throughout Scotland. Is there a role for the Social Work Inspection Agency in that?

Lewis Macdonald: There is, in the sense that the Social Work Inspection Agency has a role across the range of policies in any case. I expect that, when it considers a local authority's actions in fulfilling its social work responsibilities, the agency will consider how the authority has fulfilled its adult protection duties under the bill.

Advocacy was mentioned in the debate. It has an important role in helping people to have their say. We will consider carefully how advocacy

resources can be made available to people who are at risk of harm when they need such support

The bill will not eradicate the risk of harm, but it will reduce it, bring adult protection in Scotland in line with child protection and take a lead on adult protection in the United Kingdom. It will also demonstrate our refusal to tolerate harm and the risk of harm to our most vulnerable citizens. We recognise that adult protection is a sensitive issue, as it concerns the circumstances of vulnerable individuals. Therefore, it is important for the implementation to be sensitive, and we will seek to achieve that as we implement this important new legislation.

The Deputy Presiding Officer: As we have finished early, I suspend the meeting until 5 o'clock.

16:44

Meeting suspended.

17:00

On resuming—

Presiding Officer's Ruling

The Presiding Officer (Mr George Reid): Chris Ballance raised a point of order at the end of First Minister's question time. The Parliament stated no position last week on the issue of toll bridges, as the substantive motion and each of the amendments was rejected. Therefore, I do not consider that there has been any breach of rule 7.3 of the standing orders. The ministerial code of conduct, which Mr Ballance also raised, is entirely a matter for the First Minister, not for me.

Decision Time

17:00

The Presiding Officer (Mr George Reid): Up to six questions will be put as a result of today's business. In relation to this morning's debate on workers' rights, if the amendment in the name of Allan Wilson is agreed to, the amendment in the name of Jim Mather will fall.

The first question is, that amendment S2M-5581.4, in the name of Allan Wilson, which seeks to amend motion S2M-5581, in the name of Rosemary Byrne, on workers' rights, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)

Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Kane, Rosie (Glasgow) (SSP)
 MacDonald, Margo (Lothians) (Ind)
 Martin, Campbell (West of Scotland) (Ind)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Petrie, Dave (Highlands and Islands) (Con)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Sheridan, Tommy (Glasgow) (Sol)

ABSTENTIONS

Adam, Brian (Aberdeen North) (SNP)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)

Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

The Presiding Officer: The result of the division is: For 65, Against 30, Abstentions 23.

Amendment agreed to.

The Presiding Officer: The amendment in the name of Jim Mather falls.

The second question is, that amendment S2M-5581.1, in the name of Phil Gallie, which seeks to amend motion S2M-5581, in the name of Rosemary Byrne, on workers' rights, as amended, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Petrie, Dave (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Swinburne, John (Central Scotland) (SSCUP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Frances (West of Scotland) (SSP)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Harper, Robin (Lothians) (Green)

Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kane, Rosie (Glasgow) (SSP)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Campbell (West of Scotland) (Ind)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Sheridan, Tommy (Glasgow) (Sol)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

Adam, Brian (Aberdeen North) (SNP)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)

Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

The Presiding Officer: The result of the division is: For 17, Against 77, Abstentions 24.

Amendment disagreed to.

The Presiding Officer: The question is, that motion S2M-5581, in the name of Rosemary Byrne, on workers' rights, as amended, be agreed to.

Motion, as amended, agreed to.

Resolved,

That the Parliament believes that the right to work is a fundamental human right; supports the objective of full employment and welcomes the 150,000 new jobs created in Scotland since devolution in 1999; further supports the Simclar workers and calls for an appropriate redundancy package for them; supports the Scottish Executive's call for a DTI investigation into the circumstances surrounding the closure of the Ayrshire plants; condemns poor employment practices that result in workers being sacked via text messages and factory gate notices and denied real and proper consultation and appropriate redundancy payments, illustrated by the recent example at Simclar Ayrshire; recognises the need to further improve workers' rights and entitlements and agrees that the Parliament supports the enhancement of employee rights on consultation in a redundancy situation; reaffirms its commitment to providing appropriate resources to meet the costs of retraining and upskilling workers affected, and recognises the role that the Irvine Bay Urban Regeneration Company will have in creating new job opportunities for the workforce.

The Presiding Officer: The question is, that motion S2M-5570, in the name of Brian Monteith, on school education, be agreed to.

Motion agreed to.

That the Parliament believes that Her Majesty's Inspectorate of Education (HMIE) plays a vital role in raising standards of attainment and enhancing the learning of pupils and students at all stages of school and college education and supports its strategic priorities of promoting public accountability through inspection and reporting, working with other organisations to build the capacity of high-quality education and informing education policy development through knowledge of the whole education system, while managing and developing HMIE as a best value public body.

The Presiding Officer: The fifth and final question is, that motion S2M-5362, in the name of Andy Kerr, on the Adult Support and Protection (Scotland) Bill, be agreed to.

Motion agreed to.

That the Parliament agrees that the Adult Support and Protection (Scotland) Bill be passed.

Crichton University Campus

The Deputy Presiding Officer (Trish Godman): The final item of business today is a members' business debate on motion S2M-5444, in the name of Elaine Murray, on the threat to the Crichton campus in Dumfries. The debate will be concluded without any question being put.

Motion debated,

That the Parliament recognises and applauds the success of the Crichton university campus in Dumfries over the past seven years and the contribution made by all stakeholders involved in this unique partnership; is therefore concerned that the University of Glasgow is considering reducing its presence on the campus and possibly withdrawing from the site; notes that the University of Glasgow is considering this action because of an £800,000 annual shortfall in running its campus at the Crichton, and considers that the Scottish Funding Council should assist the University of Glasgow to maintain its presence at its Dumfries site and that the University of Glasgow should defer making any decision to reduce its presence or to withdraw from the site until after this year's spending review and the forthcoming review of higher education funding.

17:05

Dr Elaine Murray (Dumfries) (Lab): I welcome the group of stakeholders who are in the public gallery. They comprise students, staff, the chief executive of Dumfries and Galloway Council, and people from the Crichton Development Company and the Crichton stakeholder group. We have a good representation of people who have a strong view on the future of the Crichton campus.

When Dr James Crichton died in 1923, it was his wish that his considerable fortune should be used to create a university in Dumfries. His widow, Elizabeth Crichton, tried valiantly to have his wish fulfilled but, unfortunately, the existing Scottish universities opposed the creation of a rival in the south. Instead, a psychiatric hospital, the Crichton royal, was created. For many years, it won international recognition as a centre of excellence.

When the treatment of people with mental health and learning difficulties moved away from institutionalised care, the opportunity arose to make Elizabeth and James Crichton's dreams of a university campus a reality. In fact, one of the ancient universities that had opposed the establishment of a university in Dumfries—the University of Glasgow—spearheaded the new development by signing the first Crichton accord in December 1996. Since then, the Crichton campus has grown into a unique collaboration between higher and further education partners: the University of Glasgow, the University of Paisley, Bell College, the Open University and Dumfries and Galloway College. It has been the topic of several debates and questions in the Parliament.

Each partner brings its own different and expert contribution to the joint venture, and each expands the choices that are available to students at this most beautiful of campuses. Many of those students, of all ages, would not otherwise be able to access a university-level education. The University of Glasgow's contribution to the mix is its liberal arts degree—a concept that was promoted by the former vice-chancellor and principal, Sir Graeme Davies, to provide a broad-based education and develop a wide range of transferable skills that would enable graduates to adapt in a rapidly changing workplace.

In 2000, my colleague, Wendy Alexander, who was then the Minister for Enterprise and Lifelong Learning, allocated 150 fully funded places to the Crichton campus and made available £500,000 of capital for both the University of Glasgow and the University of Paisley. The Scottish Further and Higher Education Funding Council has, more recently, demonstrated support for the collaboration between higher and further education through the allocation of £30 million to enable Dumfries and Galloway College to relocate at the Crichton campus, allowing the sharing of facilities between institutions and facilitating progression between further and higher education.

Sadly, an apparently irreconcilable difference of opinion has arisen between the University of Glasgow and the SFC. In my opinion, both bear some blame for the current impasse. Unlike the University of Paisley and Bell College, which will soon merge to become the university of the west of Scotland, the University of Glasgow does not share its fully funded student places between its different campuses. It sees its operation in Dumfries as additional to Gilmorehill and not part of its core activity. Because the only fully funded places on the Crichton campus account are the 88.4 that are allocated to the University of Glasgow through Wendy Alexander's intervention, the Crichton campus's budget for the University of Glasgow shows a deficit that is calculated to be around £880,000.

The SFC argues that it is providing £147 million to the University of Glasgow this year and that it is up to the university to decide how that funding is distributed. It also allocated an additional £900,000 of non-recurring funding to the University of Glasgow last week. Indeed, the University of Glasgow has managed to turn a deficit of £10 million into a surplus of £2 million, yet for some reason the SFC does not seem to value the liberal arts degree that is provided at the Crichton campus. It has said that it does not think that the degree contributes to the local economy, despite the fact that it includes courses in such things as cultural heritage, the environment and tourism—subjects that seem to be particularly appropriate in Dumfries and Galloway.

The SFC has also criticised the course for attracting women returners—or, as they are somewhat patronisingly described on the website, middle-aged ladies. As someone who might be loosely described as a middle-aged lady, I find the phrase offensive. Strangely enough, the SFC is perfectly happy to support very similar courses that are offered at the University of the Highlands and Islands.

The Crichton campus can offer much to the delivery of the SFC's aims and objectives as detailed in its 2006 to 2009 corporate plan which, I imagine, was agreed with the Scottish ministers. The aims include working across further and higher education, improving the supply of lifelong learning, enhancing the skills and employability of local people, supplying professional development, and enhancing research contributing to the cultural well-being of Scotland. The Crichton university campus hits all those targets.

Provision at the campus enjoys widespread public support. I have with me two petitions, the first of which, raised by students at Crichton, has gathered more than 2,500 signatures. At lunch time, three students from Dumfries and Galloway presented another petition raised by college students and signed by 400 more people. There is also a petition running in the local press. That demonstrates the strength of feeling in Dumfries and Galloway about the Crichton campus's importance.

Sadly, despite all that, the senate of Glasgow University decided yesterday not to admit an intake of new students from Crichton this year, although it has said that it will review the decision in future years, depending on further developments. If there is full withdrawal, the campus will be diminished, student choice will be reduced and the other partners will be financially affected. Courses in, for example, social work, which are part-funded by Dumfries and Galloway Council to address the serious shortage of social workers in the region, will not go ahead this year. Unfortunately, there seems to have been little discussion with the council about what the implications for it might be. Prospective students have already been told that they will have to go somewhere else for their social work training.

I say to the minister that we cannot let this happen. The sad fact is that Executive investment in the south of Scotland lags behind that in the Highlands and Islands. According to figures supplied by the Crichton Development Company, compared with the Highlands and Islands we have, per capita, half the number of higher education students, one sixth of the capital investment in higher education, one seventh of the number of fully funded higher education places and one eighth of the recurrent funding. I am not

criticising the Highlands and Islands for having that money; all we in the south of Scotland want is a bit of the action.

I ask the minister to help us negotiate a way forward out of this impasse. I have, for example, suggested to the SFC that more fully funded places could be allocated not to Glasgow but to the Crichton site, which could then be offered to Glasgow in return for a commitment to remain in Dumfries. In the longer term, the review of HE funding will, I hope, recompense universities for the additional expense of providing higher education in rural areas.

I believe that a solution is possible. My plea to the Scottish Executive is that it helps us to find it. After all, Dumfries and Galloway deserves it. *[Applause.]*

The Deputy Presiding Officer: Before we move to the open debate, I remind those in the public gallery that it is not appropriate for them to applaud.

17:13

Alasdair Morgan (South of Scotland) (SNP): I am glad that Elaine Murray has secured a debate on a topic that is of such vital importance to the future of the south-west of Scotland. As time is very brief, I will be able to pick out only one or two points.

As a University of Glasgow graduate, I must declare if not an interest then certainly a bias. There is no doubt in my mind—and, indeed, in the mind of many others who have had any association with the Crichton campus—that Glasgow's association with the campus has been one of the cornerstones of its success and reputation.

The University of Glasgow is one of Britain's premier universities. It is a member of the Russell group and it has a distinguished record of research. In the research assessment exercise, 23 areas received a 5 rating, with five receiving the top 5* rating. I do not think that someone could be considered an academic snob for suggesting that we cannot replace that contribution simply by increasing the contributions from other partner institutions already on the campus.

As we heard from Elaine Murray, the Scottish funding council has questioned the relevance to the Dumfries and Galloway economy of the liberal arts courses that are offered at the Crichton by the University of Glasgow. Graeme Davis, whom Elaine Murray mentioned, was principal of Glasgow when the Crichton began, and he was clear that a desirable aim was for a broad-based university education that gave graduates a wide range of skills that would help them to prepare for

a fast-changing world in which people needed transferable skills. I share that view. There is clearly a role for specialist, technological and scientific disciplines, but there is also clearly a role for the broad generalist. Heaven help society if we all become technocrats and nothing more.

It is a philistine proposition, which I would not expect from the body responsible for higher education funding, to say that arts courses are not relevant to Dumfries and Galloway. If they are not relevant there, they are not relevant in Edinburgh, Glasgow or the Highlands and Islands, as Elaine Murray said. As she also said, it is not as if the courses are not of great relevance to Dumfries and Galloway because of their concentration on the environment and tourism. Those are areas in which our economy could expect to grow and prosper.

The people of Dumfries and Galloway feel as if they are being treated less favourably than people in other parts of Scotland in many ways. The Crichton has produced a briefing note setting out how similar we are to the Highlands and Islands in many areas of deprivation and social make-up but how far we differ from the Highlands and Islands in the amount of money that we receive for higher education, on which Dumfries and Galloway is short changed.

We are not talking about a lot of money. Considering that the funding council's budget is £1,647,201,000, the amount that the University of Glasgow is looking for is peanuts. It should not be beyond the wit of the Minister for Finance and Public Service Reform to sort that out.

Higher education is the responsibility of the Scottish Executive. Regardless of the administrative means that the Executive chooses to discharge that responsibility, it has the final responsibility. The south-west of Scotland expects a quality of higher education no less than that of any other part of Scotland. People have a right to hold that expectation and there is a strong justification for the feeling that, until recently, they were discriminated against.

In the final analysis, I do not think that anyone in the south-west of Scotland or in the chamber wants to lay responsibility on one body or another. I am not interested in apportioning blame to the University of Glasgow, the funding council or the guidance given to the funding council by ministers; I am interested in getting the problem sorted out. I am convinced that that requires the continuing presence of the University of Glasgow on the Crichton campus. It is the Executive's duty to make sure that that happens—nothing less than that will satisfy me or the people of the south-west of Scotland.

17:18

Alex Fergusson (Galloway and Upper Nithsdale) (Con): I congratulate Elaine Murray on lodging the motion and I echo her warm welcome to those who have made the journey up from the south-west for the debate.

Let us be in no doubt that yesterday's decision by the court of the University of Glasgow not to admit an undergraduate intake in September has confirmed our growing fear that the credibility of the Crichton university campus project is now at crisis point. The decision represents a major step towards the University of Glasgow's complete withdrawal from the campus, taking with it not just the various high-quality courses and research that it provides but, almost more important, the gravitas, recognition and acceptability that that university brings with it.

It is said by some—regrettably the funding council appears to be among them—that it does not matter because the other partners will expand to take up the slack, so we do not need Glasgow. However, few who say that live in south-west Scotland. They feel betrayed, humiliated and patronised by what is happening and some of what is being said.

Why is the University of Glasgow's presence so important to the project? It is because of Professor Sir Graeme Davis's vision for a new type of higher education on the Crichton campus that would reflect the changing world of business today. Did he succeed? Let me read from an e-mail that I received at the end of January:

"I am a product of this very campus. If I can be so bold as to say so, I am an exemplar product of which this university campus aims to produce. By this I mean I am a young student who moved to Dumfries, from a big city, specifically to study at this chosen campus due to its unique variety of degree paths and course options. I have subsequently found employment in Dumfries and Galloway and have been able to put areas of my degree to good use. Is this not what is wanted from such a campus? Am I not living proof that this campus produces employable young graduates?"

Surely that says all that needs to be said about the campus's relevance for students.

What about the relevance to the local economy and the region's social needs of the research and courses that the University of Glasgow provides? That is something else on which the funding council appears to pour scorn. A well-known and respected constituent of mine stated in an e-mail that I received:

"Since returning to Galloway seven years ago I have been involved in four areas of activity: children's panel, community development, art heritage research and political activity. In each of these areas Glasgow University at the Crichton is relevant to my work. We are desperately in need of social workers in Dumfries & Galloway. The University is training social workers at the Crichton. As a Communities Scotland mentor I am working with several

communities in D and G. In my current and previous project we involved research staff from the Crichton in our work. In my art research I work closely with Glasgow University staff concerned with the cultural identity of South West Scotland. At a time when a lot is being done to enhance Highland identity and sense of well being, the role of Ted Cowan and others in enhancing our identity cannot be underestimated."

The University of Glasgow's continued presence on the Crichton campus is critical to fulfilling the fantastic potential of the whole project.

Last year, Nicol Stephen said in reply to a question from Elaine Murray:

"The Crichton campus has been a great success story for all of Dumfries and Galloway and I want to do what I can to encourage its future development."

In response to a supplementary question that I asked, Nicol Stephen said:

"The success of the Crichton campus has brought provision to an area that traditionally has been underrepresented in higher education. We need to do more rather than less."—[*Official Report*, 19 January 2006; c 22574-75.]

I whole-heartedly agree with that. Only two weeks ago, in response to a question that I asked at First Minister's question time, the First Minister said:

"the Deputy First Minister and I both whole-heartedly support not just the maintenance of the campus but its improvement and development."—[*Official Report*, 1 February 2007; c 31731.]

The First Minister reiterated that to Dr Murray today.

If what is happening at the Crichton were happening at the UHI Millennium Institute, there would be a traffic jam of ministerial cars heading up the A9 to sort it out. That institute provides liberal arts courses, but we are being asked to accept that there is no place for such courses in the lives of citizens of the south of Scotland, who I presume are seen as second-class citizens.

I believe that the University of Glasgow wants to stay at the Crichton in the long term but that the funding council does not want it to stay there. I firmly believe that only direct ministerial intervention can sort out the problem. In the light of the robust quotations that I have read out, ministers must act now. It is time for the Government to put up or shut up. There is a time to be a hands-on Government, and that time has surely come.

17:23

Chris Ballance (South of Scotland) (Green): I congratulate Elaine Murray on securing this important debate. Indeed, the debate on the threat to the Crichton campus is currently the most important debate for the people of south-west Scotland.

We have heard a tale of two regions. We have heard that people in the Highlands earn higher wages than people in the south of Scotland do, but the Highlands region qualifies for higher levels of European funding. Highlands and Islands Enterprise has wider powers than Scottish Enterprise Dumfries and Galloway has and it has a social remit. It also receives 3.5 times the funding of Scottish Enterprise Dumfries and Galloway per head of population.

The UHI Millennium Institute receives six times the capital investment that the south of Scotland receives and around eight times its revenue funding for higher education places. The UHI now runs a wide programme of courses—it has arts, humanities and social sciences, business and leisure, health, and science and technology faculties. However, the Scottish funding council tells us that there is no room for the liberal arts in the south of Scotland, because they contribute nothing to the economy. It has been said that if the liberal arts contribute nothing to the economy of Dumfries and Galloway, they contribute nothing to the Highlands economy and have no place in any of our universities. It is arrant and ill-informed nonsense to say that Dumfries and Galloway, where the tourism industry is one of the biggest employers, makes no economic gains from a course on tourism, heritage and development, and that the region whose strapline is

"The natural place to live"

has nothing to gain from a course on environmental sustainability.

As we all have this past fortnight, I have received in my postbag the statement that Natural Power Consultants in Dumfries and Galloway, which is one of the country's most important renewables consultancies, cannot get graduates of the right calibre. Bibliographic Data Services, which is based on the Crichton campus, relies on high-quality graduates. I have heard from a consultant who employs graduates at the Crichton; an arts venue in Gatehouse of Fleet; and many others, including many locally based, mature female students who have gained in their education because of the presence in Dumfries of the Crichton. They have the same rights to get that education as anyone else in the country has.

Every one of the e-mails and letters that I have received speaks about the importance for the region of the presence in Dumfries of the University of Glasgow. The interdisciplinary nature of the degrees and the outstanding levels of research and publication at the Crichton are unique. The funding council's research has noted the key importance of the University of Glasgow's involvement in the Crichton campus, yet it is ignoring its own research. The campus keeps and

attracts the most talented part of the population in a region that is haemorrhaging its young people.

I say to the minister that this is a genuinely cross-party campaign. The late Donald Dewar praised the University of Glasgow's campus at Crichton. The current First Minister said that ministers are very committed to the campus, at least at its current scale. The message from this debate is clear. Every single person who knows anything about the Crichton knows that the current scale of operation cannot be achieved without the presence of liberal arts, and without the prestige and academic achievement of the University of Glasgow. The University of Paisley and Bell College cannot and have made it abundantly clear that they do not want or intend to replace the work of the University of Glasgow.

This is the minister's responsibility. I hope that he will not just mouth commitments tonight but will act on them, meet the funding council and work as hard as he can to find a way through this impasse—we know that he can do it. Will the minister act now and give us that commitment tonight, or will he go down as the minister who oversaw the end of the Crichton and its current breadth, range and quality?

17:27

Ms Rosemary Byrne (South of Scotland) (Sol): I thank Elaine Murray for securing the debate. I also acknowledge and thank the number of people who have come along today. I think that we would all agree that this is a fantastic turnout for a members' business debate. I hope the minister has noted that, because it shows the strength of feeling that there is in Dumfries and Galloway about saving the University of Glasgow's Crichton campus.

We acknowledge the importance of higher education in Dumfries and Galloway, and all of us here tonight are of the same view that something has to be done to change the situation before it is too late. We need to ensure that a broad-based curriculum is on offer to students in the south-west of Scotland. That includes the University of Glasgow's liberal arts courses, which were mentioned by Chris Ballance and others and which include literature, philosophy, history, anthropology, archaeology, tourism—the list goes on and on. The range of subjects is broad and represents an excellent offer for students in the area.

Having a campus in Dumfries and Galloway and encouraging women returners should be celebrated. Being able to access higher education locally is something precious that we should all want to encourage. I believe that equal education for everyone throughout Scotland is an important

part of this debate. If we are saying that people in Dumfries and Galloway do not deserve the same equality of education that people in other parts of Scotland have, we are saying that we do not believe in an equal education for everyone in our country. That is a very poor message.

As other members have said, it is also important that we consider the demographic situation in Dumfries and Galloway. It is well known that when students leave their home area to go to university elsewhere they often do not return. One way of ensuring that we keep these people in their area is to provide higher education for them there.

Solidarity stands for education as an end in itself, not only as a means to an end. Education is intrinsically beneficial. For that reason, I disagree with some of the arguments that have been made today—but only mildly so, because I also understand the broader input of education.

Funding to retain University of Glasgow input at Crichton is crucial. It is essential for the long-term viability of the campus. It is important that the funding council provides assistance by providing appropriate financial support to the University of Glasgow; I believe that it would have to cover an annual shortfall of £800,000.

At the start of the debate, Elaine Murray outlined the history and background to the situation. I appreciate that, and she did it well. I will make a plea to the minister. The Crichton's future is linked to the University of Glasgow. That is how it is. I ask the minister to sit round the table with all involved, including the funding council, to secure the future of the University of Glasgow at Crichton campus. I hope that in the next week or two we can see progress being made and that we can secure the future of the campus.

We should look at the number of people who are in the public gallery and think about all the e-mails that we have been inundated with. People in Dumfries and Galloway feel very strongly about the matter. I ask the minister to do his utmost to turn the decision round.

17:31

Fiona Hyslop (Lothians) (SNP): I thank Elaine Murray for bringing this important subject to the chamber. As the first non-South of Scotland MSP to speak in the debate, I will discuss the national importance of the Crichton and consider how we can make progress and find solutions.

The debate so far may have been blighted by a number of negative factors. I think that an impasse has been reached in relation to the funding council and that there has been some brinkmanship by the University of Glasgow. I also think that there has been a degree of abdication of responsibility

by the Executive. I do not expect the minister to deliver instructions to independent universities—I do not think that he can do so, but he can reflect leadership in Scotland by bringing all the partners together to consider possible solutions to an important problem.

We must start to look at whether institutions and universities in Scotland should only be centrally based. We will have a desperate need in the future: 40 per cent of teachers are due to retire in 10 years, a similar situation will arise in respect of social workers and we have an aging population in general, but particularly in Dumfries and Galloway. We must find a national solution, not only for education but for social provision and for the economy. That is ministers' responsibility. In that context, the minister could easily intervene to bring all the partners together.

We must also consider the issue of wider access and participation. One of the current shortcomings in Scotland is that education is seen as individually and institutionally driven. I know that provision is co-ordinated in the east and west of Scotland, but if we saw wider access and participation in a national context—as the funding council can and should do—we could provide solutions.

What is striking about the Crichton campus, with its liberal arts degree, is that it aims to provide broadly based, interdisciplinary education. We want our future teachers, social workers and so on, who have been talked about in the debate, to have a broad-based degree that they studied for in their locality. If they do not have such an education, we cannot expect to have an appropriate workforce in the future, given that we will have an aging population and fewer graduates under the age of 25. Perhaps Crichton is leading the way in providing what could be a national solution.

The approach that has been taken to the supply of Gaelic teachers has involved outreach and part-time work, for example. People in the peripheral and rural parts of Scotland deserve the same education, and access to education, as anyone else, but that will not be achieved through distance learning.

I feel passionately that we should see the issue in the round. The minister can bring people together, and that is the responsibility that we want him to take up. We want creative solutions, and the solutions are in our hands. We need to nurture and develop the Crichton because it is a precious stone in the landscape of Scottish higher education that should be burnished. However, it is being allowed to fade because a variety of partners will not take responsibility for it. We in this Parliament must have the political will to say that we will not allow the situation to continue. The University of Glasgow should maintain access and

take responsibility, and we should co-operate with it. We should look at the university's access and retention role as it relates to Scotland more widely.

The funding council should not be so narrow in its view of funding solely vocational education in the south-west of Scotland. If we are to have the teachers and social workers of tomorrow that were mentioned earlier, people in the south-west need access to a rounded education.

The Scottish Government needs to start thinking of the periphery as the centre of Scotland. If it does not, it will treat Scotland as only parts, rather than as a whole nation. If we were to treat the peripheral and rural parts of Scotland as though they were at the centre of the country, we might have a different perspective on what is important and start providing solutions for Scotland as a whole, rather than as parts. In that spirit, I hope that all parties will come together to intervene under the strategic leadership of the Executive. It is not over by any means; the Crichton is not going. Let us make it the best that it can be, rather than all that it has to be in the current circumstances.

17:36

Derek Brownlee (South of Scotland) (Con): I also thank Elaine Murray for securing today's debate on what is a very important subject to Dumfries and Galloway, as well as to the south of Scotland and Scotland more generally. If anyone is in any doubt about the importance of this debate, they need only look at the public gallery and see the number of people who have travelled up here today. Members from the south of Scotland will have received a significant volume of e-mails and correspondence on the subject. It is very important that the Crichton flourishes, and we need to do everything that we can to ensure that that happens, rather than simply talk about it.

Many other members touched on the demographic trends in Dumfries and Galloway, which are truly frightening in some respects. The depopulation of young people from the area will have serious connotations if current trends are allowed to continue. Those trends are based on the continuation of the Crichton project rather than on its diminution. If we want to retain young people in, and attract them to, Dumfries and Galloway, surely a project such as the Crichton is one of the key ways of achieving that.

The project will be successful only if it is a broad one. Members spoke about the interaction of other institutions. Alasdair Morgan mentioned the importance of offering general as well as vocational education at the Crichton, and he is absolutely right. We have to value education in itself. Many people who undertake a general

education will subsequently be of great importance to the economy and the future of Dumfries and Galloway. A broad range of institutions and subjects on the campus is crucial to making the Crichton as much and as attractive as it can be.

Other members touched on one of the thorniest issues—equity with the Highlands and Islands. We should be clear that none of us seeks to take anything away from the Highlands and Islands; none of us decries the concept of the UHI Millennium Institute or anything else. We simply want fairness and equal treatment because some of the challenges that the south-west and south of Scotland face are similar to those in the Highlands and Islands. There is no reason why we in the south should be treated less favourably than people in the Highlands and Islands. There is a serious case for the Government to look closely at how the Highlands and Islands is treated and how the south is treated and to implement measures to ensure that they are treated equitably.

I saw the minister raise an eyebrow when Fiona Hyslop spoke about not intervening directly in decisions by universities. I understand the controversial nature of telling a university what to do, but taxpayers' money funds such places, and taxes are paid in Dumfries and Galloway as they are everywhere else. If we cannot tell the University of Glasgow where to put its student places, surely we could ring fence finance for the Crichton more effectively to ensure that it is sustained.

There is a way forward that we can look at on a cross-party basis—it is not all doom and gloom. There is an opportunity for us to make this work and it is important that the minister takes that away from this evening's debate. I would like him to comment on the powers that he has to give more direction to ensure that the Crichton money is rooted at the Crichton and is protected.

Alex Fergusson quoted some constituents and I will end with another important quote:

"the truth is that we need more, better-educated young people with higher-level skills if our economy is to meet the global challenge from fast-growing economies such as India and China, which are already investing substantially in higher education."

Those are the words of the Prime Minister, writing in today's edition of *The Daily Telegraph*. What he says is as true of Dumfries and Galloway as it is of the rest of the country. I hope that the Executive will acknowledge that by showing some support for the Crichton.

17:40

Robin Harper (Lothians) (Green): Early in the Parliament's first session, I had the honour and great pleasure to take part in an environmental

symposium at Crichton College. I kept up that relationship during my first four years in the Parliament, before my friend and colleague Chris Ballance was elected as a representative for the South of Scotland. I was thoroughly impressed with the atmosphere on the campus, the students' commitment to their studies and the concept of a university in the south of Scotland, which is what the Crichton is—it is not a campus; it performs all the functions of a university.

We do not need to defend the Crichton campus simply on the basis of the contribution that it makes to the local economy. In fact, its contribution to social capital and to the social economy of Dumfries and Galloway is even more important than its contribution to the rest of the economy. That is why the comment by the head of the Scottish funding council is so unacceptable and appalling. It undervalues the huge contribution that the Crichton campus is beginning to make to the social economy in the area and it demonstrates a small-minded, materialist, consumerist attitude to education that flies in the face of five centuries of Scottish liberal educational tradition. The head of the Scottish funding council deserves to be thoroughly told off for expressing himself in such a way.

If I had been elected rector of the University of Glasgow rather than rector of the University of Aberdeen, I would have resigned on the spot following the senate's decision, which was precipitate and unacceptable. All that I can say to the minister is that I hope that it is within the limits of what the Executive can do to work towards resolving the crisis that the Crichton campus faces before it gets any worse. Enough damage has already been done to the Scottish funding council—as a result of the opinions that have been expressed—and to the reputation of the University of Glasgow.

17:43

The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson): I thank Elaine Murray for providing us with the opportunity to debate a subject that is of great importance to our policy position, and for her speech, which encapsulated the issues better than most.

In the light of what has been said, it is important to stress that the members who are present have been unanimous in sharing our strong appreciation of and support for the Crichton campus in Dumfries. It would be wrong to forget that during the present dispute. I whole-heartedly echo the view of Elaine Murray and other speakers that we should congratulate and applaud all the staff, students and local people who have made the campus such a success that its future has been the subject of one of the most

impassioned debates that I have listened to in my time in this place, which is coming up for eight years.

I fully recognise the concerns that have been raised about the news that the University of Glasgow is reconsidering its provision at the campus, but we should not lose sight of the fact that the innovative cross-sector development that the Crichton experiment represents has improved accessibility to higher education in the south-west and formed strong links with local businesses and the community, as we have heard from members. Jointly, we ought to strive to ensure that we build on that success. That is an important message.

In that context, the proposed merger of the University of Paisley and Bell College will establish a brand new university with a new regional mission, which obviously will include the south and south-west. At the same time—and this is not to be sniffed at—the Scottish funding council is investing more than £28 million of new capital, which the Parliament voted for, in relocating Dumfries and Galloway College to Crichton and improving shared facilities, such as the library, for all who are based there. That significant investment will reap dividends for the people of Dumfries and, more widely, those in the south-west. I stress that that is a good news story for the region as a whole. I think that Derek Brownlee also made that point.

By no stretch of the imagination does the situation constitute a crisis. Those exciting new developments should not be blighted by the fact that one institution is choosing to refocus in order to improve its delivery in other areas.

Alasdair Morgan: The minister should just cut to the chase: does he or the Executive have a view on whether they would prefer the University of Glasgow to stay at Crichton campus? If they do, and it is a positive view, are they prepared to do anything to try to bring it about?

Allan Wilson: I advise the member to be patient in that regard.

On student numbers, I believe that the overall level of provision at the Crichton campus should, at the very least, be maintained. Alasdair Morgan may not think that that is important, but it is. Assertions that participation in higher education in Dumfries and Galloway is the lowest in Scotland are simply not true. The participation rate in Dumfries and Galloway is about the same as it is in Edinburgh and higher than it is in Glasgow.

Fiona Hyslop made a point about ministerial intervention, but intervening is not something that I would choose to do, on a whim or otherwise. By law, ministers cannot—and neither should they—direct or allocate funding to a particular institution. I did not make that decision on my own. The

Parliament, including members of the Scottish National Party, took that decision less than two years ago. The principle is important and it should be upheld. However, we have advised the Scottish funding council that it should ensure that adequate further and higher education provision is available in the south of Scotland. That important point was made. In the statement that it issued yesterday, following its meeting with the Crichton partners earlier this week, the funding council confirmed its commitment to do that. I welcome the funding council's proposal to provide funding to support a review of the academic strategy in the region. Obviously, the matter is one for the Parliament and other places to debate and decide.

The Executive's commitment to funding in the region has been called into question unfairly. The funding council has provided significant support to Crichton. I doubt that that statement can be denied. In addition to the new funding of £28 million that I mentioned, as Elaine Murray said, £2.3 million in initial strategic change grant payments were made to support the early development of the campus. The Crichton partners also received an additional 100 funded student places in 2001-02 and another 50 in 2002-03.

Chris Ballance: The minister's allotted time is running out, and we would very much like him to address the question that Alasdair Morgan asked: does he support the range of courses that Glasgow University offers at Crichton? If so, will he act to ensure that those courses from that university remain on campus?

Allan Wilson: I thought that I had just explained to Chris Ballance and other members that ministers are denied by law from doing what he suggests. [*Interruption.*] Chris Ballance may not accept that, but that is the law that members passed.

Alasdair Morgan: Will the minister give way?

Alex Fergusson: Will the minister give way?

Allan Wilson: Let me make progress.

The funding council allocates a block teaching grant to institutions. It is up to each university, as an autonomous body, to decide how to allocate its resources to its activities and facilities. As has been said, in 2006-07 Glasgow University will receive just over £100 million in public funds for learning and teaching. It could use those funds for its activities at Crichton, but I do not believe—and neither does the Parliament—that it would be right or proper for me to tell Glasgow University or any other institution what it should offer in the parts of Scotland in which it operates.

Alasdair Morgan: Will the minister give way?

Allan Wilson: I will continue my point.

Comparisons have been made with the level of provision and investment in the Highlands and Islands—Alasdair Morgan made such comparisons—but that is like comparing apples with pears. I offer to assist. The funding council does not fund higher education on a regional basis—nor should it—and the model that is being developed in the UHI Millennium Institute is very different from the Crichton model. People from the south-west may argue that their funding is less than that in other parts of Scotland—Alasdair Morgan and Derek Brownlee repeated the assertion—but each student place at Crichton receives 4 per cent more funding than a student place at the UHI Millennium Institute and 13 per cent more than the Scottish average. That shows the danger of playing with regional arguments about the allocation of higher and further education funding.

Chris Ballance: Will the minister meet the funding council to discuss the issue?

The Deputy Presiding Officer: Do not intervene from a sedentary position, Mr Ballance.

Allan Wilson: I ask Chris Ballance to be patient, as I will come to that point.

I pay tribute to Glasgow University for its support of Crichton campus and I hope that it will maintain its connection with and support for Crichton. I encourage the funding council to complete its work to develop the academic strategy for the region as soon as possible. All partners should be involved in that process.

I am happy to meet the funding council and the University of Glasgow and to do whatever I can to bring the partners together to reach an amicable solution to the issues that have been raised, to ensure that the important future of higher and further education, in which we are investing seriously in south-west Scotland, is delivered to the maximum advantage of the people who will benefit from that investment.

Meeting closed at 17:53.

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