

# **MEETING OF THE PARLIAMENT**

Thursday 13 September 2007

Session 3

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## Scottish Parliament

*Thursday 13 September 2007*

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

### Education

**The Presiding Officer (Alex Fergusson):** Good morning. The first item of business is a debate on motion S3M-457, in the name of Hugh Henry, on education.

09:15

**Hugh Henry (Paisley South) (Lab):** After the euphoria of last night, it is hard to come back to the reality of politics in Scotland. We all celebrate with Alex McLeish and his squad the magnificent victory over France last night—although perhaps not all of your staff will be so happy this morning, Presiding Officer. However, the rest of us still have smiles on our faces.

Fiona Hyslop's amendment says it all about the Scottish National Party's attitude. For SNP members, everything has got to wait until the spending review. It does not apparently matter that they made promises and commitments in order to get elected. It does not matter that they could, in fact, deliver many of them without securing a majority in Parliament. It is simply a case of their trying to blame others for their inability and unwillingness to deliver. Some might call it naivety; some might call it plain deception. Whichever it is, the SNP's attempt to blame Westminster is another case of claming that a big boy did it and ran away.

No one can doubt the importance of having a highly educated, highly trained, highly skilled and well-motivated workforce, nor can anyone doubt the need for lifelong learning. In the debate on the skills strategy yesterday, we heard a clear call for urgent action from all the Opposition parties. We heard condemnation of the SNP's failure to deliver a clear, coherent, effective strategy, and Parliament voted down the minister's dismal offer. I hope that the minister will ensure that the will of Parliament is reflected and that she will return quickly with a better effort and more detail.

Everything that the SNP has had to say so far has fundamentally lacked an explanation of how Scotland's universities will compete with those in the rest of the United Kingdom. The minister's prevarication and delay is causing worry and uncertainty. We have heard this morning from Audit Scotland about the investment challenges that face us. We have also heard about the

contribution that further education colleges can make. Labour, in partnership with the Liberal Democrats, invested heavily in the FE sector. We can see the results, with 21<sup>st</sup> century facilities springing up all around Scotland. Now, however, there is uncertainty over capital investment, there are worries about unfair and inadequate funding, and there is deafening silence about what will be done to allow further education colleges to rise to the challenges ahead.

Even on its foolish and ill-considered proposal to write off student debt, the SNP is squirming. We can be in no doubt that the SNP said that the debt was to be written off, not serviced or assumed. For the moment, let us leave aside the fact that the proposal would not put a single extra penny into higher education or improve the quality of education. It is a bizarre spending priority. However, it was a promise made by Alex Salmond, Nicola Sturgeon and others. Student nationalists told fellow students to vote SNP on the understanding that it would deliver on its promises. Allan Wilson, a minister at the time, exchanged letters with Nicola Sturgeon to warn her that the SNP's promise was unaffordable. He was denounced by the SNP. Now, however, he has been shown to be correct.

The SNP cannot afford the £1.85 billion that would be needed to write off student debt. To use a notorious historical phrase, if you are going to tell a lie, make it a big one. Now, a completely different promise has been made to assume responsibility for servicing student debt. In other words, we would have to spend more than £40 million every year to service the debt without eating into the capital—we would be paying the money for ever and a day. That would divert £40 million from front-line services—and only if the SNP was able to assume responsibility for paying a debt to a third party. Why do we need to wait for the spending review when Fiona Hyslop and others have been so adamant that they will act?

Let us consider teacher numbers. The difference between the present Administration and the previous Administration is that the Labour-Lib Dem Executive spelled out what could be offered and what could be afforded, and then it delivered. We said that we would deliver 53,000 teachers to Scotland's schools. The SNP said that we would not deliver them, but we did. We said that we would cut class sizes in primary 1. Despite criticism from the SNP, we delivered. We said that we would deliver smaller classes of 18 pupils for maths and English in secondary 1 and secondary 2. Fiona Hyslop said that the target was not being met but, as Cabinet Secretary for Education and Lifelong Learning, she knows that we delivered as promised.

**The Cabinet Secretary for Education and Lifelong Learning (Fiona Hyslop):** Can you tell us that, as of now, you have met the target of having classes of 25 in primary 1 and, I think, 20 in—

**The Presiding Officer:** I remind all members to speak through the chair—to speak in the third person.

**Fiona Hyslop:** I am sorry, Presiding Officer. Is it not the case that, as of today, we still do not know whether those pledges—made not a few months ago but four years ago—have been met?

**Hugh Henry:** I find that quite staggering. The minister, with access to all her officials, all the statistics and all the information, has not had the competence to go and ask the question. Instead, she is asking me, with the one researcher at my disposal, to go and find out the figures from all around Scotland. What have you been doing, minister? We delivered the money. We delivered the teachers. If you have not got the wit or the ability, move over and let someone else do the job.

Despite the minister's persistent criticisms of our decision to allow flexibility in S1 and S2 maths and English, she has decided that flexibility will continue. What a hypocrite. The SNP claims that it will deliver class sizes of 18 pupils in primary years 1 to 3. Let us leave aside for today the questions whether that is the wisest thing to do and whether the international evidence justifies it. Let us instead consider the practical consequences and the matter of whether the SNP will do as it has promised. It is debatable whether it will be able to deliver all the teachers that it says it will for early years and primary schools by 2011. It has failed to assure councils that the money will be available to fund its proposals. That is particularly relevant if the SNP insists on a council tax freeze. Will it provide extra money to ensure that there are no cuts to education services? It has no answers for councils, which point out that the capital investment that is required is way beyond what has been promised.

We will see a rash of Portakabins throughout Scotland. Worse, children will be squeezed into accommodation that is needed for other necessary subjects, such as art, drama, music and physical education—and possibly even into dining halls. What about those schools that cannot adapt? Where will the children go in those cases? We already know that more parents will be refused a choice and that more children will be taught in composite classes. In some schools, there will be classes of 36 with two teachers, because that is the only way in which the promise can be met. In other words, there will be larger classes, not smaller classes. That is if the SNP can deliver, as promised, by 2011. So far, however, there is no

detail on revenue or on capital costings, far less any discussion on cost-benefit analysis. There is also no detail on how teachers will be delivered for early years education, as was originally promised. There has merely been backsliding and mumbled generalisations, with no real thought given to what would actually work best.

What about the real problem that faces teachers the length and breadth of Scotland? There is a rising level of indiscipline in some areas, allied to wider social factors, which is impacting on the morale and health of teachers, as well as on the ability of other pupils to learn. It often leads to general disintegration and contributes towards wider, longer-lasting social problems. We have heard plenty from the Administration on a wide range of issues, yet it is strangely silent on any action to tackle indiscipline.

What about public-private partnerships? We have heard the SNP's views about the evils, inefficiencies and expense of PPP. We heard that the SNP was going to abolish PPP. It promised that, and people voted SNP on the strength of it. What do we have, however? PPP is continuing and is still available to be used, despite its apparently being so bad. What about the so-called Scottish futures trust? No doubt we will debate another day whether it can be delivered and used. For the purposes of this debate, let us assume that it will be available.

If the Scottish futures trust is so good and so cost efficient, why leave PPP in place? If the trust delivers better value for the public purse, why should anyone in their right mind—never mind an SNP minister—allow PPP to continue? The SNP has said that PPP is bad and inefficient and that the Scottish futures trust will deliver. Given that, would any minister with any sense of responsibility let councils choose between the trust and PPP? The SNP says that PPP is more expensive and less efficient, yet it is all right for the Administration to foot the bill. Ministers have told us that no big decisions can be made until the spending review is decided, yet they are agreeing to allow councils to use what the SNP argues is a more expensive funding option for building schools and to pick up the bill for it. Is that stupidity, naivety, dishonesty or downright incompetence? We should be told.

I will touch on ministers' complacency about new teachers.

**Andrew Welsh (Angus) (SNP):** On a point of order, Presiding Officer. The Labour spokesman used the word "hypocrite" in referring to a member. I seek your assistance, Presiding Officer, to give him the opportunity to withdraw that remark, which is unparliamentary. I hope that direct use of the word "hypocrite" will not be part of proceedings.

**The Presiding Officer:** Thank you for that point of order. Whether Mr Henry wishes to withdraw the remark is entirely a matter for him, but I have to say that such language sails very close to the wind.

**Hugh Henry:** Perhaps you should see what I originally wanted to say about SNP ministers and their duplicity and deceit, Presiding Officer. I assure you that the language has been softened.

**The Presiding Officer:** I am sorry, Mr Henry, I cannot take that entirely lying down. I ask members to think carefully about the language that they use in the chamber.

**Hugh Henry:** I do that. I assure you that I have softened my language, Presiding Officer.

The SNP agrees to allow councils—

**Alex Neil (Central Scotland) (SNP):** On a point of order, Presiding Officer. The member might have softened what he planned to say, but surely words such as “deceit” and “duplicity” are unparliamentary language. [*Interruption.*]

**The Presiding Officer:** Order. That is not a point of order and I do not believe that those terms were used in a personal reference. I ask members to move on.

**Hugh Henry:** When I consider the language that SNP members have consistently used in Parliament over the years, I am bemused that they are suddenly tender in strange places.

The SNP agrees to allow councils to use more expensive options.

**Andrew Welsh:** On a point of order, Presiding Officer. I point out that the accusation of being a hypocrite was made. Is that in order in the chamber? The point is straightforward: the use of such a term directly to a member is unworthy. I seek your ruling on that, Presiding Officer.

**The Presiding Officer:** I hear what Mr Welsh says and I will reflect on it. I have made my position clear at the moment. I think that we should move on.

**David Whittton (Strathkelvin and Bearsden) (Lab):** On a point of order, Presiding Officer. While the SNP is being so tender about our accusing it of hypocrisy, I quote a Scottish Government source, who is reported this morning to have said:

“Labour are making these figures up to cover their embarrassment for leaving a shortfall”.

Who was the Scottish Government source? Was it a member of the SNP or of the civil service?

**The Presiding Officer:** I say with respect that that is not a point of order.

**Hugh Henry:** I respect what you say, Presiding Officer, and I hope that when you come back to

Parliament you will give us a word that describes people who say one thing and do another.

I will touch on ministers' complacency about new teachers. I have heard from teachers throughout Scotland, as I have no doubt Fiona Hyslop has, that the quality of new teachers is far higher than ever before. Other countries are examining as examples of good practice the training initiatives that the previous Administration undertook.

I know that Fiona Hyslop's officials will tell her that the problem will even out and that everything will be fine eventually, but that cannot excuse SNP ministers telling new teachers to get on their bikes and move across Scotland—they have obviously learned from Norman Tebbit. Never mind new teachers' families; never mind their commitments. In this brave new Scotland, they will have to move.

A solution would not take a huge investment. The sum involved would also reduce as vacancies arose and new teachers obtained jobs. However, instead of giving new teachers jobs, the SNP has decided to scrap the graduate endowment and to fund a range of nice-sounding projects because they give good headlines.

**The Presiding Officer:** One minute.

**Hugh Henry:** Presiding Officer, I hope that you will reflect on the time that SNP interventions wasted.

**The Presiding Officer:** I have done that.

**Hugh Henry:** Last year, the previous Executive created 1,000 additional posts; 300 is small in comparison. If the political will existed, action could be taken now to create another 1,000 jobs immediately. The Administration could make a difference to the new teachers who are working one or two days a week and are unemployed on the other days. It could keep in teaching the new teachers who are moving into industry. It could do something for Lesley Webster, who e-mailed me to say:

“I am a single parent and gave up employment to begin to study ... I have been unable to secure ... work.”

It could do something for Sharon Boisson from Paisley, who cannot get a job. It could do something for Heather Love from Paisley and Lindsay Moore from Ayr, who are both featured in today's *Daily Record*. They left well-paid and well-established jobs to go into teaching and they both have to rely on a day here or there.

It is clear that there is a lack of political will and an attempt to blame the situation on someone else. Overall, there is unwillingness or inability to show leadership by taking action. The sum total of the story so far is overpromised and underdelivered. Worse, SNP members made promises that they knew they could not keep.

They were prepared to say anything to be elected. Politicians have a bad name, but the SNP has reached new depths in posturing, spin and downright deception.

It's time for SNP members to come clean to the Parliament. It's time for them to give the people of Scotland an explanation. Presiding Officer, it's time.

I move,

That the Parliament regrets that education has not been given a higher priority by this administration; calls for an urgent explanation to be given on funding for higher education and further education; calls for the missing detail to be given on the manifesto commitment to write off student debt; calls for a statement on how the commitment to reduce class sizes for primary 1 to primary 3 which has not been fully explained or costed will be delivered by 2011; calls for more detail on how a teacher will be provided to every early years class by 2011; regrets that nothing has been said about tackling indiscipline in Scotland's schools, and calls for an early statement on how funding will be provided to improve the school estate in Scotland.

09:31

**The Minister for Children and Early Years (Adam Ingram):** Glad confident morning, after Paris last night. I point out that Scotland has had four victories in a row under the SNP Government.

**Murdo Fraser (Mid Scotland and Fife) (Con):** Will the minister be so kind as to acknowledge that those great Scotland victories have all come while Scotland is a part of the United Kingdom?

**Adam Ingram:** I think that I will return to this morning's debate.

Some folk never learn. That much is evident from the relentless negativity of the Labour motion and from the tone of Hugh Henry's opening speech. Lacking in ideas and vision, Labour members resort to the politics of smears and fears—witness the *Daily Record* this morning—and knee-jerk opposition to anything that the SNP says or does. Labour's fantasy figures on the 1,000 extra teachers are a case in point. It is obvious that a few more electoral hidings will be needed before the Scottish Labour beast changes its spots.

That said, I make it clear that the Government is prepared to work with anyone who will engage constructively in building a smarter Scotland. The Parliament must be able to mobilise the Scottish consensus that education is the key to unlocking the potential of all our people, as individuals and as a nation.

I am happy to acknowledge that the previous Administration was not without its achievements. The McCrone agreement stands out, and we intend to progress the curriculum reform programme, which promises much through making

the learning experience in our schools relevant and inspirational. However, those successes pale into insignificance with the failure to address the core problem of our education system: the persistent underperformance of one in five school pupils. Despite 10 years of Labour rule, with Liberal Democrat support for most of them, the lowest-performing 20 per cent of the school population have shown absolutely no improvement in attainment levels. The vicious cycle of poverty and deprivation, lack of qualifications, low pay and unemployment was unbroken.

The Government is determined to stop that criminal waste of human potential, which is holding Scotland back and blighting the lives of too many of our citizens. We should be judged on how well we tackle that task, and rightly so.

**Robert Brown (Glasgow) (LD):** Does Adam Ingram agree that in order to tackle the group of people who are not in education, employment or training, an adequate skills strategy is required?

**Adam Ingram:** Yes, and we have produced one.

In just over 100 days we have set out our vision, our priorities, and our challenges. We have backed that up with an ambitious and wide-ranging programme focused on developing the capabilities of all our people—the wellspring of our country.

In 100 days we have made a good start, but there is much more to come: Government is about years rather than days. We await the budget settlement from Westminster and our own spending review, which will frame the delivery of our remaining commitments. We remain committed to making progress as soon as we can.

The first 100 days is our statement of intent, but what a statement. Look at our early actions to see the scale of our ambition. We have increased the entitlement to pre-school education for all three and four-year-olds to 475 hours a year, and we have provided councils with extra resources to deliver that increased entitlement from this summer term. We will trial free school meals for all primary 1 to primary 3 children in selected local authority areas from next month. We are funding an extra 300 teachers, and are targeting them first at pre-school settings and then at cutting class sizes in primary 1 to primary 3.

**Bill Butler (Glasgow Anniesland) (Lab):** Will the minister give an absolute commitment today that the SNP minority Government will achieve class sizes of 18 in primaries 1, 2 and 3 by 2011?

**Adam Ingram:** We will need the co-operation of local authorities to deliver those commitments. In that light, perhaps the member's own council in



Glasgow should be taking a more constructive approach.

On the resources that we are using to cut class sizes in P1 to P3, we want to focus them on deprived areas, from which international evidence indicates the greatest benefits will come. Not for us Labour's equivocation on the gains to be made here.

There are 250 more teacher training places since August, and that increase is only the beginning. The autumn workforce planning exercise will be followed by further increases in intakes for the one-year programme.

We are investing an extra £40 million to bring forward school capital works to help address the most acute pressures immediately and to enable councils to create the space needed in later years to meet our class size commitments.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** Yesterday, the cabinet secretary confirmed to the Parliament that the £40 million is from this year's budget, which has already been agreed by Parliament. Why is it that under the guidance issued by the Executive, only 5 per cent of the £40 million is for areas of deprivation?

**Adam Ingram:** I think that the member misunderstands the methodology of weighting. The £40 million was focused on areas with high occupancy levels, in other words the areas that were under the most pressure in respect of expanding their accommodation. I also point out that we spent £40 million in three months to meet our class size targets, whereas Labour spent £60 million in three years. We need not take any lessons from the previous Administration.

Our agenda for a lifelong skills strategy for Scotland, "Skills for Scotland", sets out our ambitions for skills in a lifelong learning context and for making Scotland's skills base truly world class.

The abolition of the graduate endowment fee, which will reduce the burden of graduate debt, will benefit 50,000 students immediately.

We have set a challenging pace, but we will not allow it to let up. We will continue to act decisively, underpinned by our guiding principles of ensuring that every child gets off to the best start in life and, above all, focusing on the individual needs of the child and the learner and providing support to meet them. We will tackle early the factors that hold people back. We will tackle root causes and ensure that all our young people have more choices and more chances.

Our ambitions for the early years are the first building blocks of our education and lifelong learning agenda. By extending pre-school

entitlement from this autumn, we have created a solid platform for progress towards our 50 per cent commitment. We will set out our longer-term plans in a comprehensive strategy in 2008.

Supporting vulnerable children and families is at the heart of a smarter Scotland. That means the provision of high-quality, effective and joined-up support for children and families.

Our move to reduce class sizes in P1 to P3 to 18 pupils is widely supported by parents, by the teaching profession and by education researchers, who have found that it is in those early years that reduced class sizes make most difference.

In delivering those improvements, we will of course work closely with local authorities but also with universities, to continue to recruit and produce the high-quality, newly qualified teachers whom we have seen in recent years.

I know that Parliamentary colleagues will be interested—indeed, impatient—to hear more detail on implementation. However, they will have to be patient for just a bit longer, until we can complete the spending review and have the productive discussions that we anticipate with the Convention of Scottish Local Authorities and the universities.

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** The minister has so far not mentioned the Scottish National Party's commitment to end student debt. I understand that the intention is now to service that debt. If that is the case, will the debt remain with the student or will it be transferred to the Executive?

**Adam Ingram:** Our position was always that we would stand in the shoes of students and service the debt. Obviously, we will have to push forward with our negotiations with the Treasury on the issue of removing the debt altogether.

We have seen schools adopt a range of approaches to improve relationships and behaviour, which are now beginning to bear fruit. Whole-school approaches such as restorative practices can create a positive ethos, which helps both to prevent and tackle indiscipline, and to create calmer school environments. We will continue to support the introduction and embedding of such approaches in schools, including training and follow-up support.

**The Presiding Officer:** One minute.

**Adam Ingram:** Are you asking me to wind up?

**The Presiding Officer:** Yes.

**Adam Ingram:** In conclusion, we are providing the leadership and the vision to start to transform our attitude to learning and our awareness of our place in the world. With our early actions we have signalled that we will not delay in taking the steps that are needed to energise Scotland's education

system and to support individuals at all ages to realise their potential.

We are still at the start of the process but, as we look ahead to the coming years of this Government, we invite others to share in the agenda so that all Scots can have the opportunities that they deserve to flourish and excel.

I move amendment S3M-457.2, to leave out from first “regrets” to end and insert:

“recognises the importance placed on education in Scotland by all parties in the Parliament; welcomes the prospect of early legislation to abolish the graduate endowment fee; appreciates that the delay by over a year of the comprehensive spending review has dictated the timing of comprehensive announcements on spending plans for education on student debt, teachers’ numbers and the school estate, and looks forward to positive and constructive discussion with COSLA on outcome agreements as part of the spending review to improve the education of pupils, recognising that the pace, scale and delivery of improvements in pre-school provision and class size reduction in P1-P3 will be a key element of such agreements.”

09:43

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** It is right that the first education debate with a substantive motion asks the Government to clarify its commitments. I will outline some of the Liberal Democrat thinking on the way forward for education in Scotland.

We are building on a strong base in education, but we want to go further. Liberal Democrats are arguing for at least 250 new schools. We are also arguing for school building and renewal developments to make the type of building different from traditional schools, and not to focus only on the numbers. We want to take the excellent schools for the future design models much further and develop them into genuine, sustainable and healthy community and learning resources. Of course, we want class sizes to be reduced, which is why we have committed to 1,000 more teachers, but we do not favour a limited and prescriptive approach on minimum class sizes in primary schools. We would rather look holistically at schools and ensure that capacity issues are addressed while allowing headteachers the flexibility that they need. That is consistent with the approach that has been taken over the past eight years. There are targets on class sizes, but there should also be flexibility within schools.

We argue for free playgroup places for two-year-olds, greater powers for headteachers, and the need to develop a clearly focused approach to school discipline with much greater active involvement with young people, but based on published solid evidence. The Government has

already been found wanting in its refusal to collect and publish clear data. There is also confusion about the future role of the ministerial task force on school discipline.

**Fiona Hyslop:** I remind the member that it was his former minister, Robert Brown, and his colleague Peter Peacock who stopped collecting and publishing such data.

**Jeremy Purvis:** I asked the cabinet secretary whether she was prepared to collect and publish clear data on school discipline issues and about the future of the ministerial task force on school discipline. She had no answer to those questions, which is telling.

Liberal Democrats want the eco-schools initiative to be developed and transformed into a healthy-schools initiative. That would be an anchor to make every school a healthy school with active and outdoor pursuits, well-being education, good food and an increasing awareness of the fantastic role that young people play in society.

Ken Macintosh made a good point yesterday about the upcoming early years strategy. We all believe in increasing early intervention and we look forward to the strategy that is being prepared. Unlike the skills strategy that was defeated by Parliament yesterday, the early years strategy must have substance, or I fear that Parliament will ask for it to be taken back as well.

Research indicates that for every £1 spent on early years provision we see a £7 return. Together with a proper approach to supporting families, we would like to see a new Scottish play approach, with the increased use of green space in playgroups and schools, a free place for every two-year-old in their local playgroup, and the transformation of primary 1 into a transition year that focuses on learning through play. Together, those approaches would invigorate the playgroup moment. That is not just wishful thinking. We need solid investment with a proper return for the public purse and real results for our young people.

Liberal Democrats have never said that, because of the work done by the previous Government, there is nothing more to do. The test is how we move forward, and what the current Government decides to do in its period of office with the budget available to it. Since May, there have been frequent announcements from the Government, and we have seen early on that it puts new Labour to shame on spin. Just yesterday, the Scottish Government press release on youth funding said:

“More than £2 million has been unveiled for over 200 projects under Moving Forward, the Scottish Government’s strategy to improve young people’s chances through youth work.”

Only later on in the notes section does one see that the announcement was made in March—the

decision of the Liberal Democrat-Labour Scottish Government.

**Alex Neil:** Will the member take an intervention?

**Jeremy Purvis:** Given the member's earlier contribution, I am not prepared to hear more from him this morning.

Last month, the Scottish Government announced new funding for library services, but that funding was already committed. Yesterday, the cabinet secretary had to admit that the much-heralded £40 million for the schools fund—so-called additional money—was actually from this year's funding, which was set by the previous Government.

**Fiona Hyslop:** Will the member give way?

**Jeremy Purvis:** I would if I had a moment, but I wish to make progress.

I have mentioned just some examples of the 28 announcements made by the Government since it took office. It is short on legislation but heavy on press announcements, and we have a right to question ministers on such announcements.

Incidentally, of those 28 announcements, in the space of three months three of them were about the much-vaunted skills strategy. The Government's response to the defeat on the strategy yesterday was disappointing. It could have produced a carefully worded statement acknowledging the concerns of more than 70 members of this Parliament who believe that the strategy is weak on detail and on how it could be delivered, and who are concerned that there are no baseline data on which to make progress, but it is spin to suggest that this Parliament is somehow neutral and that it endorsed the strategy's principles. Such early signs of arrogance from this Administration are not healthy.

The former Government established record levels of investment in education, but that was dismissed yesterday by the Minister for Schools and Skills as a target culture. She said that the era of targets was over and

"The priority of this Government is not to meet targets".—  
[*Official Report*, 12 September 2007; c 1632.]

Whether that was a slip of the tongue or an early admission, we shall see in coming months. The Minister for Schools and Skills and the Government missed the point about targets yesterday. No one suggests that policies should be driven by targets—of course not. Nor are we saying that outcomes are less important than outputs. The Government has published no baseline data to indicate the success of a policy. It cannot say, as it did in its skills strategy yesterday, that it will

"always seek value for money"

if there are no objective criteria for gauging success.

Last week, the First Minister was happy to tell Parliament that the pledge to reduce class sizes in primaries 1 to 3 will be met in this parliamentary session, before 2011—he was unequivocal about that. He also said last week that he would deliver his election pledge to remove the burden of debt for Scottish students. Now we hear that the commitment to reduce class sizes in primaries 1, 2 and 3 will be achieved only with the co-operation of local authorities—maybe aye, maybe no—and that the Scottish Government is seeking from the Treasury the right to assume the student debt, which is £1.8 billion straightaway on the Scottish budget.

The Government does not know the number of pupils in our classes today, as the cabinet secretary has said. God help us if it does not know how many teachers we will need to fulfil its promises or how many classrooms will need to be constructed. It is not good enough that only 5 per cent of the £40 million funding that has already been committed has been allotted to areas of deprivation. We need clarity about that. More work has to be done and the Government needs to come back to Parliament with a clear statement on how it will deliver its much-vaunted promises.

I move amendment S3M-457.1, to insert at end:

"and further calls for an early announcement on when the SNP manifesto pledge for a 50% increase in free nursery education for 3 and 4-year-olds will be met and how much it will cost."

09:51

**Elizabeth Smith (Mid Scotland and Fife) (Con):** When I first entered this Parliament as an inexperienced member a few months ago, one of the wise old heads, in the form of Mr Alex Neil, told me that it would be a different experience from the classroom. I say to Mr Neil that, today, I am beginning to wonder.

At the time, I was a bit puzzled that the Scottish Executive, as it was known back in May, gave so little time to debating education and skills. That seemed particularly odd, given that the SNP's two flagship policies of removing the graduate endowment and reducing class sizes for all primary 1 to 3 pupils were hailed as top priorities for the Administration, and were trailed in the press and the SNP manifesto as such. Was the explanation that there were so many other priorities on the agenda that education was beginning to be squeezed out, or was it that the Administration had woken up to the fact that some of its manifesto pledges were already hostages to fortune?

Like Labour, the Conservatives have grave misgivings about the SNP's ability to deal with the real issues that currently affect education in Scotland. I begin with the wrong-headed policy of abandoning the graduate endowment, which—as Hugh Henry rightly said—will do nothing to secure better funding for our further and higher education institutions so that they can maintain both the highest possible standards of teaching and research and an important level playing field for students throughout the United Kingdom.

The cabinet secretary must be aware of our universities' concern that they will be unable to maintain their international reputations if they lose staff and resources to better-funded universities south of the border. She must—I hope—question the wisdom of a policy that, instead of putting money into the system, will in fact take it out. We repeat our demand that she should establish an independent review of higher education as soon as possible, to convince colleges and universities that we are taking the matter seriously.

Secondly, the policy of a universal reduction in class sizes to 18 for all pupils in primaries 1 to 3 is simply not sustainable and should not be paraded as a one-size-fits-all panacea that will drive up educational standards in the first three school years. Although it is true that reducing class sizes can, in some instances, help to improve both educational standards and discipline, that is by no means a universal assumption that can be made about every school in the land, and it should not be the Government's role to decide on class sizes and what is best for individual pupils in individual schools. That should be a matter for the headteacher, and I know that many teachers and parents throughout Scotland agree.

Effective learning is, first and foremost, about good teaching in a calm and disciplined environment. There are many circumstances in which parents would opt to have their child taught in a slightly bigger class if it meant better teaching, better discipline and better access to a better school. There is by no means always a direct correlation between lower class sizes and better attainment, so the cabinet secretary must acknowledge that a one-size-fits-all policy is not the best way forward. It is increasingly out of date, and it is out of tune with the need for more diversity in education.

Last Thursday at First Minister's questions, I raised my concerns about the ability of local authorities to deliver that policy. I cited some estimated costs from Perth and Kinross—incidentally, an SNP and Liberal council—which says that it cannot put the policy into operation. No sooner had I raised those points than the council administrations in both Glasgow and Edinburgh told the cabinet secretary that they, too, will not be

able to deliver on the policy, given the resources that she is proposing to make available.

**Fiona Hyslop:** Will the member take an intervention?

**Elizabeth Smith:** I will after I have finished the point.

I put it to the cabinet secretary that the policy of universally reducing class sizes in primaries 1 to 3 is economically unsustainable and educationally unsound. I also fear that it could do great damage to the freedom of parents to choose the school that is most suited to their child.

**Fiona Hyslop:** The member has previously raised a point about Perth and Kinross Council requiring 19 extra classrooms for the policy. Does she acknowledge that the council welcomed the extra £2 million that it has received in recent weeks to help with such capital projects, and that it has also received £156,000 to employ more teachers from this autumn?

**Elizabeth Smith:** Quite frankly, that is nowhere near enough. The key point is that the council cannot deliver the Government's policy because of the strictures that the Government has put on it. That will not lead to better education, which must be the overriding principle.

The theme that I want to dwell on in my final couple of minutes is that of discipline. Discipline is the most important issue currently affecting our schools, and I believe that parents, teachers and the wider public would agree with that. I ask the cabinet secretary again, as I did on 20 June, to place the improvement of school discipline at the very top of the school agenda. Without scaremongering—and I stress that point—and without taking anything away from the excellent teaching that goes on across Scotland all the time, I say that headteachers must be given the appropriate powers to deal with unruly pupils. In my opinion, those pupils should not be allowed back into the classroom until they have learned how to behave. I ask the cabinet secretary again to ensure that a far more rigorous approach is taken to the publication of statistics to assist teachers and local authorities identify where the real problem lies.

Like Labour members, I am strongly of the opinion that discipline is the most important issue that we have to deal with. In the grand scheme of things, perhaps only a small number of pupils are causing problems, but if we let them get away with it, we will have serious difficulties in times ahead.

As the First Minister is very quick to tell us, the Scottish Executive has, since last May, apparently grown up to be a Government—a decision that we are told is based on common sense and the added responsibility that goes with running Scotland. The

Conservatives intend to hold the Government to its word. Let us hope that that means that the Government will become much more responsible and will address the real educational priorities that face this country, because to date the record has been very poor.

Yesterday, my colleague Murdo Fraser awarded the cabinet secretary six out of 10 for her skills strategy. Let us just say that today's report card would read: "Could do better if attention was focused on the real things."

09:58

**Bill Butler (Glasgow Anniesland) (Lab):** I rise to support the Labour motion, and I promise to be careful with the language that I employ, in case I offend the sensibilities of the minority Government's back benchers. Heaven forbid.

As a former teacher with 20 years of classroom experience gained in a variety of secondary schools throughout the west of Scotland, I know at first hand how central education is to the proper development of our young people's talents and abilities and to the wider aim of the creation of a more prosperous and more egalitarian Scotland. That is what we are all aiming for, and that is why I think it fitting to discuss, a few weeks into the new school term, a number of important issues, all of which require detailed clarification from the new SNP minority Government. Each of the matters highlighted in my colleague Hugh Henry's motion merits such discussion. This debate is the first opportunity—and it is much needed—for proper parliamentary scrutiny of the national party's more grandiose pledges from its 2007 manifesto.

The debate also affords members a chance to question ministers in important areas in which the SNP has been—let us say—uncharacteristically silent. For instance, as Elizabeth Smith said, the SNP needs to foster a culture in which there is an intolerance of indiscipline, with appropriate support given to professionals to create a climate in which learning can flourish. However, from the SNP we hear little, if anything.

The SNP made a number of extravagant promises in its May manifesto. Perhaps the most breathtaking was its promise to end student debt. Where is that promise now? The SNP was told that it would cost approximately £1.7 billion to remove current student debt and that a further £3 billion would be required to introduce grants. During the election campaign, the nationalists loudly claimed that we were wrong, but since 1 May there has again been uncharacteristic and deafening silence from the SNP.

The SNP promised a nationalist nirvana, but I can tell the cabinet secretary that happiness does not course unrestrained through the student body

in Scotland. With each passing day, it is becoming more obvious that SNP promises—on education as on much else—cannot be delivered. I believe that if promises are made and targets set, they should be capable of being delivered. The previous Labour-led Executive promised to cut class sizes in English and mathematics for S1 and S2 by September of this year, but that target met with derision and ridicule from the nationalists. That was undeserved, because the target, which was promised to the people of Scotland, was met.

It is no good the SNP blaming others, as it does in its amendment to today's motion; that is the Christopher Brookmyre strategy and it will not work if the SNP is serious about being a real Government. Irresponsible promises made for short-term political gain are a subterfuge—I hope that that word is okay for SNP members. It is bad for any democratic party to indulge in that, because it carries with it a real danger of feeding a corrosive cynicism about the business of democratic politics itself.

**Alex Neil:** Does the member agree with me—

**Murdo Fraser:** No! No!

**Alex Neil:** But everybody agrees with me these days.

Does the member agree with me that the biggest political broken promise was when Mr Blair was elected on a promise of education, education, education, and we ended up with Iraq, Iraq, Iraq?

**Bill Butler:** I disagree with Mr Neil, and I say to him as politely as possible that it is very poor indeed to connect the tragedy in Iraq—which many of us voted against—with what we are discussing today. It is a "C minus—see me" for Alex.

I want to turn the chamber's attention to another rash and ill-thought-out assurance made by our new SNP minority Government, which said that it would deliver class sizes of 18 in primaries 1 to 3 by May 2011. How realistic, how rational and how deliverable is that undertaking? Let us consider my home city of Glasgow. Mr Ingram said that people should be positive, but I tell him that they are trying to be helpful and constructively critical because they know the reality of what they will face in meeting the SNP promise.

There is evidence for and against the notion that simply reducing class sizes will improve education, and there is an interesting argument to be had about that. However, let us leave it to one side for the moment. Achieving the new SNP minority Government's target of a maximum of 18 pupils in primaries 1 to 3 would require the provision of 186 new teaching spaces in 68 schools across the city. Glasgow would also require an extra 397 teachers across its 170 primary schools. In total, such an

exercise would cost Glasgow City Council some £45 million. Would that be affordable? In the present circumstances, no. Even if Glasgow City Council utilised the extra £2.17 million that it has been allocated, it is still left with a shortfall of £45 million.

There is a more important question that people who believe in education would like an answer to: would the policy result in an improvement in the educational experience of pupils? I do not think so. The best-case scenario that Glasgow City Council can extrapolate from the figures has primary 1 classes of 18 but composite classes in primaries 2 and 3 of 25—and that scenario would still leave the city with a shortfall of £9 million.

To govern is to choose, but to choose responsibly. To ignore reality may make sense in public relations terms, but I submit that it is educational nonsense. I support the motion.

10:04

**Bob Doris (Glasgow) (SNP):** I congratulate Hugh Henry on choosing to lodge a motion on education for us to debate this morning. Indeed, that comes no great surprise, given that Labour made education a central theme of the recent election campaign.

Following the campaign, Labour found itself no longer in government, but in opposition. In June, Hugh Henry brought to the Parliament a motion on skills and vocational education that called for 100 skills academies for Scotland. I disagree strongly with that Labour policy and spoke against it when the motion was debated. However, credit must be given to Hugh Henry and Labour for the fact that they were willing to step up to the plate and to advocate their policy—albeit one that is deeply flawed—as a party of opposition. On the day of the debate, despite Labour having allies in the Conservatives, the Scottish National Party and the Liberal Democrats voted down the Labour motion, which both parties considered would undermine the comprehensive education system. Thank you, Hugh.

I mention June's debate because back then Labour was willing to let Parliament shine a light on its policies. I admit that, in doing so, it provided a degree of constructive opposition. However, today's motion departs from that model. I genuinely hope that that will not continue, for both Labour's and the Parliament's sake. The Labour motion suggests that the SNP Government has not given education high enough priority, despite the fact that the Government has already acted to remove the financial barriers that existed under Labour in the form of the graduate endowment; that we are employing an additional 300 teachers and creating an extra 250 training posts for new

teachers; and that significant capital expenditure has been made available to local authorities to enable them to take steps towards meeting the Government's targets for reducing class sizes in P1 to P3. From October, there will be a pilot in which P1 to P3 children in five local authority areas will receive free, nutritious school meals. This week we also launched our skills strategy, which was debated in the chamber only yesterday. Given those and other initiatives, it is laughable and plain daft to say that the Government has not given high enough priority to education.

By all means let Labour put before the chamber a motion stating that it is against reducing class sizes, that it opposes the abolition of the graduate endowment or that it will not increase the number of teaching professionals in our classrooms—let it stand or fall by the weight of its arguments. However, when Labour members come to the chamber and say that education is not a priority for the Government, they lack credibility.

**Jeremy Purvis:** If, as the member says, education is such a priority for the new Government, why does it still not know how many teachers are required to deliver its flagship policy?

**Bob Doris:** I know that the extra £9 million that the Government has provided will fund 300 more teachers than we would have had if the Liberal Democrats had still been in government.

Education always attracts its fair share of political soundbites, whether it be the mantra of teaching the three Rs—reading, writing and arithmetic—or Tony Blair's famous, "Education, education, education". An analysis of today's Labour Party motion provides us with yet another. Instead of being about the three Rs, the motion is about the three Ws: it is whining, whingeing and wide of the mark. I will explain why. The Government has committed significant sums of money to making early progress on certain key elements of its programme. Those include the £25 million package for early years education, increased nursery hours, 300 new teachers and 250 new student teachers; the £40 million of capital spending that has been made available to local authorities to enable them to meet the class sizes targets; £15 million to fund the abolition of the graduate endowment; £5 million that has been provided for free, nutritious school meals; and £1.5 million to fund the further development of the Crichton campus, whereas the Labour Party would have been happy to preside over its closure.

I would love Fiona Hyslop, the Cabinet Secretary for Education and Lifelong Learning, immediately to throw shovels of cash at every project imaginable, but that would be feckless and reckless. The Government will not do that, even if Hugh Henry would. I am sure that the cabinet secretary would love to know from John Swinney

what slice of the overall funding cake is coming her way. Indeed, the Cabinet Secretary for Finance and Sustainable Growth would love to know how much he will be awarded. However, until the UK Treasury informs the Scottish Government of the final results of the spending review, large, grandiose spending commitments would not be about each portfolio getting a fair share of the cake but would be political pie in the sky.

I am proud of the Government's commitment to education and of the speedy progress that has already been made. Everyone accepts that there is always a need to lever in more cash, where possible. We agree with Hugh Henry and the Labour Party that we should maximise the financial input into education. However, if the Labour Party, which is now in opposition, joined us in seeking full financial independence and full fiscal powers over our economy, we could increase the overall income of the Parliament and spend it on all our priorities, including education.

**The Deputy Presiding Officer (Trish Godman):** I will put on my teacher's hat to remind members that, when they address another member in the chamber, they should use their full name. When a member takes an intervention, only the person who is intervening should stand. When a member is speaking, they are the only person in the chamber who should be on their feet. I ask members to turn off their mobile phones and BlackBerrys and not to put them on standby or whatever it is called.

10:11

**Karen Whitefield (Airdrie and Shotts) (Lab):** Bob Doris may be the minister's pet today, but am not sure that the rest of the class was particularly impressed by his speech.

Few issues with which the Parliament deals are as important or as fundamental as education. The opportunities that are opened up by a high-quality education system, both for the individual and for society, are increasingly important in the global economy. We can no longer compete with other parts of the world in the low-skill, low-wage economy. We must ensure that all our citizens are equipped with the skills and learning abilities to compete for employment opportunities in the 21<sup>st</sup> century. The starting point for that process is in our local education services. Increasingly, nurseries provide a solid foundation for the more structured learning that will take place during primary and secondary education. What happens between the ages of five and 16 can ensure that a child is ready to move on to further academic work or skills training. Today, I will focus on two main issues that have an impact on the learning process during that important period: the

continued need to improve learning environments; and the potential impact of the SNP commitment to reduce class sizes.

One of the greatest achievements of the previous Administration was to begin the process of renewing Scotland's schools. I urge the current Administration to continue that process. Where renewal has happened, as in Caldercruix and Chapelhall in my constituency, the learning environment has been transformed. Not only do the children from those villages now enjoy brand-new, state-of-the-art educational premises, but local communities have access to high-quality sporting, recreational and social facilities. In the two villages, that has been done successfully using a joint campus model.

There has been a similar transformation at Airdrie academy, which only a few years ago was in such a poor state of repair that pupils were forced to sit their exams in Airdrie town hall. Now pupils at the school enjoy an educational environment that is second to none. As with the primaries to which I referred, the local community benefits from improved sporting and leisure facilities in the evening and at weekends.

Those are good news stories, but there remains a substantial problem in North Lanarkshire. The current PPP programme ends in 2008, with only 24 new schools completed. That leaves a large number of schools still in need of substantial refurbishment or rebuilding, at an estimated cost of around £550 million. It is vital for my constituents—for the parents and pupils of Caldervale and Calderhead high schools, for example—that the Administration finalises its proposals for funding large-scale capital projects and that it provides the resources that North Lanarkshire Council requires to ensure that education does not become a two-tier system in which some pupils enjoy the benefits of high-quality new schools, while those in other schools endure facilities that have long outlived their usefulness.

Over the summer, I lodged a number of written questions about the Government's proposals for the Scottish futures trust. I was not encouraged by the responses to those questions, which, in summary, said, "Wait and see." Actually, I will not summarise. Mr Swinney's answer to one perfectly reasonable question was:

"The Scottish Futures Trust is our alternative funding mechanism to the 'standard PFI model', and will be able to deliver better, more efficient major public infrastructure projects for taxpayers. Work has already started on the design aspects of the Trust and an announcement will be made when we are ready to explain it in more detail."—[*Official Report, Written Answers*, 24 July 2007; S3W-1736.]

I can tell the Government that the pupils of Caldervale high school and Calderhead high

school, and their parents, and are not prepared to wait until it is ready to

“explain it in more detail.”

Perhaps the detail should have been worked out before the SNP placed the Scottish futures trust in its manifesto, or perhaps the SNP meant something different by the word “futures”—for example, that funding might be available, but only some time in the future.

**Alasdair Allan (Western Isles) (SNP):** Am I to take it from the comments that have been made about PPP and its supposed benefits that Karen Whitefield not only is criticising the Government's proposals for a replacement to crowd out PPP, but is actually endeared to, and enamoured of, the idea of PPP and the prospect of paying credit card rates for ever for school buildings that may end up outside public control?

**Karen Whitefield:** If PPP is so bad, why did Fiona Hyslop come to my committee and tell members that PPP was going to be available as one option in a range of options? If PPP is so bad, the Government should get rid of it. The SNP is in government. It makes the decisions, and it needs to fund local authorities.

My constituents are—rightly—demanding urgent action to ensure that funding will be made available quickly to North Lanarkshire Council. Will the minister give me an assurance that Scottish councils will shortly know how much will be made available?

On the Government's commitment to reducing class sizes to 18 in P1 to P3, I know that there are grave reservations in local government about the cost of that proposal. If the Government is to meet its commitment, councils will have either to introduce additional teachers into classes to increase the teacher pupil ratio or to build new classrooms, but both options come at a cost. Will the minister stand by that commitment and invest the money that is required? Finally, will the minister please explain to the Parliament how local authorities will be able to deliver a reduction in class sizes in the face of an imposed council tax freeze? Quite simply, £40 million spread across Scotland's 32 local authorities is not going to do it.

We are all agreed on the importance of education in Scotland. That is why we in the Scottish Labour Party placed it as our number 1 priority. To be fair, the SNP, too, made education its number 1 priority, along with independence, Scottish broadcasting, North sea oil—in fact, every issue is a priority for the SNP Administration, regardless of cost, as long as it causes conflict with Westminster. My constituents are not interested in constitutional wrangling—they want action now.

10:18

**David McLetchie (Edinburgh Pentlands)**

**(Con):** The speeches so far have more than adequately demolished the uncoded and unrealistic commitments on a range of education issues that were made by the Scottish National Party in the recent election campaign. It is no wonder that the programme for government that was announced last week was full of easy options but ducked or deferred the hard decisions.

From my discussions with the principals of universities and colleges in Edinburgh over the summer, I am in no doubt that there are genuine fears of falling behind and of Scotland's educational institutions ceasing to be competitive with institutions south of the border, which will have access to substantial funding streams from tuition fees.

**Jeremy Purvis:** Will the member take an intervention?

**David McLetchie:** I will make one more point, then I will let Mr Purvis in.

The graduate endowment has few friends; it is the illegitimate child of the uncivil partnership between the Labour and Liberal Democrat parties in the previous Executive and, in fairness to the Government, its demise may well be of limited financial significance in the grand scheme of things. However, one could say that with far greater confidence if one felt that there actually was a grand scheme of things and that, overall, the Government was more interested in funding universities and colleges than it apparently is in funding students. It is the unbalanced nature of the SNP's programme on higher education that is the source of real concern, which will only be greater when our principals look at the terms of the Government's amendment today, in which there is not one word about the funding of higher education itself.

**Jeremy Purvis:** I am grateful to Mr McLetchie for giving way. I agree entirely with his final point. I also agree with his comments that the programme that was published last week is uncoded and irresponsible. Annabel Goldie claimed credit for most aspects of the Government's programme during its first 100 days. What areas for which the Conservatives took the credit does Mr McLetchie think were uncoded and irresponsible?

**David McLetchie:** The uncoded and irresponsible things are those that were not actually in the programme for government because none of them was budgeted for, as has been adequately demonstrated by speeches in the debate so far.

Turning to class sizes, in my seven years at Leith academy primary school, from 1957 to



1964—

**Hugh O'Donnell (Central Scotland) (LD):** As a teacher?

**David McLetchie:** Thank you, Hugh.

I do not recall being in a class that had fewer than 42 pupils. Others of my vintage in Parliament will have had similar experiences. We were educated in an era that had very different methods of teaching. There was much more learning by rote rather than by discovery; it was a more didactic style that was enforced by a disciplinary regime that could on occasion quite literally make one wince. Before I am falsely accused by my political opponents, may I say that I do not recommend a return to the model of those days for today's schools. I welcome the progress that has been made since then in reducing class sizes in our primary and secondary schools. However, we must beware of drawing simplistic linkages between class size and educational outcomes. In that respect, I question the causal link that has been claimed in aid of the Government's policy. I do not think that the research is anywhere near conclusive on the matter, as Elizabeth Smith pointed out.

No current debate on SNP education policy can be allowed to pass without comment on the Edinburgh schools closure saga. It is difficult to characterise the actions of the SNP group on the City of Edinburgh Council. Were they political dupes who were conned by their Liberal Democrat coalition partners? They would not be the first party to fall into that particular trap. Were they political cowards who ran away at the first signs of trouble? Are they political puppets who take orders from our new masters, who were quite determined last week that nothing was going to rain on the self-proclaimed Government's parade? I suspect that they are a mixture of all three. However, it did lead to the extraordinary spectacle of the Scottish National Party proclaiming its commitment to small classes and early years intervention while proposing at the same time to close single-stream primary schools in areas of disadvantage in which there already are small class sizes.

In fairness to the Liberal Democrat-SNP coalition that is running Edinburgh, I will say that the Labour Party's synthetic opposition to the proposals was almost equally breathtaking. It is, of course, the party that pushed through its own schools closure programme in Edinburgh two years ago, albeit in the guise of mergers, which led to the loss of three primary schools in my constituency. It is the party that, as everyone knows, in essence devised the ill-fated schools closure plan, then stuck it on the shelf as too hot to handle before this year's election. Finally, and most damningly, I am afraid to say that it is the party that so mismanaged the finances of the City

of Edinburgh that there is a structural deficit of £6 million a year in its budget and not a penny piece in the council's unallocated reserves to see it through, as we were told by the council's director of finance earlier this week.

As I said last week in questions to John Swinney, the City of Edinburgh Council is caught between a rock and a hard place, and its predicament is compounded by the Government's determination to enforce a council tax freeze as part of a disastrous strategy to switch to a local income tax. The harsh financial reality is that, unless the Government gives the City of Edinburgh Council a grant that is sufficient to cover both the inherited structural deficit and a council tax freeze, cuts in services are inevitable.

If economies are no longer to be made in the education, children and families budget, where will they be made? The next biggest budget heading for the City of Edinburgh Council—as it is for most councils—is that of social care. Having run away from pupils and parents, is the council now going to focus on Edinburgh's pensioners? I make no apologies for focusing on the situation in Edinburgh, although the same financial pressures apply across Scotland.

A supreme effort on the part of the Government and councils will be required simply to sustain current services and to meet commitments that Parliament has made, such as on delivery of free personal care. Now is not the time to place additional burdens on councils; for that reason, the Government would be wise to park its policy and instead focus on the fundamentals.

10:25

**Christina McKelvie (Central Scotland) (SNP):** My curiosity was piqued by the motion in Hugh Henry's name, which appears to suggest that the new, active and energetic SNP Government is being lax in the education portfolio. That suggests that the first Labour Administration in 1999 came in with all guns blazing, straw hats and trumpets, and got right down to the mark.

I looked at what Labour did for education in its first four and a half months in power in Scotland—the period for which the SNP Government has been in power. By mid-September 1999, the Labour Administration had announced its intention to set up an inquiry into tuition fees, which had been imposed by London and—not content with that achievement—had announced an intention to launch a consultation on a possible education bill, which never came to fruition. That is all. There was nothing else on education—not a peep. There had been no indication that the Administration was giving priority to education, which is what Hugh Henry's motion calls for.

The motion also calls for an “urgent explanation” on funding for further and higher education. Although the Administration in 1999 included Labour ministers who had held office at Westminster immediately before the election, by September 1999 there had been no word about funding for further or higher education, far less an “urgent” statement on the issue. No Labour minister or Labour member had expressed concern about student debt, let alone asked how it might be written off.

By September 1999, class sizes were not on the agenda for Labour and had not been mentioned, nor had Labour mentioned the appalling conditions in which PPP projects were leaving Scotland's schools. Labour had not even signalled intentions about teachers in early years education—far less made a commitment to ensure that every early years class should have a teacher, as the SNP Government has done. Labour had not provided details on how teachers were to be provided.

The indiscipline problem in Scotland's schools had been completely ignored. No Labour politician had uttered a word about the problem, far less set out a plan for tackling it. The schools estate in Scotland was being pimped out by Labour ministers under PPP, as a milk cow for international merchant bankers, without a word to Parliament. The most insidious and disgraceful tuition fees were those that were being foisted on children who were entering primary 1 in PPP projects for which they would pay well into their working lives. However, Labour did not think that Parliament had a right to know about that.

Members will forgive me if I regard the motion with more than a touch of scepticism.

**Richard Baker (North East Scotland) (Lab):** The member disproves the notion that attack is the best form of defence. The SNP has pledged to abolish all graduate debt. How will it pay for that? No SNP member has answered that question.

**Christina McKelvie:** Labour created the problems; we are finding the solutions.

To be fair, the 1999 Parliament eventually had a chance to debate education. On 30 September it debated a motion on teachers' pay and conditions, which led directly to the establishment of the McCrone commission and the deal that properly rewarded teachers for their efforts. The motion was in the name of Alex Salmond and the debate was led by Nicola Sturgeon. Not much changes: the SNP led the way eight years ago and is still leading the way.

I am sure that Labour members will say that Sam Galbraith had made a ministerial statement on teachers' pay in the week preceding that debate. However, they know that the original remit was flaccid and that the Labour Administration had

refused to take part in negotiations, as Mr Galbraith made clear. Only an imminent strike by teachers brought ministers scurrying to the table.

Let me be clear. The SNP brought education into Parliament in 1999 and has pursued education issues ever since. The SNP Government has been tasked with cleaning up the education mess that the Labour Administration left behind.

The Scottish Government had made early commitments in a range of policy areas, including education. The Cabinet Secretary for Education and Lifelong Learning has pledged to introduce legislation to end the graduate endowment tuition fee that was imposed by Donald Dewar's Administration. A Labour wrong is being righted by an SNP Government. That legislation, which will be introduced soon, will represent a step in the right direction for Scottish education.

Fiona Hyslop has made a commitment to improve early years education and make it proper education. Hugh Henry asks how that policy will be delivered and wants costings. I advise him to consider what has happened in the past: the Administration of which he was a member never laid out costings before introducing the budget bill—with good reason, because costings make sense only when they are seen in the round, as part of the whole package. The SNP has introduced holistic government in Scotland. Policy is linked across portfolios, which is far more sensible than the piecemeal approach that Hugh Henry seems to favour.

I invite Labour members to think about the issues, discuss them with us and join the conversation. We can find the best way forward for Scotland only by discussion. The Cabinet Secretary for Education and Lifelong Learning has laid out Scotland's SNP Government's vision for education and the case has been put for that vision. Scotland—and the Opposition's needs—would be better served if, instead of indulging in the negative sniping and general impotence that is demonstrated in Mr Henry's motion, Labour took time to examine the issues and come up with positive ideas of its own, or if Labour backed the SNP Government in its determination to improve Scottish education.

10:30

**Lewis Macdonald (Aberdeen Central) (Lab):** The SNP said in its manifesto that it wanted to reduce class sizes to 18 or less in primary classes 1 to 3. It did not say that it wanted to end parental choice in Scotland's schools, but that is precisely what will happen. Ministers tell councils that they must cut an average class size of 24 to a maximum class size of 18, but offer no significant new resources to meet that objective.

I am glad that the Minister for Schools and Skills, Maureen Watt, is in the chamber. She hails from the north-east and I hope that she shares my astonishment at how quickly the consequences of the policy on class sizes have been felt in Aberdeen—I am sure that they will be felt elsewhere soon. In my constituency, families are already being told that Aberdeen City Council will put an end to out-of-zone placings for primary 1 pupils as a consequence of the SNP Government's policy. That is what happens when a party makes rash promises in opposition in an attempt to get elected, and then tries to deliver those promises although they were not costed or thought through.

Aberdeen City Council can hardly be accused of seeking to undermine SNP Government policy—the council's convener of education is an SNP councillor. However, the impact of SNP Government priorities is being felt by councils whatever their political colour, as Elizabeth Smith said. What Aberdeen City Council is telling me is unambiguous. The council's chief executive wrote to me on 4 September, to spell out the implications of ministers' commitment to class sizes of 18 or less in P1 to P3. He wrote:

"The potential impact of this policy on schools, recognised by all local authorities, is that parents may not be able to enrol their children at preferred schools and local authorities will have to robustly pursue their policies of local schools for local children ... It is therefore essential we maintain high standards of education by allowing the 'out of zone' population to decrease naturally. It would therefore be extremely irresponsible of the Authority to continue to take out of zone pupils."

The chief executive went on to refer to an excellent primary school in my constituency. He wrote:

"each year's P1 forecast at Mile-End (which previously included 8 parental choice places), must now have these removed from the equation due to the required reduction in class sizes."

He concluded:

"It would be irresponsible of the Council to continue to admit 'out of zone' pupils to the educational and physical detriment of those already in attendance."

Never mind that Mile-End primary school is about to be replaced by a brand new school, thanks in large part to the positive commitment to new school building of Labour and Lib Dem ministers in the previous Scottish Administration. That new school is being built, but it will accommodate only the forecast in-zone population from the immediate vicinity. Even if the school building programme can increase capacity to accommodate classes of 18, as SNP ministers demand, the commitment can be met only by sacrificing the interests of families who already have a child at the school but who live out of the zone. Parental choice in Aberdeen is dead and

SNP ministers killed it. That is the clear view of a council in which education policy is the responsibility of an SNP convener.

**The Minister for Schools and Skills (Maureen Watt):** Does the member realise that parents and children have told us that children would rather be taught in smaller classes? Parents take that into account when they place their children. Parents would much prefer their children to be taught in decent schools that have smaller class sizes, nearest to where they live.

**Lewis Macdonald:** That is very interesting. In her last phrase, Maureen Watt seemed to acknowledge that SNP policy is to abolish parental choice. It is funny that that was not in the manifesto, yet that is the consequence of her proposals. I know what parents in my constituency want—they want to have an element of choice. When one sibling is at a certain school, they want to be able to send the other sibling to that school. In the past few weeks, I have been told on their behalf that that choice is no longer available, as a consequence of the policy of SNP ministers.

That is not the end of the tale, as that same council, Aberdeen City Council, will consider next month a recommendation from officials not to expand the schools estate but to reduce it. Ministers are saying that class sizes should be reduced, and that we will need on average four classrooms for every three current primary school classrooms, yet that local authority is talking about closing schools, not opening them. It is talking about cutting the school week to four and a half days, not about improving the quality of teaching time.

It has taken the SNP only four and a half months to bring that chaos to Scotland's schools. Ministers are insisting on cutting the number of children in each classroom, yet councils are forced to consider cutting the number of classrooms. Ministers have simply failed to provide the resources to pay for smaller class sizes. A figure of £40 million throughout Scotland has been cited, and only £2 million for a council the size of Aberdeen City Council—not even enough to restore spending to last year's levels in real terms.

When even local authorities that are led by the SNP are planning to cut classroom time, to close or merge schools and to abolish parental choice, it is time SNP ministers woke up to the consequences of their uncoded commitments. Too many of my constituents are already paying a price by losing the element of choice they have enjoyed in the past. Many more will pay the price of ministers' failing to resource their plans in my constituency and throughout Scotland. That is a shocking indictment of only four and a half months of SNP Government. As Hugh Henry said, it is already time for a change.

10:37

**Robert Brown (Glasgow) (LD):** One of the signal achievements of the past two sessions was the rebuilding of the Scottish education system, battered as it had been by years of neglect, the teachers dispute, crumbling buildings and sagging morale. As Hugh Henry and others have mentioned, over the past eight years, the face of Scottish schools has been transformed, with 300 new or renovated schools in the last session of Parliament alone. I have been in many of them, as I am sure have the education secretary and her colleagues, so I am disappointed in Adam Ingram's extremely niggardly recognition of the achievements of the past eight years.

The McCrone settlement was a key building block in remotivating our teachers, but there were other major initiatives: in nursery schooling; in developing the key driver of school leadership; in training; in the curriculum review; and in achieving our target of 53,000 teachers by October 2007, supported by classroom assistants, to target the key transition stages and to widen and broaden the school experience. In further and higher education, the landmark student settlement and the careful investment in universities and colleges set Scotland on a different and better path than the sorry tale of tuition fees and top-up fees south of the border.

Those are some the highlights in the hugely ambitious education programme that was delivered by Liberal Democrats and Labour in the previous Executive but which was shaped and signed up to by the whole Parliament. It is a matter of note that there were few real disagreements on the shape of those reforms or on the philosophy that underlay them. I am enormously proud of the major contribution of the Liberal Democrats to those achievements, but I very much fear that the SNP Government is now embarked on a course of action that is setting them at significant risk. I have obtained no comfort from the superficial and inadequate strategies that have begun to emerge from the Government after its summer cogitations.

The skills strategy yesterday was rightly gubbed in the debate and defeated at decision time, not because the SNP is a minority Government, but because its policies did not stand up to examination. We are now seeing the results of an election campaign in which the policies of the putative Government were not put under the microscope as they should have been, and were not challenged for the incoherence we now see pouring forth. That is the real price of political and media obsession with the constitutional question.

Liberal Democrats welcome the prospect of abolition of the graduate endowment but, welcome as it is, it is a far cry from the bold promises to get rid of student debt. The SNP is already running

away from this one, even before Opposition fire has been trained on it, not because it is a minority Government, but because its manifesto promises do not stack up. It is all very well to blame a delay in the spending review, but I rather think that the SNP will have to search pretty hard in the entrails of a tight spending round to find the funds for this particular little promise. David McLetchie spoke well about that issue.

Then there is the mess the SNP is getting into over class-size reductions. The two biggest councils say that it cannot be done with anything like the likely funds available to them, and without knock-on effects on other facilities in the schools.

**Fiona Hyslop:** As part of the Government's pledge, Edinburgh has just received £2.3 million for capital and £400,000 for teachers. Glasgow has received £2 million for capital, and will receive £650,000 this autumn. Does the member not recognise that the "likely funding" he mentioned is exactly why we need the information from Westminster for the comprehensive spending review? That is the "likely" information.

**Robert Brown:** If the member says so. In any event, Fiona Hyslop has no idea how much money it will take to deliver the pledge or how many teachers will be needed. The SNP mentioned £105 million in its manifesto promises. Will Fiona Hyslop confirm today that on any view, if we take the capital and the revenue consequences together, far more than that will be required? What a contrast to the careful targeting by our Executive on key education stages.

Over the years, I have heard Fiona Hyslop wax lyrical about the benefits of early years education—admittedly in suspiciously general terms—as if the SNP had made a discovery that no one else had thought of. The reality is that it was our Administration that delivered a free nursery place for every child—an achievement that was rather overlooked by many people. I well remember one of the last debates before the election, when it was discovered that the SNP had no policy proposals of any kind for the under-3s, and the proposals for nursery schools had a back-of-a-cigarette-pack look about them, as the promise went from doubling nursery provision to increasing it by 50 per cent. Adam Ingram spoke of a strategy by 2008. I was not quite sure whether he promised a comprehensive strategy or a comprehensible strategy. Astonishingly, the SNP's promises on nursery schools did come from the back of a cigarette packet and, like the contents of a cigarette packet, they are bad for our health.

Parliament and the country have some sympathy with SNP ministers struggling to master difficult new portfolios and to bring some coherence to the election manifesto, which was so clearly a manifesto for Opposition, with hints and

promises to every interest group under the sun. Now, however, the first joys of the honeymoon period have waned and we—and Scotland—look for coherence, for joined-up thinking and for programmes that will improve the situation of the people. In short, we look for a sense that this Administration, which claims to be a Government, has the capacity to govern as well as to spin. So far, unfortunately, we look in vain.

10:42

**Des McNulty (Clydebank and Milngavie) (Lab):** Having listened to what the minister, Adam Ingram, said in support of his party's claims that reducing class sizes to 18 at primaries 1, 2 and 3 is the best way to deal with what he called the persistent underperformance of one in five of Scotland's pupils, and having considered the implications of directing resources towards meeting that arbitrary target, I share the concerns that have been expressed around the chamber about what the SNP is about.

The cabinet secretary has in the past defended her policy by referring to a study that was conducted in the United States of America in a very different social and economic setting from that of Scotland. There are, however, much more robust studies, including a multiple-level literacy initiative in West Dunbartonshire, the second most disadvantaged council area in Scotland, which is responsible for dramatic improvements in raising attainment and eradicating illiteracy. As a result of the outstanding outcomes it is delivering, the West Dunbartonshire initiative is attracting national and international attention. My concern, and that of many education professionals and parents in West Dunbartonshire, is that the minister's policy will put those achievements at risk.

The West Dunbartonshire initiative has a number of unique features. It has a strong research focus, with intervention strategy being based on the existing and developing evidence base for enhancing literacy levels. As well as raising literacy levels among children in the early years of schooling, it has greatly reduced the numbers of children who experience reading failure as they enter the later primary years, which has enhanced self-esteem and given greater scope for intensive individual support for pupils with difficulties. Success is linked to recognition of the importance of the context within which children learn, as well as the content of materials, with the focus of the intervention strategy being on creating the right learning environment to promote literacy. I would be happy to pass on to the minister further details of the approach that has been adopted.

**Fiona Hyslop:** Will Des McNulty give way?

**Des McNulty:** Just let me carry on for a little while yet.

The research is particularly well documented and the outcomes that are being delivered are striking when they are set against the challenging levels of deprivation in West Dunbartonshire. We have moved from a position in which between 20 per cent and 30 per cent of school leavers were functionally illiterate to the problem of illiteracy in the school years having been largely eliminated.

I hope that the minister is aware of other highly significant research on poverty and health in Scotland, which shows that the cognitive abilities of children in poor families are significantly impaired relative to those of their counterparts in better-off family circumstances. That research also points to the importance of targeted early intervention to promote cognitive development.

There is overwhelming evidence that sustained and targeted intervention in literacy and numeracy support where it is necessary is effective when it is begun in the pre-school years and sustained throughout the school career. It is unacceptable that the minister is apparently rejecting the conclusions of top-quality Scottish research and the evidence of what is being delivered in favour of a convenient political slogan that is not well supported by relevant research or evidence.

The most exciting aspect of the West Dunbartonshire initiative is the fact that it has been implemented on a whole-authority basis over an extended period, during which the results have been thoroughly evaluated, creating a model that works but which others want to eliminate. Do you want to eliminate it, minister?

**Fiona Hyslop:** The member makes a very good case for early intervention. That case is exactly why this Government, unlike the previous one, will put far greater emphasis on greater early intervention. In the West Dunbartonshire example, of which we are very supportive, the issue is pre-school support. That is very important. I am talking about access to nursery education and nursery teachers. The previous Government was quite happy for nursery teachers to be removed from nurseries.

**Des McNulty:** Let me explain the economics of the situation. West Dunbartonshire Council is currently backing the approach with all the resources that it is able to commit—resources that are squeezed from every pot it can access—but, as we have heard, the Scottish ministers know better. They have other priorities, which will direct resources away from authorities that are wrestling with deprivation and disadvantage, such as West Dunbartonshire Council. Your colleague Adam Ingram admitted it this morning, if you listen carefully to what he said. Reducing class sizes will inevitably rob resources, even in West Dunbartonshire, from a tried and tested programme that is delivering exceptional

outcomes. In West Dunbartonshire, 23 staff are currently engaged in delivering the targeted specialist support that is associated with the literacy project. They will have to be redeployed if the minister imposes the target for reducing class sizes.

No one is arguing that reducing class sizes is a bad thing—it can deliver and has delivered significant benefits—but you cannot spend money twice. That is the reality of the situation. Politics is a matter of choice. The best focus would be on improving literacy and the cognitive development of the kids who most need it, through programmes that have been demonstrated to work rather than through the generalised approach of reducing class sizes.

It is not only the minister's money that comes into the matter. I do not speak to West Dunbartonshire Council all the time, but I listen to what its finance convener says, and he says that the council faces £10.5 million-worth of cuts as a result of the SNP Administration's requirement to impose a freeze on council tax. The reality is that every non-statutory element of expenditure within West Dunbartonshire will be affected by the financial squeeze to which that authority is now subject, and the children who have been helped by a highly successful project over the past 10 years will be adversely affected. That is the effect of the choices that the minister wants to make.

**The Deputy Presiding Officer (Alasdair Morgan):** I remind members that only the Presiding Officer should be addressed in the second person.

10:49

**Sandra White (Glasgow) (SNP):** I draw your attention to the first clause of Hugh Henry's motion:

"That the Parliament regrets that education has not been given a higher priority by this administration",

or this Government, as I would call it.

I will give Mr Henry a few facts about how the previous Labour-Liberal Administration gave education a high priority. Like him, I have one researcher at my disposal—as you know, Hugh, I am a back bencher—and my researcher and I discovered that, as Christina McKelvie mentioned in her speech, the previous Administration had very few debates on education. There was one in 2002 and then one in 2006. In 2002, when Cathy Jamieson was Minister for Education and Young People, she said:

"It would be easy to resort to knee-jerk reaction or political sloganising; indeed, some people already have done so."

If the cap fits, Mr Henry, I am sure that you will wear it. Presiding Officer, I am sure that that is not deemed to be unparliamentary language.

Cathy Jamieson went on to say:

"We have choices and we need to know where our priorities lie. Let us have a debate."—[*Official Report*, 6 November 2002; c 14940.]

I could not agree with her more.

The motion is indeed a knee-jerk reaction. Sadly, it simply attempts to achieve political gain on a serious subject and contradicts the Labour Party's claim that education is its top priority. It is easy for everybody inside the Parliament and outside it to see from the motion what Labour's priority is. It disappoints me and I am sure it disappoints many people in Scotland that, instead of using parliamentary time to discuss the important choices that we face in the Parliament and in Scotland, as you always said yourself, Mr Henry—the best way forward for our children, our schools, nurseries and universities and, ultimately, the success of the Scottish public—you have chosen to take a negative approach.

**The Deputy Presiding Officer:** Members should not address other members by using the words "you" or "your".

**Sandra White:** I apologise, Presiding Officer.

**Hugh Henry:** I hear Sandra White's analysis and interpretation of the motion but, if that motion became the will and view of the Parliament, would she and her party accept that the Parliament had expressed a strong view? Would the present Administration reflect on that and come back to Parliament to address the points that the motion makes?

**Sandra White:** I always respect what Hugh Henry and, in particular, the Parliament says. I am sure that the minister in summing up will have an answer.

I echo Adam Ingram's words regarding funding and will explain to the previous Administration exactly what they mean and the responsibilities that they bring with them. Future levels of funding will be announced in the upcoming budget. We have heard all about the comprehensive spending review. It must be completed and any other course of action would be imprudent and incorrect. I am sure that Labour and Liberal Democrat members are aware of that fact. The Finance Committee will rightly scrutinise the budget and report to the Parliament. That scrutiny is a parliamentary process and will ensure that all parties will have the opportunity to express their opinions.

I am certain that the Opposition is not suggesting that we should spend money before we know exactly how much we have in the purse

and that we should bypass the proper parliamentary procedure. Mr Henry's comments made a good case for the Parliament to have further powers to ensure that we do not have to wait for the money to be doled out to us once again. I am sure that he is aware that, as the First Minister stated last week and in the weeks previous to that, we will work to deliver all our manifesto commitments over the four-year session.

We must ask ourselves why students are the only people in the country who have debts before they even get jobs. Apprentices get paid but students do not. We must address that.

I am appalled at the Opposition's attitude towards smaller class sizes. We are considering our children's future. Bill Butler waxes lyrical on all the numbers that came from Glasgow City Council, but it takes a piecemeal approach to smaller class sizes. It must produce a paper on a long-term strategy and its implications, but so far it has not done that. I urge Glasgow City Council and the other councils that have not produced strategies to go ahead and do so.

I am appalled at the attitude of the Opposition parties, particularly Labour and the Lib Dems, because it is not impossible to do what we propose. Smaller class sizes can be achieved and student debt can be eradicated. We cannot tell our children and students that education is the best way forward for them without backing them in it. The language that the Opposition parties are using—cannot do and will not do—is what lost them the election. The Government says that it can do and will do. We will carry on over the next four years, as the First Minister said.

10:54

**Gavin Brown (Lothians) (Con):** A headline in one of the Sunday broadsheets that I read recently asked:

"If a class of 25 pupils is cut to 18, what happens to the other 7 children?"

That is a good question, which the SNP Administration has not answered thus far.

I will focus on three things. First, I will talk about reducing class sizes. Secondly, I will say why having that one flagship policy diverts attention away from more important priorities, such as discipline in the classroom and literacy and numeracy. Thirdly, I will explain why the policy will not work, by focusing on the Edinburgh situation, in which the SNP councillors, along with their Liberal Democrat colleagues, voted to close 22 nurseries, primary schools, secondary schools and community centres.

We have heard from a number of members that reducing class sizes is impractical and hugely

expensive and will have minimal benefit—thus far, we have heard almost nothing about what the educational benefits would be. I understand that there might be small benefits in reducing class sizes, but, given the massive costs and impracticalities involved, I do not think that the case for it has been made.

How many new classrooms will have to be built to fulfil the pledge, bearing in mind that dozens upon dozens of schools have been completely rebuilt over the past 10 years? Would it not make a mockery of that work to try and hatch some kind of classroom on the back of a new school? How many schools would have to use temporary classrooms if the pledge is to be fulfilled? How many teachers would end up teaching in the gym or the dining room? So far, we simply do not know.

The SNP has pledged to match, brick for brick, previous pledges to build 100 new schools by 2009 and, potentially, another 150 before 2011. Will those new schools be designed only to accommodate classes of 18 or fewer, or will the SNP be a little more broad-minded and build bigger classrooms, just in case the policy does not go ahead or does not work out in the future?

**Fiona Hyslop:** Gavin Brown makes an important point. I am pleased to say that in at least three local authorities, including Falkirk Council and West Lothian Council, school building projects are progressing to plan. We always said that we would match brick for brick the school building plans of the previous Government. In my recent visit to Dumfries, I raised with Dumfries and Galloway Council the point that Gavin Brown makes about classroom sizes in new-build schools.

**Gavin Brown:** I welcome the pledge that the cabinet secretary restated, but she did not answer my specific question: will the schools that will be built over the next four years be designed to accommodate only 18 pupils in the classrooms? I hope that the cabinet secretary will answer that question when she sums up.

I urge the cabinet secretary to listen to the warnings that we have heard from local authorities. We heard eloquent contributions about Glasgow City Council, the City of Edinburgh Council and SNP-run Perth and Kinross Council. I heard about the situation in Aberdeen City Council for the first time this morning. We must listen to what councillors are saying about how unworkable the pledge to reduce class sizes is on the ground.

We also heard about parental choice. The SNP will deny parents the chance to send their children to the school of their choice, purely because of the inflexible limit of 18, which is based on ideology and not on proven educational benefits.

The SNP needs to trust headteachers a bit more. On page 48 of its manifesto, on education, the SNP said:

"We recognise and respect the crucial role of educational professionals in this vital task."

It said that it believed firmly that headteachers should be allowed to decide class sizes for P4 to P7, but not P1 to P3. Why does the cabinet secretary trust headteachers to decide class sizes for P4 to P7, but not for P1 to P3?

Another danger of focusing so heavily on this flagship policy is that we ignore much greater priorities that need to be dealt with. My colleague Elizabeth Smith talked a lot about school discipline. There has been a large increase in the number of attacks on teachers over the past 10 years or so. We do not know the precise figures, but we have a pretty good estimate. It is utterly unacceptable that any teacher is attacked in school. We really need to nip that problem in the bud and adopt a zero tolerance policy on it.

We need to work far harder on, and give greater priority to, literacy and numeracy. We have heard numerous statistics, but most people seem to agree that at least one in five of our children leaving school cannot read or write properly. Why is addressing that issue not a higher priority than reducing class sizes, which we have heard so much about?

Yesterday, my colleague Derek Brownlee spoke at length about the success of the West Dunbartonshire Council project, which Des McNulty spoke about in even more detail this morning. On the face of it, we have a project that works. Why are we not implementing it across the board right away instead of focusing on class sizes?

The policy has not worked in Edinburgh, where the SNP and the Liberals voted to try to close down 22 busy and popular schools; those schools had lower rolls and would have met the policy, but they wanted to close them down because of the low rolls. One of the consequences of the SNP changing its mind over a two-week period was that 62 children in Edinburgh were uprooted and moved to different schools because their parents thought that their school was closing down. That is unacceptable and I want the Government to do something about it.

11:01

**James Kelly (Glasgow Rutherglen) (Lab):** I rise to support the Labour Party motion. I welcome the opportunity to put education on the agenda as we begin the new session of Parliament.

It is important to have the opportunity to compare the SNP hype with the reality of what is

happening on the ground. If the new glitzy Administration is looking for a theme tune, it should look no further than the Simon and Garfunkel song, "The Sound of Silence", because silence is precisely what we have had on many of its manifesto promises. Its promises have crumbled as it has taken the reins of power and has had to deal with the reality of doing so.

One example of the hype versus the reality is the situation with probationer teachers, which is a live issue in my constituency. Over the summer months, I was approached by 15 probationer teachers throughout Cambuslang, Rutherglen and Toryglen, who were made unemployed at the end of June and faced a summer of uncertainty about their future prospects, because they were unsure whether they would get a job in education.

In June I noted the cabinet secretary's announcement of 300 new jobs, but the previous Administration had committed funding for 1,000 probationer teachers. Moving that forward would have given those probationers real hope.

The school that I went to taught me that 1,000 minus 300 leaves 700. That deficit of 700 means that many probationer teachers have spent the summer chasing jobs. The minister might respond that a lot of those teachers are now doing supply jobs, but many of those to whom I have spoken over the past few days have said that they get to work a day here and a day there. One teacher e-mailed me last night to tell me how delighted they were that they were getting another morning's work. I certainly welcome that, but when someone is working only two and a half days a week, it is difficult for them to plan their future life and career.

We should not waste the talent of probationer teachers. Among them are lawyers who have given up their profession to move into teaching, mature students and young people who have come out of school to follow their dream of working in the classroom. They are committed and we must not lose their talent but invest in it.

One of the issues on which all parties agreed during the election was the need for economic growth. If we are to sustain that growth, we need to start by taking positive action in the classroom. In Scotland, only one person in 100 is a scientist. We want to increase that number by placing more emphasis on science, as well as on languages. That will feed into the key economic areas of life sciences and renewable energy.

The SNP has come up short on education, because it has had to face up to the financial reality of being in power. The slogans of the campaign trail are coming under scrutiny—that is what happens when a party is in power. The SNP Administration has been caught like rabbits flashing in the headlights. Analysis has shown that



the SNP programme has £3.2 billion of additional spending commitments, and potential savings of £1.2 billion have been identified. That leaves a spending gap of £2 billion.

**Bob Doris:** I promise that there will be no flashing rabbits in my contribution.

On the issue of probationary teachers trying to find posts, does the member accept that many of those posts are advertised around Easter time and that, last Easter, the Labour Party was still in power? Therefore, if any teacher was struggling to find a job, that would be a failure of the Labour Party and not the SNP.

Three weeks ago—I draw a comparison with the member's comment—200 teaching jobs were advertised.

**The Deputy Presiding Officer:** Not a speech, Mr Doris.

**Bob Doris:** Okay.

Does the member believe that it is encouraging that although three weeks ago only 200 teaching posts were advertised in the *Times Educational Supplement Scotland*, just last week there were 600 posts? Does he agree that that is a clear benefit of the extra 300 posts?

**James Kelly:** I thank the member for his speech, but I point out that as recently as August, only 3 per cent of probationary teachers in Renfrewshire had a post. The SNP is in power, and it has to deal with that situation. I suggest to the SNP that, during the summer, it was absolutely galling for probationary teachers to watch this Administration spend £100,000 on sending teams of people round to scrape the word "Executive" from the signs on the Scottish Executive buildings, and replace it with the word "Government". Politics is about making a difference to people's lives—it is not about posturing.

The council tax freeze has had a strong impact in my area. South Lanarkshire Council is embarking on a positive school building programme, and I seek a commitment from the minister today that any freeze on council tax will not impinge on the ability of the council to deliver the new school building programme.

I acknowledge that education is a key building block. Teachers, parents and pupils are asking questions of this Administration, and it is time that they had some answers.

11:07

**Alasdair Allan (Western Isles) (SNP):** Members are, I hope, agreed that Scotland needs to build on its reputation for educational excellence, that we all have a role in contributing positively to that shared enterprise, and that, when

it comes to education, the motives of all members are probably honourable. If I had the choice, I would—in the spirit of the new politics—politely avert my eyes from those parts of the motion that in the cold light of day must seem petulant, ill informed or unreasonably doom laden even to its supporters. It would serve no purpose to add to their probable embarrassment, but averting our eyes from those bits of the motion would leave us little to discuss regarding the overly and ridiculously negative contribution to today's debate from the Labour Party.

We can agree on one thing—the motion catalogues some of the problems that are facing Scottish education, from indiscipline to crumbling school buildings. There are certainly enormous challenges, and the SNP does not shirk from that fact. However, it must be evident to the supporters of the motion that eight years of Labour rule in Scotland, and 50 years in many councils, left a record that I make no claim my party can solve within 100 days. The Government is setting about that task, big as it may be.

I welcome the fact that the Labour Party is hungry for our manifesto promises on education to be implemented. It is even hungry for us to implement pledges that it simultaneously appears to oppose, such as the reduction of class sizes in P1 to P3, to be piloted in the areas of Scotland that have the greatest social need.

Other members have commented on many aspects of the Government's plans for a smarter Scotland. I will focus briefly on higher education. If we want Scotland to flourish culturally, economically and socially, we have to move away from the culture of student debt that ballooned under the previous Government. The SNP made its intentions clear by setting out plans to abolish the graduate endowment fee, by beginning the process of replacing the loans system with fair and affordable grants, and by making it clear that the funding of our higher education institutions will not be raided in the process.

Something that sets the Government's proposals for higher education apart from others' is that they are based on principle. I do not suggest for a moment that the Labour members are strangers to principle, or indeed the Lib Dems, one of whom I see rising.

**Robert Brown:** Principle is all very well, but universities cannot live on principle. Will the member comment on the SNP Government's failure to match the pledge that was made, I think, by the Labour Party but certainly by the Liberal Democrats, to meet the necessary requirements for university investment over and above where we are at present?

**Alasdair Allan:** The SNP Government has made it clear that the process of making student

funding fairer does not involve raiding the money that is allocated for the provision of universities and for university teaching and research.

I conclude with a comment on the principle of free education. I do not suggest that our opponents in the argument are strangers to principle. However, during the election campaign I heard an argument from principle—or at least from first principles—that it is a good thing for education not to be free. A Labour Party person at a political meeting suggested that the fact that education was free in the bad old days was a bad thing, because it meant that the poor had to subsidise toffs to go to university. All that I can say is that my grandparents would have been amused. They did not get a chance to go to secondary school because of their circumstances. They would have been amazed to be told that the system of free education that used to operate in this country was a wicked scheme and one that we should not aim to reintroduce.

11:12

**Hugh O'Donnell (Central Scotland) (LD):** I welcome this important debate on a wide range of education issues. One thing that should be taken from the debate by all the political parties that are represented in the Parliament, and certainly by the SNP Administration, is that rash promises that are made in a manifesto but not costed will almost certainly come back to bite. That is clearly the case in relation to the SNP's promises on education and other matters.

No one who understands the vital importance of education to the future success of our country and its prosperity would question whether it is valid for the Parliament to debate education, particularly in the light of the Government's apparent lack of clarity regarding its plans. Yesterday's debate on skills revealed the weaknesses in the SNP's approach: a lack of detail, and a continual attempt to hide behind the comprehensive spending review when it is challenged on the detail of how it will deliver on its election promises. The SNP even showed a careful determination to avoid parliamentary scrutiny when it rejected calls for baseline figures against which its performance can be judged.

The Parliament and, more important, the people of Scotland have the right to know how many of its promises the SNP intends to break in the first 150 days of its Administration. We know about the headline makers and about the Government's promises, but what about the promises that it will not keep? It is apparent that its promise to reduce class sizes by 2011 will not be kept. There is not even a fixed timescale for the reduction and the Government will not take responsibility for it.

Also, the Government does not know how much the promise will cost. Like other constituency members, I am happy to help it out. SNP-led Falkirk Council estimates that the annual teacher cost will be £2.5 million. North Lanarkshire Council says that the cost will be £5.5 million. The figure for Glasgow City Council is almost £15 million and for Aberdeen City Council it could be as much as £5 million. Even to someone like me, who is not the best at arithmetic, it is clear that those amounts add up to some £28 million each year, and that is for only four of the 32 councils. Is it any wonder that Opposition parties are asking the Government how it will pay for this?

Let us turn to the 300 additional teachers—which the cabinet secretary announced during the smarter Scotland debate—the funding for them, and the impact that they will have on reducing class sizes, which the SNP is so keen to promote. Moray Council estimates that it will need 45 extra teachers, Aberdeen City Council potentially as many as 127 and Angus Council 70. As Bill Butler mentioned, Glasgow City Council needs 397 teachers, while Falkirk Council needs 70. If my maths holds up again, that totals 709 teachers, so we are already 409 short, based on the 300 teachers already committed by the SNP. That covers only five councils of the 32—no wonder the SNP is offering a staged introduction of the proposal, with responsibility resting on beleaguered councils.

What impact will the policy have on school estates? The SNP either does not know or is not saying, but I might be able to help it out. I have just two examples this time. North Lanarkshire Council will need 83 additional classrooms, at a cost of £15 million, and Moray Council—one of Scotland's smaller councils—will need almost £3 million to build an additional 37 classrooms.

**Fiona Hyslop:** If we are trading figures, I can tell Hugh O'Donnell that North Lanarkshire Council received £3.468 million in the first 100 days of this Executive. He says that it needs £15 million—I think that delivering a fifth of that in 100 days of government is a fairly major achievement.

**Hugh O'Donnell:** I fully accept that. I recognise the money that has been contributed, and I am pleased that the cabinet secretary is using some of the budget overrun from the previous Administration to fund that aspect of the SNP programme. However, I would like to know the figures for the whole of Scotland, and so would every other member in the chamber.

By hiding behind the comprehensive spending review the SNP reveals that, as I said at the outset, its manifesto promise was uncoded and unrealistic. Is it any wonder that people are confused about what is happening? Is it any wonder that Opposition parties lodge motions and

amendments to try to get some clarity on the SNP plans?

It was not desperately hard, even for a humble back bencher such as me, to get the figures: I simply wrote to the councils and asked them. Perhaps that is a lesson that this Administration could take to heart.

11:17

**Murdo Fraser (Mid Scotland and Fife) (Con):**

What has been striking about the debate is that members from different political parties have lined up to expose the disarray at the heart of the SNP's education policy.

Accusations of hypocrisy were bandied about earlier. I do not like using such words, but let the facts speak for themselves. Yesterday, in a debate on the skills strategy, Fiona Hyslop said:

"It is irresponsible, however, to start spending a vast amount—hundreds of millions of pounds of taxpayers' money—without knowing the outcome of the comprehensive spending review and the results of the budget allocation from Westminster."—[*Official Report*, 12 September 2007; c 1587.]

I agree, but if that is her position the question for Fiona Hyslop is why she and her colleagues, four short months ago during the election campaign, ran around Scotland making huge spending commitments on education and everything else. If it is irresponsible today, why was it not irresponsible in May?

During the election campaign, the Centre for Public Policy for Regions analysed the manifestos of the different political parties. It said that there were 35 uncosted pledges in the SNP manifesto. What is responsible about that? SNP members are condemned from their own mouths. They are acting irresponsibly, and the criticisms in the Labour motion are entirely justified.

The SNP's flagship policy on education is to cut class sizes to 18 in primaries 1 to 3. We have heard a lot about that this morning. There is a debate about how important cutting class sizes is for educational attainment, which I recognise. Nevertheless, it was a clear commitment from the SNP, and it is apparent that there are huge holes in its delivery. As Elizabeth Smith said, there are examples from across Scotland of why the policy cannot be delivered without substantial extra investment in the school estate—in new buildings and additional classrooms. In the meantime, there will be a loss of art rooms, gym halls and dining halls, and there will be composite classes.

We never received an answer to the question several members, including Lewis Macdonald, asked about the impact that the policy will have on parental choice. Are we, because of a dogmatic approach from the SNP, going to start turning

pupils away from popular schools where their parents want them to go? We have had no answer from the SNP to that question.

Above all, there is a huge bill attached to the policy—money that Fiona Hyslop yesterday told us it would be irresponsible to pledge.

In response to a question from Bill Butler, Adam Ingram said that the policy would be implemented across Scotland only with the consent of local authorities. I entirely accept that—it is not right for the Executive to dictate to local authorities what they should do at every turn—but does it mean that we have an unequivocal guarantee from the SNP that, by 2011, the policy will be delivered in SNP-controlled council areas such as Perth and Kinross and Aberdeen? Will there be no primary 1 to 3 classes larger than 18 in those areas? Do we have that guarantee today? The cabinet secretary needs to address that point.

As we have heard from several members, there is real concern about the future funding of higher education. On that vital issue, the SNP has nothing to say—not one word. It has not even mentioned it in its amendment this morning. Instead, it is proposing to scrap the graduate endowment, which would take money out of the system rather than put it in. We still have the ludicrous plan to wipe out student debt. As Hugh Henry said, many people voted SNP thinking that their student debts would be wiped out and their student loans paid off—at a cost of £1.8 billion. Where is the money? According to Fiona Hyslop, it would be irresponsible to pledge that money at this point. I could not agree more—it is a ludicrous, unaffordable policy that will do nothing to secure the future competitiveness of Scottish higher education.

If anything typifies the disarray at the heart of the SNP on education, it is the extraordinary behaviour of the SNP group on the City of Edinburgh Council, to whom David McLetchie and Gavin Brown referred. It backed the Liberal Democrats, but the minute it became clear that school closures was an unpopular policy—frankly, we did not need a crystal ball to work that one out—it had a collective attack of cowardice and backed away from the proposals. As David McLetchie said, the rumour was that that was ordered by the dark powers at McDonald Road. Whatever the reality, the fact is that the SNP did not have the guts to take a hard decision and stick to it in the face of public opposition when the going got tough. It does not augur well for this Administration if that is how its colleagues in local government behave.

The SNP has been exposed today—the honeymoon is well and truly over. It has made empty promises that it cannot possibly keep. It pledges huge sums of money, and in the next

breath says that it is irresponsible to do so. At council level, the SNP has no backbone and walks away from difficult decisions. On the strength of its performance to date, the SNP is simply not fit for government.

11:24

**The Cabinet Secretary for Education and Lifelong Learning (Fiona Hyslop):** Is it not typical that on a morning when Scotland is basking in the glow of achievement and possibilities following a fantastic football result last night, we have such a negative, carping motion from the Labour party? The motion reflects an old Scotland, which was all about anticipating defeat, rather than a new, modern Scotland that believes in what can be done. In the classroom or under the stars in Paris, the contrast between the old Scotland and the new Scotland is stark.

Let us consider the debate on early years education and why it is important. Parents and professionals agree that reduced class sizes can make a difference, particularly for children from disadvantaged backgrounds. The Tennessee student teacher achievement ratio—STAR—project provided evidence of the benefit of small class sizes. Ronnie Smith from the Educational Institute of Scotland has said:

“All current research evidence points to what teachers and pupils already know—that class sizes do make a difference.”

Professor Lindsay Paterson from the University of Edinburgh has said:

“There is no doubt that the evidence shows reductions of one or two don’t make any great difference. Classes of under 20 make a difference.”

A report in the “Harvard Journal on Legislation” that used data from more than 800 districts, which contained more than 2.4 million students, concluded that

“student achievement fell as the student/teacher ratio increased for every student above an 18 to 1 ratio.”

Giving more time and attention to children in their early years helps literacy and numeracy. Why has the Labour Party, in a week in which its soon-to-be leader says that class sizes do not matter, suddenly decided that class sizes do matter by lodging the motion?

**Bill Butler:** Will the cabinet secretary give an absolute commitment that, by 2011, the SNP will deliver cuts to 18 in primary 1 to primary 3 classes? Will she please answer yes or no? Adam Ingram failed to give such a commitment.

**Fiona Hyslop:** We will deliver reductions in class sizes when we have discussed with local authorities the pace, scale and delivery of those reductions and the financial settlement in the CSR.

I believe in parliamentary accountability and the scrutiny of the Government’s actions, but it is unreasonable of Labour to demand urgent and detailed assurances within a few months of a new Government coming into power and within weeks of a comprehensive spending review. Christina McKelvie made the salient point that the previous Government did not set out details before its Budget (Scotland) Bill. I remind members that the census that will tell us whether the previous Government met its pledges on class sizes from four years ago will take place only this month. Parliamentary colleagues from other parties who gave good grace for a full four years for Labour to deliver are being suckered into a double standard of accountability.

The First Minister has set out the Government’s position in response to Wendy Alexander. She may think that class sizes do not matter, but we think that an early grounding in literacy does matter. The fact that she does not know how to use apostrophes and made a basic grammatical mistake in the first line of her first letter to the First Minister shows how much we have to do to tackle basic literacy. Labour’s approach is to let children fall behind and then try to help them later with tutors who act as teachers on the cheap. Smaller class sizes will help to stop children falling behind in the first place.

The motion is not a proper parliamentary motion; rather, it is a derogatory comment and a series of written parliamentary questions. It is not the stuff of real, constructive opposition.

**Murdo Fraser:** Will the cabinet secretary take an intervention?

**Fiona Hyslop:** Are we going to get real, constructive opposition?

**Murdo Fraser:** I am happy to give constructive opposition. Will the cabinet secretary answer the question that I asked? If the SNP Executive is pledging to lower class sizes to 18 in primary 1 to primary 3 and there is an SNP-run council, will she guarantee that, by 2011, there will be no primary 1 to 3 classes of more than 18 children in that council area?

**Fiona Hyslop:** Murdo Fraser has made an important point. That is why the discussion with the Convention of Scottish Local Authorities is critical to delivering our policy to reduce class sizes.

The Labour Party has asked a series of parliamentary written questions that are dressed up as a motion. I will answer the first question. The funding for higher and further education will be announced following the comprehensive spending review. The scale of what is required—which I acknowledge from what members have said—and a tight CSR make such an approach sensible.

On the second question, there are different ways in which to tackle student debt. We do not think that primary legislation is needed to tackle the broader debt issue, so we will consult on the options of what can be done. In the meantime, the details of the bill to abolish the graduate endowment debt will be published soon.

**Hugh Henry:** Will the cabinet secretary take an intervention?

**Fiona Hyslop:** I am answering the questions that Mr Henry included in his motion.

On the third question, we have always said that we will need to discuss the pace and scale of delivery with local government as our partners. We will have meaningful discussions with local government when we know how much funding councils will get from the comprehensive spending review. We will provide funding for the extra teachers and classes that are required.

**Jeremy Purvis:** Will the cabinet secretary take an intervention?

**Fiona Hyslop:** I want to move on.

Bill Butler mentioned Glasgow City Council. Glasgow faces some of the biggest child poverty challenges, and it would be a serious matter if children in poverty were deprived of funding for smaller class sizes. Councils throughout Scotland want an end to ring fencing, but Glasgow City Council's arguments are setting things back. Councils throughout Scotland will be concerned about that.

The fourth question is how we will provide teachers for all nursery-age children. I will respond to the point that Jeremy Purvis made. We will recruit and fund teachers—that is how that is done. We have always said that we will focus first on deprived areas. This autumn, there will be some 250 training places and 300 new jobs.

On the fifth question, I have already spoken about indiscipline. Smaller classes can help. If Elizabeth Smith has any evidence of councils exerting undue pressure on headteachers, I ask her to supply it.

Finally, the motion calls for

“an early statement on how funding will be provided to improve the school estate in Scotland.”

We could start to answer that question by telling members how the previous Government signed up to PPP deals without having the wherewithal within baseline budgets to fund them—to the tune of £65 million a year from 2010-11. Before we see the CSR allocations to Scotland and deliver our manifesto commitments, we must honour deals to the tune of £65 million a year that were approved on the never-never by Hugh Henry, Peter Peacock, Robert Brown and others. Labour Party

members have asked for an early statement. They have got it, but they might not like it.

Probationary teachers, who are important, have been mentioned. I say to the Labour Party that giving late excuses for not properly planning for teachers' jobs when it was in power is lame and unbelievable. The Labour Party created probationary teacher problems, whereas we sought to solve them. If money was available, why was it not pledged in Labour's manifesto? Several former Labour members of the Scottish Parliament who lost their seats will be asking that question in disbelief.

In our first 100 days, we delivered £40 million for capital to support smaller class sizes and 300 new teachers. Anybody who knows anything about early years provision knows that the subject is complex and that there are particular challenges in certain parts of Scotland. We will transform early years provision in a way that responds to needs.

Unlike Labour, we are not so arrogant as to doubt the commitment of other parties to education, but we all have different policies. I ask members to be patient and to await the outcome of the COSLA discussions and the CSR. I am impatient for Scotland's children. Under the previous Government, one in five children consistently and persistently underperformed. Scotland's children deserve the opportunity to learn in smaller classes, and the Government is determined to deliver on that.

11:32

**Pauline McNeill (Glasgow Kelvin) (Lab):** Scottish Labour believes that education should be a top priority for the Government. The cabinet secretary may think that we have not lodged a proper motion, but it is unequivocal. It is unquestionable that we campaigned on the issue of education. We believe in it, which is why we chose to debate it.

We are disappointed that the SNP does not appear to share our view about what its top priority should be. We support some aspects of its education policy, and we will work with it on those aspects, but on the whole it is not bold enough. It is certainly not clear enough.

Adam Ingram reminded us that it can take years to deliver on policies. I wish that the SNP had accepted that when it was in opposition. It does take time to explain, but why should it take so long for the SNP to tell members how it will fulfil its commitments? In answering Bill Butler and Murdo Fraser, the SNP was still not clear enough about whether it will meet the pledge of reducing class sizes by 2011. It will not answer the question that Lewis Macdonald asked. How will parental choice be affected? The SNP should tell parents what it means.

The SNP is already setting up an alibi in implying that everything will be the fault of local authorities. I have never heard a minister talk about the SNP's pledge without mentioning the role of local authorities. Why did it not consult them in advance of making its pledge rather than talk about consulting them afterwards?

Christina McKelvie claimed that the SNP is determined. It is certainly determined not to tell us how its commitments will be fulfilled. Hugh O'Donnell was right to talk about the details on the number of teachers who will be needed in Scotland to meet the SNP's pledge.

David McLetchie, Liz Smith, Karen Whitefield and other members were right to say that class sizes are important, but class sizes are not a panacea for improving attainment. That point has been missed. The SNP's strategy is risky, because it is so prescriptive.

I have not spoken to anyone who believes that the SNP's pledge can be delivered without major disruption to the system. Even if it can be funded—and it has not been funded yet—there are not enough teachers or classrooms for it to be delivered.

The SNP must make it clear to parents what it means by the strategy and to children what kind of environment it hopes to provide for them. What kind of environment can children hope to be part of? Surely if the SNP attempts to achieve the pledge we will see Portakabins across Scotland. What will the SNP tell parents across Scotland when its pledge leads to reductions in catchment areas—which is inevitable when class sizes are reduced? How will it tell parents that their child cannot go to a particular school?

There is nothing convincing in the strategy that tells us that the SNP can achieve what it says it will achieve. I believe that it has no vision for education. As Robert Brown said, the strategy is not joined up in any way.

Adam Ingram rightly pointed out the challenges that children from the more difficult areas of Scotland present. We need to develop policies that will change their lives. So far, the Government has shown no ability to prioritise that work. Indeed, last week, the First Minister acknowledged the concentration of poverty in Glasgow, but the SNP Government has still not said how resources will be redirected to achieve its objectives.

We must debate the pledge to eradicate student debt in the context of the Government's education priorities. If anyone is in any doubt as to whether the pledge was made, I refer them to *Liberate*, the SNP student magazine:

"Alternatively you could vote for the SNP, who have pledged to reintroduce student grants and write off student debt and we mean it—not like the Lib Dems."

Nicola Sturgeon said that the SNP would

"also abolish student loans and replace them with grants and ... allow for the write-off of the existing graduate debt from student loans".

Members should be in no doubt that the SNP made that pledge. Of all the policies that the Government could have adopted to change the life chances of people who do not go on to higher education, that was the signal it chose to give.

The Government has said absolutely nothing about how it will improve access to higher education; it has not even attempted to set out any ideas to deal with that. Adam Ingram clarified that the SNP's intention is to service the debt, but he did not sound too sure. Perhaps he might want to return to the point.

As Hugh Henry rightly pointed out, people voted for the SNP because they believed what it said on the pledge. The cabinet secretary's back benchers are clapping. They ought to ask questions of their front bench. Where are the answers? We think that it was irresponsible to pledge up to £1.7 billion.

If we wrote the script of what will happen next, it would probably run like this. First, the SNP says, "Oh, we would really love to do that, but the comprehensive spending review hasn't happened yet." Then, when the CSR comes through, the SNP says, "Oh, Westminster hasn't given us enough money to deliver on our pledge." That is what will happen.

Members of the SNP Government should not be saying that, when they were in opposition, they were not aware that this year would be a tighter year for the spending review than previous years. The cabinet secretary should have known that. Surely she knew it when she made the pledge.

**Fiona Hyslop:** Does the member share my shock and disbelief that the previous Government signed the Parliament up to £65 million a year of uncoded PPP expenditure? That money could have serviced the debt.

**Pauline McNeill:** I was going to address the subject of PPP—I am only too delighted to do so. The Administration appears to be softening its attitude to PPP. Every letter that I have seen in response to questions on the Scottish futures trust says, "Go ahead and build your school under PPP." When the SNP was in opposition, it was absolutely clear that it did not believe that that was the way in which to fund schools, but now it thinks differently. I am only too happy to debate the subject.

If there is to be a national conversation on anything, it should be on the future of education—on higher education, access to education, and how to connect higher education and industry.

Given the existing structure that Governments have put in place, I am concerned about the cabinet secretary's decision to disconnect higher education and industry. That is a mistake, and it will come to be shown as just that.

The Administration has so far not set out a comprehensive vision of what it will do to join up all the important issues in the education system that need to be considered. It is not acceptable to slow down the school building programme. The Administration said that it would match, brick for brick, Labour's commitment, but we have heard nothing about how it will achieve that. A minority Administration should be able to achieve cross-party consensus on the subject, but until it has a strategy that is comprehensive and believable, I am afraid that it will not get that support.

**Richard Baker:** On a point of order, Presiding Officer. Yesterday, the skills strategy that the Cabinet Secretary for Education and Lifelong Learning brought to the Parliament was voted down. By so doing, the Parliament established that it deemed the strategy inadequate. Is it in order, at least in terms of protocol, that the cabinet secretary or her ministerial colleagues have not indicated that they will return to the Parliament with a new strategy that contains additional measures to tackle this key issue? Will you use your offices to urge the cabinet secretary and ministers to return to the Parliament on the issue, particularly as the Minister for Children and Early Years ignored the view of Parliament by insisting in the debate this morning on the adequacy of the strategy?

**The Presiding Officer (Alex Fergusson):** I thank the member for giving me notice of the point of order. As he said, the Parliament did not agree a resolution yesterday. The matter of how to proceed remains entirely one for the Government.

## Question Time

### SCOTTISH EXECUTIVE

#### General Questions

11:41

#### Council Tax

**1. Dr Richard Simpson (Mid Scotland and Fife) (Lab):** To ask the Scottish Executive whether it intends to impose a freeze on council tax levels. (S3O-586)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** The Government's intention is that the council tax freeze will be achieved through constructive discussion and agreement with local authorities.

**Dr Simpson:** As it is now clear that the cabinet secretary is not going to take the powers to deliver a council tax freeze, it has become another soundbite pledge that the SNP has dropped.

Many support services for children and vulnerable families are provided by voluntary organisations, such as the HopScotch Children's Charity stepping stones project in my region. Will the cabinet secretary guarantee that he will provide central funding to make up for the inevitable shortfall that will result from the freeze? If not, is he prepared to preside over cuts in services to our most vulnerable children and families for the first time since the Thatcher era?

**John Swinney:** For the first time in many years, a constructive discussion is going on between central Government and the local authorities. The Government is determined to pursue that discussion. As I told Parliament last week, I have met 18 local authorities and have scheduled meetings with others. In those discussions, I am determined to ensure that we support the continuation and development of our excellent public services. I am also determined to guarantee that, for the first time in a long time, the Government will work with local authorities to provide respite to hard-pressed council tax payers. I would have thought that Richard Simpson would find that agenda worthy of support.

**Elaine Murray (Dumfries) (Lab):** Will the cabinet secretary commit to funding fully the cost of freezing council tax rates in Dumfries and Galloway? If not, and if Dumfries and Galloway Council feels compelled to increase council tax rates, what will he do?

**John Swinney:** As I said in my response to Dr Simpson, the Government is determined—I am determined—to hold constructive discussions with

the local authorities to seek agreement on a council tax freeze. In fact, very shortly, I will meet the leader and chief executive of Dumfries and Galloway Council to take forward issues that they have raised, which I acknowledge have to be addressed as part of the local authority settlement. However, the most effective way in which to take forward this line of argument is to seek agreement with the local authorities on working together to deliver excellent public services and some respite from council tax for council tax payers.

**Derek Brownlee (South of Scotland) (Con):** In its constructive discussions with the local authorities and as part of its view of an appropriate level of local government funding, will the Government take account of the very different efficiency levels in local authorities across the country? Will he ensure that the impacts of any council tax freeze or local government settlement that the Government introduces will not hit disproportionately councils that have already taken difficult decisions to become more efficient and give those that have not done so a relatively easy ride?

**John Swinney:** As Mr Brownlee will be aware, the Government has made it clear that we expect local authorities to take full part in the 1.5 per cent efficiency gains targets that the Government has set. In my experience, local authorities have contributed a significant amount to that agenda in recent years, as the published reports from the predecessor Administration highlight.

Obviously, local authorities are self-governing organisations that are entitled to take their own decisions. The Government will work with local authorities across a range of areas such as on delivering outcome agreements, simplifying the regulatory burden on local authorities, reducing the level of ring fencing and enhancing the responsibilities of local authorities. We will work with councils on our agenda for public sector reform and to reduce the burden of council tax on individual council tax payers.

### **National Health Service Dental Services (Fife)**

**2. Iain Smith (North East Fife) (LD):** To ask the Scottish Executive what plans it has to improve access to national health service dental services in Fife. (S3O-609)

**The Minister for Public Health (Shona Robison):** The responsibility for the overall provision of NHS dental services in an area rests with the NHS board. NHS Fife has a number of projects under way that propose to create, over the next two years, an additional 27 salaried general dental practitioner surgeries over five sites throughout Fife to help to increase access to NHS dental services in its area.

**Iain Smith:** The Scottish National Party's manifesto stated:

"Scotland has one of the worst records in Europe for dental health".

In his 5 September statement on the Government's programme, the First Minister expressed concern that one in three children living in severe poverty does not have access to an NHS dentist. However, "Principles and Priorities: the Government's Programme for Scotland" is silent on the issue of dentists. Is the minister aware of the shortage of NHS dentists in Fife? Is she aware that many of my constituents in North East Fife want to access an NHS dentist but are unable to do so?

In a debate in 2005, the then Opposition spokesperson Shona Robison stated:

"The Executive will be judged on whether everyone who wants access to an NHS dentist will get access to an NHS dentist within a reasonable timeframe."—[*Official Report*, 17 November 2005; c 20799.]

What does the minister think that a reasonable timescale is? Can she explain why the word "dentist" does not even appear in the Government's programme of priorities?

**Shona Robison:** I gently remind Mr Smith that his party's Administration had eight years in which to resolve the very difficult issues in NHS dentistry. In the four months that this Administration has been in power, we have ensured that the matter has been given the highest priority in our discussions with every NHS board in Scotland. We have ensured that boards are clear about their plans to expand the salaried dental service. I can tell the member that we will leave NHS dentistry in a far fitter state at the end of our four-year term than his party did after eight years of failure.

### **Regeneration (Levenmouth)**

**3. Marilyn Livingstone (Kirkcaldy) (Lab):** To ask the Scottish Executive what plans it has for regeneration within the Levenmouth area of Fife. (S3O-571)

**The Minister for Communities and Sport (Stewart Maxwell):** Plans for regeneration of the Levenmouth area of Fife are first and foremost the responsibility of Fife Council and its local partners in the Fife partnership. Through Communities Scotland, the Scottish Government has invested more than £5 million over the past four years and it will invest a further £2.7 million this year.

**Marilyn Livingstone:** What specific plans does the minister have to build on the successful local regeneration initiatives in my constituency? In particular, what does the SNP Administration have planned for Buckhaven, given that it plays a pivotal role within the Levenmouth area and that



its social and economic success is important to the local communities? What specific policy initiatives does the Administration have for the area? The minister mentioned that the Administration will spend £2.5 million this year, but what budget increases will be committed to the on-going regeneration of our villages and towns? I am concerned that little has been said on the issue so far.

**Stewart Maxwell:** Clearly, the local community regeneration partnership has responsibility for deciding the priorities in Fife. However, it is clear that some areas have received more funds than others. In the next short while, we will announce our overall strategy and plans on how regeneration will be taken forward over the next four years and on what priority will be given to it. Those plans will be outlined before Christmas. On the budget issue, the member will be aware that the spending review is still on-going. When the spending review is completed, we will announce plans on how much money will be made available for regeneration.

**Tricia Marwick (Central Fife) (SNP):** Is the minister aware that the average weekly household income in Levenmouth is £100 less than that of the rest of Fife and of Scotland? Does he agree that the Levenmouth area was devastated by the closure of the pits and by the past 10 years of criminal neglect by the Labour Party at every tier of government?

Will ministers meet me to discuss the importance of reopening the Leven to Thornton rail line to freight and passengers so that people in Methil and Leven can access jobs elsewhere and so that our large companies such as Diageo and Tullis Russell can transport freight by rail if the Forth road bridge is closed to freight traffic in 2013?

**Stewart Maxwell:** I absolutely agree with the member for Central Fife that the deplorable situation in some areas of Fife is the result of many years of mismanagement both at local and national Government level. That is just a matter of fact. I am more than happy to meet the member to discuss issues that fall within my responsibility; I am sure that other ministers will be happy to meet her to discuss issues that fall within their responsibility.

**Ted Brocklebank (Mid Scotland and Fife) (Con):** Tricia Marwick has already covered some aspects of my question. In addition to the restoration of the rail route, which has been asked for by Diageo and which would help companies such as Tullis Russell, a passenger service to link Methil and Leven to the Fife circle is a possibility. Could the minister update us on how the Government plans to advance those proposals?

**Stewart Maxwell:** Clearly, transport matters are outwith my responsibility, so the member might want to write to the Minister for Transport, Infrastructure and Climate Change about such issues affecting Fife.

Our priorities will be to ensure that regeneration takes place not just in Fife but in those areas throughout the country that were left behind by previous Administrations. We intend to ensure that the people of Scotland receive good value for money and efficient service from the public services that they deserve rather than those that they have been left with by previous Administrations.

**Claire Baker (Mid Scotland and Fife) (Lab):** Does the minister agree that, with Aberdeen recognised as Scotland's oil capital and Dundee recognised as our capital of life sciences, it is time that Fife—and, in particular, the Levenmouth area through its regeneration project—was recognised as being at the forefront of renewable energy production and that it should be given the appropriate support to achieve that?

**Stewart Maxwell:** I think that the people of Fife do an excellent job in the work that they do, whether that be in the production of renewable energy resources or in other sectors. We need to ensure that every sector in Scotland—whether it be renewable energy or oil and gas or any other area of manufacturing and production—is not just a leader in Scotland but a world leader. Such things should not be just a sop to the local area but should be because we are at the cutting edge of technology. Renewable energy is a priority for the Government. We will ensure that each area that is involved in that gets the chance to show what it can do.

#### **Aberdeen Western Peripheral Route**

**4. Alex Johnstone (North East Scotland) (Con):** To ask the Scottish Executive when it now expects construction work on the Aberdeen western peripheral route to begin. (S3O-592)

**The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson):** We expect construction of the Aberdeen western peripheral route to begin in 2010.

**Alex Johnstone:** I thank the minister for that reassurance. One of the greatest causes of concern and potential delay is the mystery that surrounds the decision-making process that preceded the announcement of the final route some 18 months ago. Will the minister undertake to approach previous ministers to ensure that papers that informed the decision-making process are made available to the local inquiry?

**Stewart Stevenson:** The member will be aware that the consultation on the AWPR received some

8,215 responses, so it represents a substantial issue that requires to be dealt with. The Government will certainly ensure that any public local inquiry is informed to the maximum extent possible. If previous ministers have papers to which I do not have access that might help to inform that inquiry about the decision-making processes, I seriously encourage them to make them available to the inquiry.

**Brian Adam (Aberdeen North) (SNP):** In connection with the timing of the construction of the Aberdeen western peripheral route, will the minister consider starting on the northern leg first?

**Stewart Stevenson:** The member makes an excellent suggestion, which we are certainly considering. A number of practical problems are associated with it, however. To enable construction to take place, we have started the process of land acquisition, and we will continue to pursue that at best speed. We will continue to consider the proposal and I will try to promote it.

#### Edinburgh Airport Rail Link

**5. Alison McInnes (North East Scotland) (LD):** To ask the Scottish Executive when it will report back to the Parliament on its work on continuing to progress the Edinburgh airport rail link project. (S3O-602)

**The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson):** As promised, we will report back to Parliament at the end of the month on the review of governance issues identified in the Audit Scotland report.

**Alison McInnes:** I thank the minister for his answer. I remind the minister of two points. First, the terms of the motion on EARL that the Parliament agreed on 27 June were:

"That the Parliament ... further calls on the Scottish Government to continue to progress the EARL project by resolving the governance issues identified by the Auditor General".

Secondly, the response of the Cabinet Secretary for Finance and Sustainable Growth to that motion being passed was:

"I also put on record that the Government will pursue the terms of the resolution in relation to the Edinburgh airport rail link."—[*Official Report*, 27 June 2007; c 1192.]

I ask the minister to explain how his comment to the Transport, Infrastructure and Climate Change Committee on Tuesday that suspending work on EARL was

"the way to protect the public purse and ensure that we do not allow the project to go ahead".—[*Official Report, Transport, Infrastructure and Climate Change Committee*, 11 September 2007; c 26.]

squares with those two earlier points? Is it not the case that the minister has already decided to defy

the will of Parliament and to ignore the promises of his cabinet secretary?

**Stewart Stevenson:** I assure the member that we continue to engage with the governance issues. I refer her to the answer that I gave to Tavish Scott on 6 September, which refers to meetings that John Swinney has had with BAA and Network Rail. Those form part of a continuing programme of engagement with this important issue, which precisely addresses the governance issues that were contained in the motion that was passed by the Parliament.

**Des McNulty (Clydebank and Milngavie) (Lab):** Would the minister not accept that it is a strange definition of "continue to progress" to suspend the work that is being done on a project? Would he not accept that it is his responsibility, as Minister for Transport, Infrastructure and Climate Change, not just to bring the interested parties and stakeholders together but to tell them to get on with the work and to progress the project, which was agreed to by Parliament?

**Stewart Stevenson:** Mr McNulty might not have been listening. We are firmly engaged in addressing the governance issues that the Auditor General for Scotland identified. By the end of the month, we will present our response to what we have found and on what we can do now.

#### Local Enterprise Companies

**6. Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** To ask the Scottish Executive what the benefits of local enterprise companies are in relation to growing the local economy. (S3O-606)

**The Minister for Enterprise, Energy and Tourism (Jim Mather):** Local enterprise companies provide a mechanism for local engagement, particularly from the business community, in local economic development activity.

**Jeremy Purvis:** I was going to thank the minister for his reply, but there was not much to it. The minister will know that the Borders still faces considerable economic pressures and needs support. Its dedicated economic strategy and its dedicated economic development body, Scottish Enterprise Borders, have been fundamental to taking the economy forward, with growing expenditure. Will the minister assure the Parliament and the Borders that he will not abolish Scottish Enterprise Borders or cut its functions?

**Jim Mather:** I will not pre-empt the announcement that we will make to Parliament later this month, but I can tell the member that we had constructive and reflective dialogue with Scottish Enterprise Borders and the chairs of the other LECs at an open session on 17 August,

where we gathered around 100 flip-charts of information—[*Interruption.*]

**The Presiding Officer (Alex Fergusson):** Order.

**Jim Mather:** John Swinney and I also had a detailed and extensive dialogue with LEC chairs. [*Interruption.*]

**The Presiding Officer:** Order.

**Jim Mather:** If members do not like the fact that we are listening, that is unfortunate.

**Peter Peacock (Highlands and Islands) (Lab):** Does the minister agree that Highlands and Islands Enterprise is widely regarded as a highly successful economic development agency? It has different powers from Scottish Enterprise; those powers embrace social development. Will the minister guarantee that any changes that he plans to make to the enterprise structure will not diminish Highlands and Islands Enterprise's capacity to continue to succeed and to support that region?

**Jim Mather:** I can give a short answer. On the contrary, we intend to ensure that Highlands and Islands Enterprise is much better able to engage with its business community and with economic development issues, to produce much better results.

**The Presiding Officer:** Before we move to First Minister's question time, I am sure that the Parliament will wish to join me in welcoming the Portuguese ambassador, His Excellency António Carlos, and the High Commissioner of Malawi, Dr Francis Moto. [*Applause.*]

## First Minister's Question Time

12:00

### Engagements

**1. Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab):** Before I ask my question, I am sure that Parliament will want to join me in congratulating Alex McLeish and the Scotland team on their superb result last night. [*Applause.*] I thank the Presiding Officer for that leeway.

To ask the First Minister what engagements he has planned for the rest of the day. (S3F-126)

**The First Minister (Alex Salmond):** Later today, I will meet representatives of Scotland's food and farming communities to discuss measures to address the twin dangers of foot-and-mouth disease and rising cereal prices. I will also have a range of other engagements.

I will give some thought to how we can acknowledge the Scottish football team's magnificent victory in Paris yesterday evening, which is part of the mood of optimism that is sweeping the nation.

**Cathy Jamieson:** Once again, I wish the First Minister well in his discussions. I thank those who came to the event in Parliament last night to promote Scottish food and, in particular, the use of local produce.

The First Minister is aware that crime and the fear of crime are major public concerns. He will also be aware of the growing mood in Scotland that double jeopardy should end. Will he support Paul Martin's plans for a member's bill and end it?

**The First Minister:** We can learn a range of lessons from recent events in the judicial system in Scotland. We should consider carefully the Lord Advocate's comments and statement later today. We should, in a carefully considered manner, draw conclusions from that and from other cases.

**Cathy Jamieson:** I certainly do not want to pre-empt what the Lord Advocate will say this afternoon. However, notwithstanding what she will say about particular cases, does the First Minister accept that some questions are for politicians and not for prosecutors? Is he at least prepared to ask his Cabinet Secretary for Justice to convene a meeting of representatives of all the political parties and Margo MacDonald to consider the issue in more detail and to seek to produce plans to end double jeopardy?

**The First Minister:** I agree with Cathy Jamieson: the matter is for political discussion, which is why the Scottish Cabinet has already discussed it. Not just one, but several potential

changes to the Scottish judicial system should be considered. Every party will be consulted as we produce proposals, but every party should accept that these matters must be carefully considered. They should in no way be looked on as a knee-jerk reaction to any one case.

**Cathy Jamieson:** I am well aware of the notion that hard cases make bad law. It would be incorrect of me or anyone else to suggest a legislative change as the result of only one case. However, the Scottish National Party pledged, in its manifesto, to introduce a criminal justice bill. That surely provides an opportunity to consider some of the issues in more detail.

Is not it the case that Scotland now knows from last week's miserable performance that the SNP will not deliver on its key pledges, even though it has the time and money to spend on a change of name from Executive to Government? Is not it the case that although SNP members are happy to face the people of Scotland in a national conversation, they have turned their backs on the victims of crime? Is not it the case that the real rebranding is that the SNP cannot and will not deliver? If a person is a victim of crime, the SNP is not listening to them.

**The First Minister:** I would think that the state of crime and the judicial system in Scotland might have something to do with the Administration of the previous eight years, during which Cathy Jamieson was the Minister for Justice. The contrast between the view of the public and the view of the chamber on the start of the SNP Administration could not be more stark. For example, I saw the other day that somebody had said:

"The SNP has got off to an impressive start. People are warming to them because they seem to put Scotland's interests first, being distinctively Scottish. They appear to be making devolution work, without looking over their shoulders to Westminster."

Those are the words of Henry McLeish, a former Labour First Minister.

**Cathy Jamieson:** Is not it the case that the SNP pledged in its manifesto to introduce a criminal justice bill, which would not only deal with tougher community penalties, but would introduce a sentencing council to ensure that sentencing guidelines mean that the punishment fits the crime? Where is that bill?

**The First Minister:** The Cabinet Secretary for Justice has already given a commitment to move forward on that basis. That is precisely what the Cabinet discussion was about.

I am amazed by Cathy Jamieson. In the first 120 days or so of the SNP Administration, we have fulfilled or moved forward on all 60 commitments in our 100-day manifesto. That is not a claim that

the Labour Party could make after 100 days, after four years or after eight years, as it reneged on substantial parts of the promises that it made to the people of Scotland. That is of course why—even temporarily—Cathy Jamieson is sitting where she is.

## Secretary of State for Scotland (Meetings)

**2. Annabel Goldie (West of Scotland) (Con):** To ask the First Minister when he will next meet the Secretary of State for Scotland. (S3F-127)

**The First Minister (Alex Salmond):** I met the secretary of state on 16 August. I have no further plans to meet him at present.

**Annabel Goldie:** The First Minister will be aware of the Scottish Conservatives' commitment to abolish double jeopardy, so that persons who have been acquitted of serious criminal charges can be tried again if new and compelling evidence comes to light. That will mean that in Scotland victims of serious crime and their families will have access to the same level of justice as is currently available in England and Wales.

I will remind the First Minister of what the Cabinet Secretary for Justice, Mr MacAskill, said during a Scottish Conservative debate on the issue in February—a debate in which, interestingly, Labour voted against the principle of abolishing double jeopardy. A conversion to the Conservative cause, however late, is always welcome.

I remind the First Minister of what Mr MacAskill said:

"The questions about how we should address the issue ... are for the Administration that is in place after 3 May. However, we accept that the matter must be addressed and we will do so."—[*Official Report*, 22 February 2007; c 32379-80.]

Will the First Minister honour that commitment?

**The First Minister:** Yes. That is what the Cabinet discussion was about on Tuesday.

Annabel Goldie will also be aware, owing to her substantial knowledge of these matters, that there are significant differences between the Scottish judicial system and other judicial systems—one is that there is no general right of the Crown to appeal in certain cases, which exists in many other jurisdictions. A number of matters should be examined in relation to keeping people in Scotland safe from harm and to ensuring that our judicial system works effectively. I am sure that Annabel Goldie will agree that it is best that those matters be considered carefully so that we get exactly the right improvements, rather than reacting to one or two individual cases.

**Annabel Goldie:** I accept the premise that such matters must not be entered into lightly, but this is

almost a stand-alone issue. I am sure that the First Minister must be as frustrated as I am that, four years after the law was strengthened in England and Wales, victims and their families in Scotland still do not have the same opportunity for justice, because of the neglect of Labour and the Liberal Democrats. To ensure that the necessary change is made as swiftly as possible—the programme for government is silent on the matter—will the First Minister consider either an early amendment to existing legislation or a new short bill that would be restricted to the issue?

**The First Minister:** We should approach the matter in a comprehensive and thoughtful manner. I am certainly not going to disagree with Annabel Goldie about the remarkable turnaround in the attitude of the Labour Party—it is an astonishing conversion. Nonetheless, we should consider the situation carefully. If Annabel Goldie looks at what I have said on the record, she will find that she should take yes for an answer on such matters.

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

**3. Nicol Stephen (Aberdeen South) (LD):** To ask the First Minister what issues will be discussed at the next meeting of the Cabinet. (S3F-128)

**The First Minister (Alex Salmond):** The Cabinet will discuss a range of issues of importance to the Scottish people.

**Nicol Stephen:** On health, will the First Minister's target of an 18-week waiting time apply to audiology services?

**The First Minister:** The commitment will apply to audiology services. This Government is working through that commitment in our programme. There is a huge amount of patient and public support for the approach of the new SNP Government to matters that were long neglected by the previous Administration.

**Nicol Stephen:** Here we go again—another week and more confusion over the SNP's plans. The First Minister says yes to audiology today, but in a written answer last week, his Cabinet Secretary for Health and Wellbeing said no. She confirmed that audiology services do not fall within the 18-week target of the Scottish Government. Has the First Minister just made up a policy? Will that fresh guarantee run to other services such as chiropody and physiotherapy? What should we believe—his health minister's written answer to Parliament last week or his top-of-the-head reply today? Is he making it up as he goes along?

**The First Minister:** Nicol Stephen should differentiate between the definitions under the Administration of which he was part and what we are working to do now. It is the case that audiology was not included in any guarantees on waiting

times in the past; the difference between the current and previous Administrations is that we are working to bring such services into the definition in the future.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** The First Minister will be aware that the chairman of ITV has written to members today about his report to the City, which proposes reductions in regional news broadcasting. Effectively, that would mean the abolition of Border Television and its local news coverage. It is an excellent service and has been since it was set up and provides outstanding local news coverage to south-west Scotland and north-west England. Will the First Minister work with his Westminster colleagues to make representations to the Office of Communications that Border Television local news coverage should be protected and that it should not come from Newcastle or Glasgow?

**The First Minister:** I will certainly work with all colleagues to protect news services in Scotland. When we established the Scottish Broadcasting Commission under the chairmanship of Blair Jenkins recently, much of the comment about why such a commission was necessary was directed to services that are provided by the BBC. In fact, as Jeremy Purvis rightly identified, there are also threats and dangers to services in the commercial sector. I encourage him to make representations—rather than just joining with Westminster colleagues—to the Scottish Broadcasting Commission, which will be hugely influential in addressing a major concern that runs right through Scotland at present.

**Margaret Curran (Glasgow Baillieston) (Lab):** I ask the First Minister whether he shares my concerns about the report from the Scottish Government on the implementation of the Sexual Offences (Procedure and Evidence) (Scotland) Act 2002. How does the First Minister intend to respond to that report? Given his commitment to me during his programme for government statement, will he now tell Parliament in what ways he will amend provisions in relation to sexual history?

**The First Minister:** As Margaret Curran knows, the Scottish Law Commission report is awaited on our legislative programme and on the amendments that we are going to make to the legislation relating to rape and sexual offences. I share entirely the concerns that she has noted, and I hope that the legislation—which is envisaged for this parliamentary session—will go a substantial way towards addressing those very real concerns, which affect women across Scotland.

## Quangos

**4. John Wilson (Central Scotland) (SNP):** To ask the First Minister what action the Scottish Government proposes to take to review the number of quangos. (S3F-129)

**The First Minister (Alex Salmond):** That matter is under review at the present moment. We inherited a situation of having nine Government departments and 160 quangos. As John Wilson knows, we have already taken action to reduce the number of Government departments from nine to six. As the review proceeds, we will certainly also take action to reduce the number of quangos in Scotland. We have too many quangos and we should have fewer.

**John Wilson:** Does the First Minister agree that greater transparency is required in the making of appointments to public bodies? According to research that was undertaken in 2005, 60 per cent of those who were appointed and who declared a political allegiance did so to one particular political party in Scotland. Does the First Minister agree that an examination is needed into the number of appointments that are made to quangos?

**The First Minister:** John Wilson is being quite coy, but the figure of 60 per cent related to the number of people who declared allegiance to the Labour Party. That is a remarkable fact. My comment has upset Labour members, but facts are chieftains that winna ding, and 60 per cent seems to be a very high percentage. In fairness, I should point out that the number of people in quangos who identify themselves with a political party is low when compared with the total number. It should also be said that many people on quangos and other bodies contribute selflessly to public service.

However, John Wilson raises a fair point. I will ask officials to investigate and I will bring comments on the matter back to Parliament.

**Rhona Brankin (Midlothian) (Lab):** I am rather confused by Mr Salmond's response. His colleague Richard Lochhead seems to think that quangos are rather a good thing. In June, he said that making Quality Meat Scotland a quango would

"give increased leadership, not just to the benefit of the livestock sector, but the food industry as a whole."

Does Mr Salmond agree that Scottish Natural Heritage and the Scottish Environment Protection Agency give strong leadership on the environment, and that SNH and SEPA should be maintained as separate bodies? If quango status is good enough for red meat, surely it is good enough for the environment. Is he going to go ahead with their merger, as stated in his manifesto? Yes or no?

**The First Minister:** If Rhona Brankin had been paying attention to announcements that have been made over the past few days—in the Government's programme and elsewhere—she would know that we are already drawing things together into a single rural service, so that people who use the quangos and are supervised by them will not have the miasma of confusion that they complain about at present. On the issue that Rhona Brankin mentioned, and on other issues, she really should consult her constituents more widely, who find being supervised and examined by several bodies—at the same time and on the same issue—hugely confusing. She will find that rural Scotland will welcome the idea of a single entry point and a single service. That idea has already been introduced by this Administration.

**Robert Brown (Glasgow) (LD):** I was intrigued when the First Minister mentioned the existence of "160 quangos", because in a speech on 17 May he referred to 152. That is perhaps one of the hidden aspects of the first 100 days of the new Administration.

More seriously, I want to ask the First Minister whether he has a target for how many quangos he seeks to cut. A major campaign is under way on the challenge of providing affordable housing, so can the First Minister clarify the position of Communities Scotland and the timescale for any changes that may be made?

**The First Minister:** We have discovered that there were hidden quangos as well as hidden waiting lists under the previous Administration. However, to answer Mr Brown's question more specifically, apparently the Scottish definition of quango includes not only non-departmental public bodies but executive agencies. That is the reason for the difference between the two numbers. However, whether the number is 152 or even more, as it is now, I am sure that Robert Brown will agree that there are too many. The number has increased but it ought to be diminished.

**Derek Brownlee (South of Scotland) (Con):** Given that ministers in all departments are keen to talk about decluttering the landscape, can the First Minister confirm that in four years' time there will be fewer quangos, that they will employ fewer people and that they will control a smaller budget than they control today?

**The First Minister:** Everything we do in this area is aimed at decluttering the landscape of quangos and non-departmental public bodies in Scotland. I am certain that Derek Brownlee will see substantial progress towards that end. That is not to diminish the role of the public sector or public servants, but it is an unassailable law of administration that if one body regulates an issue we are likely to get better results than from many bodies trying to regulate the same issue,

especially when they spend a good deal of time consulting one another.

### Primary School Class Sizes

**5. Hugh Henry (Paisley South) (Lab):** To ask the First Minister what the estimated revenue and capital costs are for implementing primary 1 to primary 3 class sizes of 18 across the country by 2011. (S3F-146)

**The First Minister (Alex Salmond):** As the member knows, we are holding discussions with the Convention of Scottish Local Authorities and other interested parties about the pace and scale of the delivery that is needed to meet our primary 1 to primary 3 commitments.

**Hugh Henry:** I am bemused by that answer. Regardless of whether the First Minister is holding discussions, he needs to know what the revenue and capital costs of the policy are. As we heard this morning, it is clear that ministers are trying to line up a scapegoat for their failure, in the form of local authorities. How many teachers will be required to deliver the policy and to provide a fully qualified teacher for every nursery child in Scotland, as both the First Minister and Fiona Hyslop have promised? Does he stand by those pledges, and will both be delivered by 2011?

**The First Minister:** There are now more teachers and training places in Scotland, thanks to the announcements that the Administration has made. I had the good fortune to watch this morning's debate and found that there had been a remarkable transformation in the Labour Party's attitude. Hugh Henry may remember that there was a time when we were told that the maximum class size in key subjects in secondary 1 and secondary 2 would be 20. We were then told that the figure was an average. This week, the party's new leader in waiting said that class sizes do not really matter, after all. Before the Labour Party attacks the Scottish National Party, perhaps it will clarify whether it agrees with us, the Educational Institute of Scotland, educational professionals and the teachers and parents of Scotland that smaller class sizes are hugely important to the future of Scotland.

**Hugh O'Donnell (Central Scotland) (LD):** What impact will the policy of reducing class sizes in primary 1 to primary 3 have on classroom assistant numbers?

**The First Minister:** The matters affecting the policy and its implementation are being discussed with COSLA and the universities at present. Hugh O'Donnell should agree with the Administration that the increase in the number of teachers that we have already announced, the aim and objective that we have set out and the working through of our priorities are moves forward for

Scottish education. Those who argue that smaller class sizes do not really matter are heavily isolated—perhaps not inside the chamber in certain political parties, but substantially so outside the chamber in the real world, where people know the value of smaller class sizes for the future of Scotland.

**Lewis Macdonald (Aberdeen Central) (Lab):** In her intervention during my speech in this morning's debate, Maureen Watt suggested that all parents want their children to be educated at their local schools. Is abolition of parental choice SNP policy, or is it an unintended consequence of its policy on class sizes?

**The First Minister:** I heard Maureen Watt's excellent response to the member's question. She pointed out that, given the overwhelming support of parents and teachers for the policy of having smaller class sizes, it is likely that parents will choose the schools that achieve that objective first.

**Gavin Brown (Lothians) (Con):** The First Minister pledged to match the previous Administration brick for brick, by building 100 new schools by 2009. Will the classrooms for primary 1 to primary 3 in those schools have capacity for only 18 pupils?

**The First Minister:** Councils determine those matters. However, in terms of matching the commitment brick for brick, I saw the exchanges in the education debate this morning and I know that that is already happening in new school developments in West Lothian and elsewhere. So, instead of the negativity in this chamber towards the substantial efforts that the new Administration has already made in addressing these matters, members should welcome not just the 300 extra teachers and the 250 additional training places, but the £40 million allocation—additional money this year—that has allowed councils around Scotland to fulfil their commitments to school repair and school building.

**Margo MacDonald (Lothians) (Ind):** I wonder whether the First Minister will take advice from an independent MSP. We can expect Labour members to attack everything that his Government says in policy terms. However, the future leader of the Labour Party got it right when she said that the Government should not stick itself in a corner on class sizes, but should consider areas of deprivation, in which pupils need to be in classes that are as small as possible, which might come out as being less than 18. However, in other areas, particularly Edinburgh, I know well that if the Government told parents that their children would have to be moved from popular schools because there were to be only 18 pupils in certain classes, they would sincerely disagree with that, and they would be right to do so.

**The First Minister:** I have a long history of listening to advice from Margo MacDonald. I do not always take it, but I always listen to it.

On the question of areas of deprivation, as Margo MacDonald will know, they have already been prioritised in the announcements that have been made. They are very much part of the priority that we are giving to our ambition to have smaller class sizes.

On the difference between the view here and the view outwith the chamber, I remind members that the Educational Institute of Scotland, whose contribution to the recent election campaign was a drive on smaller class sizes, says that

“smaller class sizes are essential in the changing education system if we are adequately to equip our youngsters for the future.”

I had believed and hoped that that ambition was common throughout Parliament. However, while watching this morning's education debate, I began to believe that a number of politicians in this chamber do not share that ambition and do not regard smaller class sizes as being important. I think that they are, to use another phrase from Henry McLeish this week, “out of touch” with the movement forward in Scottish society.

### Flooding

**6. Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** To ask the First Minister what action Scottish ministers will take to deal with the increased risk of flooding across Scotland. (S3F-136)

**The First Minister (Alex Salmond):** We recognise that Scotland needs to take a more sustainable approach to flood risk management in order to tackle the increased risk of flooding associated with climate change. That will be addressed by the flooding bill that I announced in the programme for government on 5 September. Of course, Mike Rumbles will have noticed that on Monday of this week the Cabinet Secretary for Rural Affairs and the Environment held Scotland's first flooding summit to discuss with stakeholders what more needs to be done.

**Mike Rumbles:** Will the First Minister propose in the new bill a new agency for flooding? If that is to be the case, will it be the 161<sup>st</sup> quango?

**The First Minister:** We will introduce the bill to Parliament. I will not pre-announce the announcements in the bill. However, I hope that all members—lo, even unto Mike Rumbles—will recognise that the matter needs to be addressed, that it was not addressed in the past and that this Administration is doing something about it.

**Christine Grahame (South of Scotland) (SNP):** Will the minister consider revisiting the

Belwin scheme? The scheme provides emergency funding to local authorities in the event of flooding, for example, but does not extend to housing associations, which can leave them vulnerable in the event of a wholesale stock transfer, as happened in the Borders several years ago. Will the First Minister re-examine the scheme in light of such circumstances?

**The First Minister:** I know that that issue was raised with the Cabinet Secretary for Rural Affairs and the Environment at the meeting on Monday. It will be examined and will certainly be part of the discussions surrounding the proposed flooding bill.

**John Scott (Ayr) (Con):** The First Minister will be aware from the excellent conference on flooding in Perth on Monday, to which the Cabinet Secretary for Rural Affairs and the Environment invited me—[*Interruption.*] The First Minister will be aware of the massive potential for flooding throughout Scotland and the misery that flooding causes. I welcome the proposed legislation on flooding, but in the light of the hard choices that are to be made in the spending review, will the First Minister assure Parliament that sufficient funds will be made available to address the problems of river and coastal flooding, which become more apparent every day?

**The First Minister:** We cannot address the seriousness of the issue without additional funds being provided.

I noticed that John Scott was getting a less than enthusiastic response from Liberal members when he started asking his question. Surely the need to tackle flooding is something that all members should agree on. John Scott's attendance at, and contribution to, the flooding summit last Monday is not a matter for catcalls; it is exactly the sort of thing that responsible politicians of all parties should be doing if we are to address the issue together.



## Point of Order

12:30

**Liam McArthur (Orkney) (LD):** On a point of order, Presiding Officer.

Would it be in order to ensure that Parliament takes the earliest opportunity to express its congratulations and best wishes to a former Deputy First Minister and oft-times acting First Minister, my predecessor as the member for Orkney, the Lord Wallace of Tankerness? *[Applause.]*

**The Presiding Officer (Alex Fergusson):** That is not a matter for the Parliament, but Mr McArthur has made the point extremely well. Our congratulations are now in the *Official Report*.

12:31

*Meeting suspended until 14:15.*

14:15

*On resuming—*

## Question Time

### SCOTTISH EXECUTIVE

#### Europe, External Affairs and Culture

##### Public Libraries (Investment)

**1. Karen Whitefield (Airdrie and Shotts) (Lab):** To ask the Scottish Executive what plans it has to invest in and support the public library network. (S3O-588)

**The Minister for Europe, External Affairs and Culture (Linda Fabiani):** The Scottish Government core funds the Scottish Library and Information Council with £220,000 in 2007-08 and is funding a new public library quality improvement matrix with £500,000 a year in 2006-07 and 2007-08. The matrix is designed to be used by local authorities as a self-evaluation tool, encouraging continuous improvement in public library services.

**Karen Whitefield:** Does the minister have a view on whether library services could be delivered by trusts or, as John Swinney has suggested, by community councils? Can she say how, regardless of the delivery mechanism, the quality of provision of library services will be improved and evaluated?

**Linda Fabiani:** It is, of course, up to local authorities to take legal advice when they are deciding on the arrangements for the management and delivery of local libraries, museums and galleries. The precise nature of the contracting-out arrangements might well be a material factor in that. In our view, there is no legal bar to a local authority contracting out museum and gallery provision. However, there is an area of doubt over local libraries.

Irrespective of any management structure, the Government would expect all library services to be evaluated using the public library quality improvement matrix.

**Peter Peacock (Highlands and Islands) (Lab):** Given the importance that the minister has attached to the public library quality improvement matrix, does she agree that the funding that she referred to as being available in the previous financial year and the current financial year should be continued beyond the end of 2007-08? Would she consider giving a three-year rolling commitment to that funding so that SLIC has certainty about its plans and the delivery of services across Scotland?

**Linda Fabiani:** As the member will know, the on-going two-year programme has had some success. Obviously, all such matters will be evaluated as part of our wider cultural agenda.

### **Culture (Meetings)**

**2. Paul Martin (Glasgow Springburn) (Lab):** To ask the Scottish Executive what recent meetings it has held with interested parties to progress its priorities for culture. (S3O-572)

**The Minister for Europe, External Affairs and Culture (Linda Fabiani):** The Scottish Government meets regularly with a wide variety of interested parties to progress its priorities for culture. For example, in the last 10 days, I have had meetings with, among others, representatives from the Scottish Arts Council, the Saltire Society, Bòrd na Gàidhlig and the Historic Environment Advisory Council for Scotland.

**Paul Martin:** Will the minister join me in commending projects such as the Northern Rock recording studio and Toonspeak Young People's Theatre in my constituency, which give people—particularly young people—opportunities to access culture and elements of the arts? Can she assure us that such projects, which have experienced difficulties with funding, will see a more consistent approach to securing a long-term funding package so that their future can be ensured?

**Linda Fabiani:** There has been concern for some years about the consistency of the approach that has been taken to the funding of many such projects. I am unaware of the particular projects to which Mr Martin refers but I would be interested to know more. Of course, until I know how they are funded—whether it is via the lottery, the local authority or various other pots of money—I am unable to speak further about them.

**Tavish Scott (Shetland) (LD):** I thank Linda Fabiani for her support for the permanent return of the St Ninian's Isle treasure to Shetland. I ask her to thank Mr Salmond for his support as well—he signed Alistair Carmichael's early-day motion in the House of Commons in his capacity as a constituency member of Parliament.

Does the minister know that the National Museums of Scotland has agreed to loan the St Ninian's Isle treasure to the Shetland museum on a temporary basis? Will she help us to make that loan permanent?

**Linda Fabiani:** Mr Scott is obviously talking about the Scottish National Party policy that was decided on at our national council meeting in June, which called for the St Ninian's Isle treasure to be returned to Shetland.

As Mr Scott knows, we have a hands-off approach to our cultural bodies, national

collections and national companies, which is how it should be. I understand that Mr Scott recently met the director of the museum to discuss such issues.

**Malcolm Chisholm (Edinburgh North and Leith) (Lab):** Will the minister make support for the arts in regeneration areas one of her priorities for culture? In connection with that, will she read carefully a letter that was sent to her today by the north Edinburgh arts centre, which serves a regeneration area in my constituency and in that of Margaret Smith? In that letter, she will read of the funding difficulties that have suddenly arisen for that body and of a report that is to go to the City of Edinburgh Council from officials, recommending the withdrawal of funding. Will she prevail upon her SNP colleagues in the administration of the City of Edinburgh Council to reject the report and support that highly valued project? Will she also raise the matter with the Scottish Arts Council, which has also been approached for funding support?

**Linda Fabiani:** In answer to the first part of Mr Chisholm's question, I confirm that our agenda for widening access to culture and the arts incorporates particular types of projects in areas of disadvantage.

I have read with sympathy the letter from the north Edinburgh arts centre. It is always difficult for local groups. However, as I said to Paul Martin, until I know all the details about how a group has operated and about the funding package that is in place, I am unable to answer in detail. I have passed the letter on so that more information can come back to me. Nonetheless, I reiterate the fact that local authorities and the Scottish Arts Council do not work under the artistic direction of the Scottish Government.

**Ted Brocklebank (Mid Scotland and Fife) (Con):** The minister will be aware of the exciting new season that is planned by the Royal Scottish National Orchestra. Will she give an undertaking that, under the forthcoming spending review, the orchestra will continue to be funded at least to the level that was set by the previous Administration?

**Linda Fabiani:** Mr Brocklebank is right to talk about the exciting work that is done by the RSNO. I thoroughly enjoyed the orchestra's final concert at this year's festival and I am looking forward to the next one, which will feature one of my favourite pieces, the Firebird suite.

We are absolutely committed to ensuring that the national companies—which came into the Government's remit, rather than that of the Scottish Arts Council, earlier this year—are supported for the promotion of their arts both within Scotland and overseas. As Mr Brocklebank knows, we are currently awaiting the Westminster

settlement, which will allow us to formulate our spending plans for the next three years. When we have that settlement, I will have no hesitation in returning to Parliament to detail all such issues.

### St Andrew's Day

**3. Rob Gibson (Highlands and Islands) (SNP):** To ask the Scottish Government what plans it has to promote the celebration of St Andrew's day this year. (S3O-597)

**The Minister for Europe, External Affairs and Culture (Linda Fabiani):** We are committed to making more of our national day and we are currently working with local authorities and other partners to develop a programme of events. I will make a full announcement as soon as plans are confirmed. We are excited about the plans that are being formulated by our six cities and far beyond.

**Rob Gibson:** Does the minister agree that the celebration of our national day should focus on a nation that is brimming with musical, artistic and sporting talent and a welcoming people who are eager to spread the good news? Will her plans include showcasing contemporary Scottish culture at key overseas locations such as Scotland house in Brussels, British embassies and North America?

**Linda Fabiani:** I am happy to agree that we have a hugely talented people here in Scotland—it is wonderful. We are organising events in Brussels, for example, where arrangements are being made in a partnership between the Scottish Government's European Union office and Scotland Europa. We very much want to mark St Andrew's day in Brussels. Some of the plans are still being worked up, but we have confirmed two literary events in the Scottish writers series. There will also be the annual Scotland house St Andrew's day lecture, which this year will be given by Richard Holloway, and a St Andrew's day concert featuring Scots and Gaelic song with pipes and fiddles. That addresses the part of Mr Gibson's question about music.

Other international events include the Caledonian Society of Beijing's St Andrew's day ball, which will be attended by the head of Scottish affairs in China. Our Scottish affairs office in Washington is planning a St Andrew's day reception, and various other St Andrew's day events right across the globe have been planned. At the moment, we know of 58 events in 55 countries, and that figure will increase over the next few months as events are confirmed.

**The Deputy Presiding Officer (Trish Godman):** Question 4 has been withdrawn.

### European Treaty (Discussions)

**5. Gil Paterson (West of Scotland) (SNP):** To ask the Scottish Government whether it is in

discussions with the United Kingdom Government about the European treaty. (S3O-616)

**The Minister for Europe, External Affairs and Culture (Linda Fabiani):** Yes. The Scottish Government continues to contribute to UK negotiating lines at the intergovernmental conference on the European Union reform treaty. I attended the joint ministerial committee on Europe ahead of the European Council, and the First Minister has written to the Foreign Secretary to make clear our constructive approach to developing UK negotiating lines and to set out issues of particular interest to us.

**Gil Paterson:** Although the treaty is clearly reserved, will the Scottish Government seek to advise the UK Government on the desirability of holding a referendum on the matter, particularly given that the proposed measures in the treaty are exactly the same as those in the discredited European constitution?

**Linda Fabiani:** Although it is only proper that we respect the confidentiality of on-going international negotiations, and although members should be aware that the intergovernmental conference has a limited scope, I should make it clear that, given Scotland's very distinct legal and judicial system, we have a particular interest in the operation of the UK's justice and home affairs opt-in protocol and emergency brake procedure. We agree with the UK on other elements of the treaty, but we cannot under any circumstances agree to so-called redline issues such as the inclusion of the conservation of marine biological resources under the common fisheries policy.

Changes are being made to the text of the treaty, and the time to reach a considered judgment on the question whether a referendum is the right way to go will be when we get the full text back. We expect to get the text in October, and we are looking forward to seeing it.

### Tartan Day

**6. Ted Brocklebank (Mid Scotland and Fife) (Con):** To ask the Scottish Executive what plans it has to review arrangements for the annual tartan day celebrations in the United States of America. (S3O-595)

**The Minister for Europe, External Affairs and Culture (Linda Fabiani):** As we all know, tartan day represents an excellent promotional opportunity for Scotland in our most important market. The Scottish Government is currently considering its involvement in the event to maximise its obvious potential.

**Ted Brocklebank:** In light of the criticism in an independent report published in February that the 2006 tartan day event was let down by

"poor financial planning and shoddy preparations",

will the minister provide details of the proposed budget for next year's tartan day celebrations and indicate whether, apart from the specific review that she has mentioned, the Government is planning an overall strategic diaspora policy, particularly given the fact that 2009 is the year of homecoming?

**Linda Fabiani:** We are aware of, and have closely studied, the research that Mr Brocklebank mentioned. Indeed, that is why we are reviewing our position on tartan day—or, rather, on tartan week, because the celebrations have been marked by a week of events. The First Minister has already made it clear that this Government will be the most outward-looking that Scotland has ever had, and we consider tartan week to be a very important promotional tool for raising Scotland's profile in the wider world.

We are absolutely determined to put in place a strategy to address the report's criticisms about cohesion, planning and follow-up mechanisms. I know that Mr Brocklebank's colleagues expressed concern that not enough emphasis was being given to the event's business and promotional elements, and we are discussing that matter with Scottish Development International. However, the event also has a cultural side, and we must try to find a way of merging all those elements to Scotland's benefit. We are working hard on the matter. Tartan week does indeed form part of the wider diaspora policy that we are considering.

**Andrew Welsh (Angus) (SNP):** I have seen at first hand the excellent work that is done in New York and Washington and I have participated in superb tartan day events in Milwaukee. I therefore ask the minister to consider the potential for encouraging tartan day events and activity in other population centres in the United States that have strong Scottish connections and in the large number of states that have adopted unique state tartans. I commend to her the pioneering work of Angus Council in positively promoting international friendship and connections through tartan day events.

**Linda Fabiani:** I am happy to commend Angus Council's work on that. I remember Andrew Welsh's members' business debate on the issue, during which many members were fascinated to learn about the work that the council has done to create friendship links. We also heard about the number of people who have been attracted to the area because of the council's outward work. Many of the people who are involved in tartan week are not part of the Government and are not publicly funded and they, too, should be commended for the links that they are trying to make.

One criticism that has come back to us about previous tartan day and tartan week events is that they have been very New York-centric. Part of our

strategy is to look beyond New York to see how Scotland's business and cultural interests could be best served. Once that strategy is properly formulated, we will let the Parliament know about it.

**Des McNulty (Clydebank and Milngavie) (Lab):** The Scottish secretary who is based at the British embassy in Washington has taken a key role in organising tartan day and in representing Scotland at events such as the St Andrew's day celebration. As the current incumbent of that post is, I think, coming back to Scotland at the beginning of October, will the minister say whether a decision has been made to replace that person at the British embassy in Washington? If the decision has been made, when will she be able to give us further information about that?

**Linda Fabiani:** The Scottish Government is considering how we can make tartan week, Scotland week and Scotland's engagement in the US and North America generally so much better. I cannot talk about particular personnel issues, but I will let members know fairly soon what will happen in the office in Washington.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** As I represent the area that has Scotland's biggest tartan manufacturer, Lochcarron in Selkirk, will the minister assure me that she will work closely with the tartan industry and manufacturers to ensure that the tartan day celebrations—which I was privileged to join with Mr Welsh last year as a representative of the Parliament—are focused on business needs as well as political and social ones?

**Linda Fabiani:** I value all strands of our promotional work in the US. Scottish Development International is involved in the business aspect and I am confident that Jim Mather, as the relevant minister, and SDI, will be interested in the member's comments.

## Roman Heritage

**7. Roseanna Cunningham (Perth) (SNP):** To ask the Scottish Government what discussions it has had regarding the preservation of Scotland's Roman heritage. (S3O-617)

**The Minister for Europe, External Affairs and Culture (Linda Fabiani):** Historic Scotland is in frequent discussion on our behalf with many people, including local authorities, private owners and international experts, about the preservation of Scotland's Roman heritage.

**Roseanna Cunningham:** I welcome the bid for world heritage status for the Antonine wall. However, will the minister reflect on the fact that Scotland's Roman heritage extends further north than the Antonine wall? She will be unsurprised by my continued insistence that the Gask ridge

should have been included in the original submission for world heritage status, but does she agree that we should consider adding it to the bid? Further, is she as concerned as I am about the disrepair into which some Roman sites in Scotland can fall? Again, she will be unsurprised to learn that I have Ardoch fort near Braco in my constituency at the forefront of my mind when I express that concern.

**Linda Fabiani:** I understand completely the issues that exist in Roseanna Cunningham's constituency. Unlike the continuous Antonine wall, the Roman installations along the Gask ridge consist of a series of individual sites, so it was decided at the time of application for world heritage status that they should not be included in the bid. I understand that the bid cannot now be reopened and will therefore go to the United Nations Educational, Scientific and Cultural Organization as being for the Antonine wall. We should find out the result of the bid next year.

There is no reason whatsoever why a further application cannot be made to UNESCO in relation to another site. The Antonine wall is part of Roman heritage across Europe, so why should Ardoch and Gask not be included in future? The private owner of Ardoch fort wishes to maintain it in private ownership and is working with Historic Scotland.

Elements of Roman heritage are either in state care or designated as scheduled monuments, in the case of the best preserved ones. We are talking about part of the international frontier of the Roman empire. I know that there is a strong campaign relating to Ardoch fort and the Gask ridge, and that it will continue.

**Murdo Fraser (Mid Scotland and Fife) (Con):** The minister has had the pleasure, as have I, of meeting the Antonine Guard, who re-enact Roman encounters.

**Roseanna Cunningham:** We have seen the pictures.

**Murdo Fraser:** I am sure that the minister would join me in praising the Antonine Guard for its sterling work in keeping alive Scotland's Roman heritage. Is she aware of its campaign for a Roman heritage centre in Scotland? Is she sympathetic to that cause?

**Linda Fabiani:** I am very aware of the Antonine Guard and I have the pictures, in which I look quite nice.

I am aware of the work that the people in the Antonine Guard do. The depth of their research is fascinating and amazing, and the passion with which they campaign for their ideal of having the site recognised and maintained is very much to be respected.

I have heard talk of the Roman heritage centre but I have not received a detailed submission.

## Education and Lifelong Learning

**The Deputy Presiding Officer:** Question 1 has been withdrawn.

### Primary Schools (Modern Languages)

**2. Jamie Hepburn (Central Scotland) (SNP):** To ask the Scottish Government what plans it has to develop the teaching of modern languages in primary schools. (S3O-596)

**The Minister for Schools and Skills (Maureen Watt):** We plan to build on the success of existing modern languages learning and teaching in our primary schools. More than 99 per cent of primary 6 and primary 7 pupils are currently learning a modern language—indeed, many begin earlier, for example in pre-school. We know that there is good practice in schools throughout the country. The forthcoming curriculum for excellence draft outcomes on modern languages will take account of that good practice and set out expectations clearly. Glow, the national intranet for Scottish schools, will also support better sharing of good practice in modern languages and more cross-curricular collaboration, ensuring that primary pupils will be able to extend their horizons and enjoy wider opportunities in secondary education and later in life.

**Jamie Hepburn:** I thank the minister for her comprehensive answer. Given last night's fantastic scoreline in Paris, it might have been appropriate for her to answer in French—although I am grateful that she did not.

I am aware of the Government's commitment to placing modern languages at the heart of Scotland's education system. Will the minister give us a little more detail on what that might mean in practice? Will it—as I hope—involve the teaching of modern languages at the earliest possible stage in schools? The evidence indicates that children's ability to learn a foreign language is at its greatest if they start at an early stage.

**Maureen Watt:** I think that parliamentary protocol precludes me from answering questions in French, German, Doric or even tentative Italian. Mr Rumbles could testify that my Italian would be tentative: not that long ago we both started learning Italian at a local secondary school.

The member will be aware that modern languages are at the heart of SNP education policy, as I have outlined. Through a curriculum for excellence, we hope to embed modern languages in the curriculum. We are much heartened by the good practice that exists. For example, children can learn home economics with recipes in French,

and in citizenship and other subjects foreign languages are already embedded in the curriculum. We hope to extend that.

I cannot say how highly I value people being able to speak at least one modern language. Employers recognise that if someone knows one language well, they can learn others too. Modern languages are therefore at the heart of opening up career opportunities for young people.

### Teachers

**3. Patricia Ferguson (Glasgow Maryhill) (Lab):** To ask the Scottish Executive how many teachers were employed in Scottish education on 31 August 2007. (S3O-559)

**The Minister for Schools and Skills (Maureen Watt):** The 2006 teacher census showed that there were 51,659 class-based teachers in primary, secondary and special schools, 1,666 pre-school teachers and another 1,160 visiting specialist teachers. Figures for the 2007 census will be collected this month and will be published in March.

**Patricia Ferguson:** I thank the minister for that answer and for confirming that Labour's manifesto commitment on the number of teachers in Scotland has been met and, indeed, exceeded. I invite her to tell us how many teachers are needed to fulfil her party's manifesto commitment to cut class sizes, and to indicate the cost of meeting that commitment, and when it will be met.

**Maureen Watt:** As was mentioned during this morning's education debate, we will give those answers once the comprehensive spending review has told us how much money is available. Clearly, the fact that we have already introduced another 300 teachers and 250 training posts into the system will ensure that we go some way to meeting that commitment.

**Robert Brown (Glasgow) (LD):** That simply will not do. We might need to wait for the comprehensive spending review to find out what resources can be applied to the issue, but the minister ought to be able to tell the Parliament how many teachers will be required. I presume that she has made a bid to the Cabinet Secretary for Finance and Sustainable Growth to enable her to meet the commitments that have been made. If she cannot give us those figures, will she explain in some detail why not?

**Maureen Watt:** Of course we have made a bid to meet those commitments. We will wait to find out what resources are available from the comprehensive spending review.

**Tricia Marwick (Central Fife) (SNP):** The minister will know that, over the years, the Labour Fife Council axed teachers' jobs to save money. I

raised the issue on many occasions before the May election. Will she therefore accept my thanks for and congratulations on the provision of 20 additional teachers in Fife, five of whom will serve the Levenmouth area of my constituency? If Patricia Ferguson does not want extra teachers in her constituency, I will take as many as she can give us.

**Maureen Watt:** I thank the member for pointing out that Fife Council, like a number of other councils, is happy with the extra commitment that we have given on teacher numbers. Over the summer, I visited 11 local authorities, all of which, to a man and a woman, were highly supportive of our work in adding teachers to the system and in concentrating on primary 1 to primary 3.

**Ken Macintosh (Eastwood) (Lab):** The 300 extra teaching places are welcome, but does the minister not accept that too many of this year's probationers have serious anxieties about their employment prospects and their future in the teaching profession? Does she not also accept that, given that more than half of all probationers are over the age of 30, many of them are unable to move around the country to find jobs? Will she agree to work with local authorities and others to address those issues, so that confidence in our teacher training system is not eroded through lack of Government action? Such a commitment will not necessarily require any funding.

**Maureen Watt:** The member can be assured that we will continue to work with local authorities. No Government trains teachers for the dole queue. Members of the 2007 cohort of about 3,350 probationers are able to apply for posts, and around 3,000 of them are already in post. Over the past month or so, more than 600 posts have been advertised. Given that we know that we must train teachers for the whole of the year, we believe that almost all those teachers will be in post. There are many jobs out there, including supply posts. We do not want teachers to have the worry that other graduates have of not finding a post as soon as they finish their courses, but we believe that, in the light of the additional posts that we have announced, there will be a balance between the number of people who are trained and the number of posts that are available.

**John Scott (Ayr) (Con):** Like Ken Macintosh, I have been contacted by several constituents who are teachers who have highlighted to me the increasingly acute problems that they encounter when seeking suitable posts in schools during and following their probationary years. For example, one lady told me of a post for which she applied that attracted 250 applicants.

What discussions has the minister had with the education agencies to ensure that the correct balance is struck between the number of newly

qualified teachers and the number of posts that are available to be filled? What steps is the Government taking to ease the problem?

**Maureen Watt:** As I said, we are in on-going discussions with local authorities on that matter. We are also in discussions with the higher education establishments that provide teacher training to ensure that there are sufficient teachers to fill the posts that must be filled throughout Scotland.

### Gaelic Education

**4. John Farquhar Munro (Ross, Skye and Inverness West) (LD):** To ask the Scottish Executive what additional resources it intends to make available for the provision of Gaelic education. (S3O-603)

**The Minister for Schools and Skills (Maureen Watt):** The Scottish Government recognises the vital role that Gaelic education plays in creating a sustainable future for Gaelic in Scotland. All issues regarding the allocation of resources are being considered as part of overall considerations for the next spending review period.

**John Farquhar Munro:** I thank the minister for that encouraging response, but she will be aware of the increasing numbers who are entering Gaelic-medium education, which inevitably will require additional financial and staffing resources. Will the Government ensure that local authorities are given additional financial resources in order that excellent Gaelic-medium education can continue to develop and expand?

**Maureen Watt:** Like John Farquhar Munro, I am pleased at the number of primary school children who are educated by the Gaelic-medium method. My colleague Fiona Hyslop visited first-year students in Inverness high school recently. We know that a new Gaelic-medium primary school opened in Inverness this term.

All questions relating to additional resources are being addressed in the context of our awaiting the outcome of the spending review. As the member will know, the funding of Gaelic-medium education does not always come completely from central Government; other bodies provide funding for teaching in Gaelic.

**Alasdair Allan (Western Isles) (SNP):** A dh'fhaighneachd do Riaghaltas na h-Alba am bi iad ag ionnsachadh bho eisimpleir nan sgeamaichean làn-thìde anns a' Chuimrigh airson luchd-teagaisg a tha ag iarraidh Cuimris ionnsachadh gu fileantas. An smaointich an Riaghaltas air sgeamaichean dhen aon seòrsa airson na Gàidhlig?

*Following is the translation:*

To ask the Scottish Government whether it will learn from the example of sabbatical schemes

operating in Wales for teachers who wish to learn the Welsh language to fluency. Will the Government consider a similar scheme for Gaelic?

**Maureen Watt:** I congratulate the member, who is not a native Gaelic speaker, on his Gaelic. It shows how the various methods can make one extremely fluent in Gaelic.

We will of course consider what the member said, but I am aware that Sabhal Mòr Ostaig, for example, offers total immersion courses in Gaelic. As we know from the Welsh experience, that is a key way of learning a new language.

**Peter Peacock (Highlands and Islands) (Lab):** The minister will be aware that class-size maxima in Gaelic-medium units and schools are lower than those in English-medium schools. Has a target been set for Gaelic-medium class sizes to match the target for the reduction of class sizes in English-medium schools? If so, how many additional Gaelic-medium teachers will be required by 2011?

**Maureen Watt:** The Scottish Government is keen to ensure that the number of Gaelic-speaking teachers matches the desire for Gaelic-medium education. The member will know that we must ensure that more secondary school teachers can teach their subject in Gaelic. They must be given the chance to improve their Gaelic in order to meet the requirements of teaching their subject in Gaelic. That is an on-going project for the Government.

**Patricia Ferguson (Glasgow Maryhill) (Lab):** On a point of order, Presiding Officer. You will recall that in my question to the Minister for Schools and Skills, I specifically asked how many teachers were needed to meet the Scottish National Party's manifesto commitment to reduce class sizes. The minister did not give a figure, but she alluded to calculations that have been done and information that has been provided to the Cabinet Secretary for Finance and Sustainable Growth so that a bid can be made for the required number of teachers. Her answer did not give me the information that I asked for, but it contained the implication that the minister has that information, which my colleague Cathy Jamieson also asked for during First Minister's question time. Given that the Scottish Government has the information but is refusing to share it with the Parliament, I would be grateful if you would comment.

**The Deputy Presiding Officer:** How ministers reply to questions is a matter for ministers. It is also the responsibility of ministers to bring to the Parliament as much information as possible.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** Further to that point of order, Presiding Officer, a number of written

parliamentary questions have been lodged to ask specifically how many teachers will be required to meet the SNP pledge in full. Is there an opportunity for members to review the questions that have been answered? If information has been withheld, there has been a discourtesy to members.

**The Deputy Presiding Officer:** I am afraid that my answer is still the same. Answers are a matter for ministers, but ministers should remember their responsibilities.

Question 5 has been withdrawn.

### Young People

**6. Jim Hume (South of Scotland) (LD):** To ask the Scottish Executive what action it will take to enhance the lives of young people across Scotland. (S3O-600)

**The Minister for Children and Early Years (Adam Ingram):** The Scottish Government is committed to providing life-enhancing opportunities for young people, through a wide range of policies across its full remit. We are supporting young people to develop their skills and confidence, by providing access to a wide range of opportunities in sports, arts and youth work.

**Jim Hume:** I am sure that all members will join me in congratulating young Scottish Borderer Ruaridh Cunningham—I say to Christine Grahame that he is from Jeremy Purvis's constituency—on his success in winning the downhill mountain biking world championship in Fort William at the weekend. [*Applause.*]

With that success in mind, will the minister say what he will do to encourage young people to participate in sport at all levels? Can he commit to funding for sporting facilities and coaches, so that our young talent is nurtured and given easy access to a healthy lifestyle while at school?

**Adam Ingram:** I, too, congratulate Jeremy Purvis's constituent.

On what we are doing to increase opportunities for young people to participate in sport, the Scottish Government invests £12 million annually in the active schools programme, which is designed to give young people the opportunity to be more active, more often. A key element of the programme is the need to ensure that young people's views on the activities that they want to pursue are taken into account.

If the active schools programme is to be successful in tackling low levels of activity, it is essential that links are made between schools and local sports clubs, to enable young people to continue participating in their sport if they want to do so.

**Rhona Brankin (Midlothian) (Lab):** The minister said that he is committed to enhancing the lives of young people in Scotland. Does that include young people at Lasswade high school in Midlothian? He might be aware that the previous Government acknowledged the appalling state of the school buildings. Will he commit to replacing Lasswade high school?

**Adam Ingram:** I can commit to considering the circumstances that Ms Brankin describes, and I will be happy to discuss the matter with her.



## Angus Sinclair Case

**The Presiding Officer (Alex Fergusson):** The next item of business is a statement by Elish Angiolini on the case of Angus Sinclair. The Lord Advocate will take questions at the end of her statement and there should therefore be no interventions.

14:54

**The Lord Advocate (Elish Angiolini):** Presiding Officer, I am grateful to you for allowing me to address Parliament on this important issue. Some of the details of what I have to say are necessarily highly distressing and of a sexual and violent nature.

On 16 October 1977, the bodies of Christine Eadie and Helen Scott, both of whom were only 17, were found in East Lothian, a few miles apart. They had been bound, gagged, beaten, raped and strangled. As members are aware, on Monday of this week, Angus Sinclair was acquitted of their murders. That result was devastating for their families who, after 30 years, had hoped for answers to their questions about the dreadful events of October 1977. The outcome was also deeply disappointing for the police and prosecution teams who worked on the case. I can, however, advise Parliament that Alan Mackay, the advocate depute, is now safe and well with his family.

Following those tragic deaths, there ensued a long and extensive murder investigation, stretching over many years, led by Lothian and Borders Police. Despite the rigour and determination of that investigation, no suspects were traced at that stage. However, the investigation was never closed, and work continued to find the perpetrator of the crimes. Lothian and Borders Police followed very carefully the advances in forensic science, particularly in the field of DNA, and their unrelenting dedication in that area ultimately led them to identify Angus Sinclair as a suspect in the murders of Christine Eadie and Helen Scott.

In 2004, all of the evidence that had been ingathered by the police in the course of the investigations carried out up to that point was carefully analysed by a senior member of Crown counsel. An initial view was reached that a case had been formed against Angus Sinclair in relation to the murder of both women. A view had also been taken that, had Angus Sinclair's brother-in-law, Gordon Hamilton, been alive, he too would have been a suspect in relation to both of the murders.

There then followed a further, very thorough and lengthy investigation, conducted by Lothian and

Borders Police, who by this time were working in close liaison with the Crown Office and Procurator Fiscal Service, with particular input from Crown counsel. At the conclusion of that investigation, towards the end of 2005, all of the evidence available was considered in extensive detail by Crown counsel. At the beginning of 2006, the law officers and Crown counsel reached the view that there was sufficient evidence to indict Angus Sinclair for the murders of Christine Eadie and Helen Scott. That decision was not taken lightly; it was reached after a very careful assessment of all the available evidence by prosecutors at the highest level with many years' experience. Crown counsel believed that there was sufficient evidence upon which Angus Sinclair could be convicted of both murders.

In passing, I have noted that some commentators have suggested that the decision to prosecute was political. There is no question of the decision to prosecute being a political one. I find that suggestion absurd and utterly without foundation. If the view had been taken that there was insufficient evidence to support the charges, there would not have been a prosecution. That, of course, is why there has been no prosecution for some of the other so-called operation trinity murders, which I will refer to later this afternoon.

Following the decision to proceed with the case, the prosecution team who had been preparing the case came under the control of the then area procurator fiscal, Frank Mulholland QC, who is of course now the Solicitor General, seated beside me. An enormous amount of work was carried out by that team to ensure that the case was properly prepared for trial. The team included an experienced principal procurator fiscal depute and a former chief inspector, who joined the team to provide precognition support. An advocate with considerable experience in prosecution work, Gordon Balfour, was also appointed to the case, and worked with the prosecution team from its very early stages, as a Crown junior.

All the available evidence was considered in detail by the team. Witnesses were interviewed, productions were examined and the legal issues repeatedly analysed. That was done alongside members of Lothian and Borders Police and, in particular, the dedicated police support team for the families of Christine Eadie and Helen Scott, whose continuing work and support at all stages of the investigation was invaluable.

I am satisfied that the prosecution team had the necessary ability, experience and dedication to ensure that the case against Angus Sinclair was fully prepared for trial. Senior advocate depute Alan Mackay was selected to prosecute the case in October 2006. I was happy with that decision at the time, and I remain so now. Alan Mackay is a

highly regarded and extremely able advocate depute, who has shown great dedication to the prosecution service over the past four and a half years. He joined the ranks of Crown counsel in April 2003 and was appointed as a senior advocate depute in January 2005.

During his time as an advocate depute, Alan Mackay has been involved in many difficult and important cases. In 2004, he successfully prosecuted Michael McArthur for the appalling murder of Amy Anderson despite McArthur's attempt to cover up the killing by dismembering the victim's body, giving false statements to the police and falsely implicating her boyfriend in the crime. In 2005, he steered the prosecution to convictions against two masked gunmen who attempted to murder a rival in a drugs turf war in north Edinburgh. In 2007, he prosecuted Thomas McAlpine, a 15-year-old boy who was charged with murdering his grandmother by stabbing her to death. He has also carried out significant amounts of legally demanding work before the appeal court.

In short, Alan Mackay has made an outstanding contribution to the prosecution of crime in this country, and I very much hope that he will continue to do so. The prosecution of a case of this nature is an enormous challenge, and there is a heavy weight of responsibility on the advocate depute. It is clear that Alan Mackay was hugely disappointed by the way in which events developed as the trial drew to a close, but I believe that that was simply evidence of his commitment to the case.

The trial commenced in Edinburgh High Court on 27 August 2007. The advocate depute was supported in court by Gordon Balfour, an advocate who, as I mentioned, had been working with the prosecution team for some time and had supported the Crown in many difficult and long trials in the past. Given the current Solicitor General's detailed knowledge of the case from the time he spent leading the prosecution team preparing the case, he remained in close touch with Crown counsel and the team until the trial's conclusion and was available to discuss the case with the advocate depute if required. All necessary support was available to Alan Mackay at all times.

The trial concluded on Monday 10 September 2007, when the judge upheld the defence submission that there was no case to answer and acquitted the accused. The defence argued that there was insufficient evidence upon which to ask a jury to convict Angus Sinclair, and the judge, Lord Clarke, agreed with that proposition.

The decision at that stage was one for the judge and the judge alone. That is our system of law and, as the law stands, the judge's decision is final and we all have to respect that. Although, in other situations, the Crown in Scotland may appeal the

decision of a judge, it has no right of appeal against a decision made in those circumstances.

Although I would not normally think it appropriate as Lord Advocate to comment following such a judgment, given the extent of the misunderstandings about the case and the Crown's approach, I feel that I have to set the record straight about the Crown's understanding of the case and the evidence that was made available to the court.

I am of the clear opinion that the evidence that was made available to the court was sufficient to be put before the jury to allow it the opportunity to decide on the case against Angus Sinclair. Let me set out the Crown case presented to the court.

Christine Eadie and Helen Scott were last seen alive together on 15 October 1977 outside the World's End pub in Edinburgh. A witness, Mr Rafferty, saw them together at around 11 pm that evening, walking away from the pub with two men. Neither of them returned home that evening and neither of them was seen alive again.

On 16 October 1977 at around 2 pm, the body of Christine Eadie was found and, at around 6 pm the same day, the body of Helen Scott was discovered. The bodies were approximately four miles apart and 14 miles from the World's End pub.

The body of Christine Eadie was found at Gosford sands. She was lying at the high water mark on her back and she was completely naked. Her legs were outstretched and slightly apart. There was a gag in her mouth, which was later confirmed to be a pair of pants. They were held in place by a bra, tied round her head. Part of a pair of tights formed a ligature round her neck, and her hands were tied behind her back, also by part of a pair of tights.

Helen Scott's body was found in a field off the Huntington to Coates road, about 25yd from the entrance. She was lying face down and her hands were tied together behind her back with a belt. She was naked from the waist down, and her pants were lying, rolled up, to the left of her head. A pair of tights and a belt belonging to Christine Eadie had been used to form a ligature around her neck. She was still wearing her coat.

All the bindings or ligatures were applied while the two young women were still alive.

Professor John Mason, a pathologist, gave evidence at the trial about the injuries that were found on both girls at post mortem examination. Christine Eadie was found with congestion and haemorrhages in her eyes, indicative of strangulation, and an area of pallor consistent with a strap or use of a gag of some sort across her mouth. She was also found to have bruising of her

chin, consistent with being struck with a blunt instrument or striking something blunt, and marks and abrasions on her neck, consistent with strangulation with a ligature and the abrasions being, for example, fingernails. Professor Mason believed that that could indicate an attempt to prevent the strangulation taking place and that an external injury to the lip could also be from trying to stop the ligature. She was also found with internal mouth injuries, which were considered likely to have been caused by something being forced into her mouth, and well-defined ligature marks on her wrists, consistent with the hands being tied together. Professor Mason stated that a recent bruise over the front of both upper thighs and an abrasion over the lower front of the right knee were consistent with fingers or a thumb being used to push her thighs apart. The cause of Christine Eadie's death was certified as asphyxia due to strangulation with a ligature and by gagging of the mouth.

When Helen Scott was examined, she was found to have a black eye on the left side of her head and a bruise to the outer side of that eye, which was thought to have been caused by a blunt object such as a fist; an injury to the front of her ear and behind the ear, which was thought likely to have been made by the sole and heel of a shoe with some force; marks on her neck consistent with manual strangulation; an injury to the left of her chin, also consistent with ligature strangulation; abrasions on her arms indicating general violence towards her; and bleeding in the vaginal area associated with a tear and bruising to the left part of the hymen—Professor Mason gave evidence to the effect that this indicated penetration of some sort, which could be penile. The cause of Helen Scott's death was certified as asphyxia consequential upon strangulation.

Transport was used to convey Helen Scott and Christine Eadie from the World's End pub to East Lothian, where their bodies were found. Given the remoteness of the location, there was an inference that a vehicle must also have been used by the culprits to leave the sites at which the bodies were found.

Angus Sinclair was known to have links in the Edinburgh area and in 1977—the time of the murders—he owned a Toyota Hiace caravanette. He used that vehicle when he went on overnight or weekend trips with his brother-in-law, Gordon Hamilton.

By the time Sinclair was identified as a suspect in the case, the caravanette had been destroyed. However, samples of the upholstery that would have been used in that vehicle were obtained. Forensic scientists examined and compared fibres from that upholstery with fibres taken from Helen Scott's coat. This analysis provided strong

scientific evidence that her coat had been in contact with fabric of the type that would have been used in the caravanette.

Helen Scott's coat was new—she bought it the week of her murder. The coat was of such material that fibres adhering to it would shed rapidly if the coat was being worn. There was, therefore, an inference that could be drawn that Helen Scott's coat, and therefore Helen Scott, had been in Angus Sinclair's vehicle close to the time of the murder.

Vaginal and anal swabs were taken from Christine Eadie. Semen was found on those swabs. A partial DNA profile was obtained from both the anal and the vaginal swabs, which matched that of Angus Sinclair. A full DNA profile was obtained from the swabs, which matched the profile of Hamilton. These findings were consistent with both Angus Sinclair and Gordon Hamilton having had sexual intercourse with Christine Eadie.

Vaginal swabs were also taken from Helen Scott. A partial DNA profile was obtained from these swabs, which matched that of Angus Sinclair. A DNA profile matching that of Gordon Hamilton was also found.

Two stains found on the back inner lining of the coat that Helen Scott was wearing at the time of her murder were examined. These were found to be a combination of semen and vaginal secretions. The DNA profile from the semen indicated that the probability of the semen stain on Helen Scott's coat originating from someone other than Sinclair was one in a billion.

Forensic evidence suggested that the stain had been caused by drainage from Helen Scott's vagina following sexual intercourse. This was because of the location of the stain on the coat and because the stain was found to contain epithelial cells from Helen Scott—epithelial cells being cells from within the vagina or an orifice such as the anus or from within the mouth.

All of this was consistent with both Angus Sinclair and Gordon Hamilton having had sexual intercourse with Helen Scott. The evidence was also consistent with Helen Scott not having put her pants back on after that sexual intercourse. The drainage stain was found on her coat and no semen whatsoever was found on her pants. Given the positioning of the drainage stain and the lack of any such stain on her pants, there was an inference that following the intercourse she had been naked from the waist down but with her coat still on. When her body was found, it was in precisely the same unusual form of partial undress. There was therefore an inference that Angus Sinclair had sexual intercourse with Helen Scott not long before her death.

That inference is supported by the use of Helen Scott's pants as a gag. In circumstances where it could be inferred that her pants were not put back on following sexual intercourse, the jury would have been entitled to conclude that whoever undressed Helen Scott to have sexual intercourse with her was also responsible for placing the pants into her mouth as a gag.

The Crown case was a circumstantial one; it required inferences to be drawn from the evidence that was made available. Those inferences were that the same persons killed both of the young women; that they were transported from the World's End pub to East Lothian in a vehicle of some sort; that Helen Scott had been in Angus Sinclair's caravanette close to the time of the murder; that Angus Sinclair and Gordon Hamilton had sexual intercourse amounting to rape with Christine Eadie after which she was found bound, gagged, beaten and naked; that Angus Sinclair and Gordon Hamilton had sexual intercourse amounting to rape with Helen Scott after which she too was found bound, gagged, beaten and in a state of partial undress; that Helen Scott had not put her pants on after sexual intercourse; that the murders of both girls were sexually motivated, both having been gagged with pairs of pants, tied up using items of underwear and the bodies left naked or partially naked with evidence of sexual contact with two men; that the sexual activity took place at a time close to the time of the murders; and that the two men who were involved in the sexual activity committed the murders. In my view, that evidence, which was provided by the Crown, established a circumstantial case against Angus Sinclair.

I would like to say something about the nature of a circumstantial case. It is not every case that has direct evidence to implicate an accused. In many serious crimes there will, for obvious reasons, be no eyewitnesses. However, the case can often be built up by establishing a set of facts that, taken together, point to the guilt of the accused. This was such a case.

It is in the very nature of circumstantial evidence that it may be open to more than one interpretation and that it is precisely the role of the jury to decide which interpretation to adopt. It is not necessary that each piece of evidence that the Crown leads should point exclusively to the guilt of the accused. There may be other interpretations of those facts, but what is important is whether the several circumstances taken together as a whole can support the inference of guilt. It was the Crown's position that the evidence in this case allowed such an inference to be drawn.

It has been suggested that the case was not prosecuted properly and that mistakes were made that led to essential evidence not being placed

before the court. On the basis of the information that I have been given, I reject that suggestion.

It is for the advocate depute who conducts a trial to decide what evidence should be presented and, if particular evidence is to be presented, at what stage in the trial it should be introduced. Criminal trials are fluid and dynamic. It is impossible to predict exactly how evidence will come out during a trial, regardless of the preparation that has gone before. When a trial has commenced, the only person who can make an informed decision on the evidence that should be led is the prosecutor in court—that is, the advocate depute. Regardless of any views that others may hold, let me be absolutely clear that I will never interfere with an advocate depute's discretion on matters of that nature.

I do, however, wish to deal with certain comments that have been made about the evidence that was not presented to the court. That evidence was obtained after detailed forensic examination and was low copy number DNA at a low probability, providing a partial match to the DNA profile of Angus Sinclair. That DNA evidence was found on items of underwear that had been worn by Christine Eadie and Helen Scott—the same items that had been used as ligatures or bindings by the perpetrators of the murders. The DNA that was found was cellular. It was not extracted from bodily fluids such as blood or semen. Furthermore, it was only in trace amounts. The finding of trace amounts of cellular DNA, even if it is found inside knots, is consistent with touching or handling, so it could have shown only that Sinclair might have come into contact with the underwear of Christine Eadie and Helen Scott. Of course, stronger DNA evidence of contact had already been presented to the court.

Furthermore, the technique that was used was very sensitive, and results from examination of the ligatures disclosed that there had been contamination from other sources. That undermined the significance of the partial trace profile, which matched that of Sinclair. I quote from the scientist involved:

"it follows therefore that the relevance of these results requires careful consideration in the context of this case given the sensitivity of the techniques employed and the possibility that the DNA detected is unconnected with the offence under investigation."

The advocate depute gave careful thought as to whether the evidence should be led. He weighed up the limited benefit of the material against the potential difficulties. The evidence was not straightforward. It was likely to be technical and complex and it did not carry the same weight as some of the DNA evidence that was already before the court, on which he was relying to

establish the link between Sinclair and both young women's deaths.

The situation would have been very different if the partial DNA profile of Angus Sinclair had been found on rope or wire or some other external item that had been used as a ligature or binding. Evidence of that nature would be very powerful and likely to be compelling for a jury, but that was not the case: the items in question were underwear of the victims, which he was highly likely to have come into contact with and touched in the course of sexual contact, which had already been established.

Although there has been much critical comment about the decision not to present that evidence, it is my view that the decision on that point was entirely one for the advocate depute to make. I am satisfied that the advocate depute took a reasoned decision on this particular piece of evidence and that the decision was one that fell properly within his discretion as the advocate depute presenting the case.

I would also like to make clear that the Solicitor General and I are of the view that even if the advocate depute had chosen to lead the evidence in relation to the DNA on the ligatures, given the way in which the judge approached the case it is unlikely to have persuaded him to repel the defence submission. The judge considered that there was evidence of sexual contact between Angus Sinclair, Christine Eadie and Helen Scott, but he took the view that no further inferences could be drawn from that evidence. In his view, the evidence of sexual contact was neutral as to whether Sinclair was involved in using violence or force against the girls and neutral as to whether Sinclair was present when the actions of violence and force took place. Given the judge's approach to the very limited inferences which he considered could be drawn, it is difficult to see how the presence of the DNA on the tights and bra, which could have been expected to come from Sinclair around the time of sexual contact, could logically have altered the judge's decision in any way.

It has been suggested that only 20 per cent of the evidence available to the advocate depute was presented at the trial. Invariably in cases of this size and complexity, some witnesses and items of evidence are not referred to at trial, depending on the way in which the case progresses. It is a fundamental misunderstanding of the case to suggest that less evidence than necessary was presented to the court. A significant amount of evidence was agreed either prior to or during the trial, which can happen only if the evidence is listed on the indictment in the first place. Furthermore, some evidence was listed to ensure that any challenges to the evidence from the defence could be met, if required, and to ensure

that there was further evidence available to prove the Crown case if any particular piece of evidence did not come out as expected. That is perfectly normal procedure, as the defence is under no duty to give any notification to the Crown of the way in which it intends to approach the trial. In deciding what evidence to lead, the advocate depute must also consider the quality and value of the evidence.

Many comments have been made about the way in which the Crown handled the case against Angus Sinclair as a whole, and several articles in the media have suggested that Sinclair should have been prosecuted for a total of six murders, not only those of Christine Eadie and Helen Scott. Again, that is simply not correct.

While the investigation into the murders of Christine Eadie and Helen Scott was on-going, Strathclyde Police was carrying out its own investigations into the murder of four young women, all of whom were last seen alive in Glasgow in 1977 and thought to have been murdered between 11 June and 3 December 1977. Like Lothian and Borders Police, Strathclyde Police put an enormous amount of time and effort into the investigation of those murders in an attempt to trace the person or persons responsible. The investigation into all of those and other murders has come to be known as operation trinity. I wish to record my appreciation for the extraordinary efforts that the police put into investigating those cases.

As the investigations progressed, some significant similarities between the four murders being investigated by Strathclyde Police and the murders of Christine Eadie and Helen Scott began to emerge. The possibility of arguing that the same person committed all the crimes was considered, using the apparent proof of identification of Sinclair as being responsible for the murders of Christine Eadie and Helen Scott to identify him as the perpetrator of the other four murders.

There is a rule in Scots law that when there is sufficient evidence to implicate an accused in one crime, and when the circumstantial evidence demonstrates beyond a reasonable doubt that it was the same person who committed another crime, the jury can convict the accused of both crimes. That is sometimes referred to as the Howden principle, as the rule derives from the case of *Howden v Her Majesty's Advocate*. It is in fact sometimes referred to as a signature, because it is not a case simply of establishing that the two crimes are similar in type or in the manner and circumstances of their being committed. The essential question is whether the similarities are sufficiently unique to establish the identification of the accused as the perpetrator of both crimes. Are the similarities so great that the accused

effectively left his signature when he committed each of the crimes?

There will rarely be such clear similarities in different crimes as to allow prosecutors to use the principle. As members will appreciate, it is even more difficult to prove a murder charge of a historical nature when there is no direct evidence of any sort against an accused person. Crown counsel at the most senior level studied at length all of the evidence ingathered by both Lothian and Borders Police and Strathclyde Police to determine whether the cases could be linked using the Howden principle. Ultimately, the view was taken that they could not be.

I do not consider it appropriate to provide members with details of the available evidence in murder investigations that have not been brought to a conclusion and that could be the subject of future criminal proceedings, but I can say that there was no DNA evidence in relation to the four Strathclyde murders. Indeed, the key items of evidence were no longer available in three of the cases, and it was impossible to extract forensic material in the fourth case. There was no confession evidence. Despite Strathclyde Police's best efforts to establish a connection, there was no direct evidence to implicate Angus Sinclair in the murders it was investigating. As such, the Crown would have had to rely entirely on the Howden principle.

There were undoubtedly similarities between the cases, but there were also significant differences that could not be overcome, including differences in the circumstances of the individual cases and in that the murders of Christine Eadie and Helen Scott appear to have involved two men—Sinclair and Hamilton—whereas there was no evidence of two men being involved in any of the other murders. It would also have been impossible to exclude Hamilton as the sole culprit in the other murders. The position was further weakened because in one of the cases, involving the murder of Frances Barker, another man—Thomas Ross Young—had already been convicted on the strength of evidence that directly implicated him. He is seeking to challenge that conviction as a result, in part at least, of information that was provided to his legal advisers and the Scottish Criminal Cases Review Commission by the Crown Office during the investigation, but the evidence that implicates him remains. Young could not have committed the other murders because he was in prison. The differences in circumstances and the possibility of at least three men being involved in one or other of the various cases meant that the Crown would have been unable to rely on the Howden principle. On that basis, after the most painstaking analysis of all the evidence, Crown counsel reached the view that the Howden principle could not be successfully invoked on this

occasion. There was a sufficiency of evidence for the charges relating to Christine Eadie and Helen Scott, which there simply was not for the other charges.

The decision to proceed with only the Christine Eadie and Helen Scott murder cases was not taken for political or personal reasons, as has been suggested in certain quarters. The decision to do so was based on an assessment of all the available evidence, and it was made by the most able and experienced members of Crown counsel. The decision did not in any way reflect on the standard of the police investigation—indeed, I pay tribute to the officers who investigated the case with extraordinary determination and considerable ingenuity. The Crown Office and Procurator Fiscal Service worked closely with Strathclyde Police and Lothian and Borders Police prior to the final decision on the matter being taken, and although Crown counsel had to take the final decision, it was taken in close liaison with the officers who were involved. The lead officers in the investigations met Crown counsel before the decision was taken so that Crown counsel could explain its detailed reasoning.

Allegations have been made that the police were unhappy with the decision and that they thought that an error had been made. I noted that the assistant chief constable of Strathclyde Police, John Malcolm, said earlier this week that the views that have been expressed in the media by an unnamed police source or police officer are not the views of Strathclyde Police, which had worked closely with the Crown Office on the investigation and had understood its decision-making process throughout.

The Crown Office and Procurator Fiscal Service has an excellent relationship with Strathclyde Police and all the other police forces in Scotland. That relationship is based on professionalism, integrity and trust. We will continue to work together closely to ensure that perpetrators of crime are, where possible, brought to justice. We have certainly not closed the file on the four murder cases that I have mentioned.

Obviously, I am very disappointed by the outcome of the case. My deepest sympathies lie with the families of Christine Eadie and Helen Scott. The Solicitor General for Scotland will meet their families next week to try to answer any questions that they have about the case and the outcome.

The Crown raised the prosecution because Crown counsel believed that there was a sufficiency of evidence against Angus Sinclair. That remains Crown counsel's view. There was never any doubt that prosecuting Angus Sinclair for the murders of Christine Eadie and Helen Scott 30 years after the event on circumstantial

evidence would be extremely difficult. I am disappointed that a jury did not have an opportunity to reach a verdict in the case, but I am satisfied that the decision to raise proceedings in a difficult and anxious case was correct. I commend the efforts of the police officers and procurators fiscal who have been involved in the investigations.

There will be occasions when persons accused of a crime are acquitted. The purpose of the criminal justice system is to test independently the evidence that the public prosecutor puts forward. On occasion, judges and juries will find that they are not satisfied with the available evidence in a case, particularly when it is not straightforward.

In my opinion, it would be wrong for the Crown Office and Procurator Fiscal Service not to raise prosecutions because it fears an acquittal and the inevitable criticism that would follow. If there is a sufficiency of evidence and it is in the public interest to prosecute, there must be a presumption in favour of prosecution, regardless of the fact that the case will be difficult and there is a possibility of an acquittal. I would not wish to lead an organisation that shirked the responsibility of taking such difficult decisions.

Decisions on whether to prosecute in any case must involve the exercise of prosecutorial expertise, judgment and discretion. The natural tension between the accountability of the public prosecutor and the vital independence of the prosecutor can make the prosecutor's life difficult.

The ability to resist political whim, pressure group or other public clamour on what or who should be prosecuted is vital. Equally important is the need to cast aside the pressure from the public's desire that someone, anyone, be charged for a heinous crime. Instead, prosecution must truly reflect the public interest in a considered, clinical and independent fashion. It is the prosecutor who is able to look dispassionately at all the available evidence and assess what can be made of it. Armchair commentators, however eminent, are just that.

In my experience, the process of prosecution decision making rarely receives unqualified, unanimous acclaim. Prosecution to please may be a quick fix. It may gain superficial popularity. But it would surrender the very foundations of that which supports a sound system of justice. That necessary independence should not, however, be used as an excuse for a lack of accountability.

In the past few days, we have gathered the information for this statement to explain the Crown's position and address the many queries that have been raised. There will, of course, be a thorough review over the next few months of the

prosecution of the case. Any important lessons that we can learn will be taken forward.

It is essential that prosecutors at all levels are able to work without fear of an acquittal. The job is increasingly difficult. It must not be made more difficult because of fear that, when an accused person is acquitted by a judge or a jury, the prosecutor will be considered to have failed in their duty. If the role of the prosecutor is to remain independent, prosecutors must be confident that they can carry out their work without fear or favour.

As the Lord Advocate, I am happy to be held to account for the actions of the Crown Office and Procurator Fiscal Service—and for the prosecution of this case.

**The Presiding Officer:** As I intimated earlier, the Lord Advocate will take questions on issues that were raised in her statement. I intend to allow until around 15:55 for questions, after which we will move to the next item of business.

**Margaret Curran (Glasgow Baillieston) (Lab):** I thank the Lord Advocate for coming to the chamber. She will be aware of the widespread concern throughout Scotland that these vile crimes have gone unpunished and that justice has not been done. My first concern is for the families of Helen Scott and Christine Eadie, who have suffered unimaginable torment over the past 30 years. I believe that the criminal justice system has let them down. I hope that the Lord Advocate appreciates the need for Parliament to scrutinise what went wrong in this case and to come forward with proposals to ensure that victims and their families are not let down in this way again.

Will the Lord Advocate provide details of when, and which, law officers were in contact with the advocate depute in the preparation and conduct of the trial? She made clear in her statement that the decision not to lead the DNA evidence was taken by the advocate depute alone. I ask her to confirm that. My understanding from what she said is that that was the appropriate decision. However, in such a complex and technical case, surely it would have been helpful for the advocate depute to have consulted one of the law officers.

Given that the trial ended on the decision of a judge and not a jury, does the Lord Advocate agree that there should be a right of appeal? Does she intend to make recommendations to the Cabinet on legislative and other changes to the criminal justice system? When her review is concluded, will she issue a full written report and return to the Parliament to explain the lessons that have been learned, so that we can address such issues in future.

**The Lord Advocate:** Of course, although it can only pale in comparison to the pain that the

families of Helen Scott and Christine Eadie must be feeling, no one could feel anything but the most extreme pain at the conclusion of the case—certainly not the prosecutor who devoted 18 months of his life to the conduct of the case.

On the question of the law officers' involvement in the case, as area procurator fiscal, Frank Mulholland supervised the preparation and investigation of the case before he was appointed as Solicitor General for Scotland. Since then, because of his previous role, he has continued to provide support to the advocate depute in the case up until and, indeed, during the trial.

On the question whether the Crown counsel consulted a law officer on the decision not to lead the DNA evidence, there was no such consultation nor, as I said in my statement, would I expect there to be. I appoint advocate deputes because I have absolute confidence in their judgment. They must have the independence to make such decisions except in very restricted and limited circumstances. The reason for that is not preciousness but because the only person who can determine what evidence should be led once a trial has commenced is the person who presents the case in court. The Lord Advocate, the Solicitor General and other Crown counsel will not have seen the responses of jurors to particular aspects of evidence or be able to tell the nuances of how the evidence has emerged during the course of the case. Nor will they be able to tell whether the evidence has come out as anticipated, because evidence on paper is often very different from the evidence that emerges during a trial. The only person who has a grip on what the sensitivity is of the evidence that should be presented is the advocate depute. For that reason, only the most eminent and able lawyers are appointed as Crown counsel.

On the question of a right of appeal, it is not appropriate that I, as the public prosecutor, should set the goalposts for where the evidence should be led. That is a matter for the Executive and for the Parliament. However, I have expressed my concern about the absence of such a right of appeal for the prosecutor in Scotland. Indeed, I raised the matter with the Minister for Justice some weeks ago, but I did not do so in the context of any particular case. Hard cases make bad law, so there should not be a knee-jerk reaction to a particular case. However, as the public prosecutor, I have raised that matter in another context.

On the question of the lessons to be learned, I am of course happy to return to the Parliament and to the Justice Committee to explain what lessons have been learned as a result of the review of the case.

**Nigel Don (North East Scotland) (SNP):** Continuing on the issue of a right of appeal, I

recognise that the Lord Advocate does not currently have that right, although such a right is available in other circumstances in summary cases. If such a right had existed in this case, would she have invoked it?

**The Lord Advocate:** On such a hypothetical situation, it is difficult to speculate. However, given the Crown's submissions at the conclusion of the Crown's case and given what I have said about sufficiency, the Crown would have appealed in such a circumstance if the right had existed.

**Paul Martin (Glasgow Springburn) (Lab):** I echo Margaret Curran's comments about the families of the victims. They have behaved in an impeccable and constructive manner following the trial and they deserve justice.

On the conduct of the trial and in defence of Mr Mackay, the Lord Advocate said:

"It has been suggested that the case was not prosecuted properly and that mistakes were made that led to essential evidence not being placed before the court. On the basis of the information that I have been given, I reject that suggestion."

Will she confirm what information she has received? What other information might she receive at a further date that might allow her to review her decision that she has full confidence in Mr Mackay's prosecution of the case?

**The Lord Advocate:** I am surprised at Mr Martin's comments. Clearly, the information that I have been given has been provided by the lawyers who were in court. I expect that I have been given an impeccable and accurate account of that from the Crown junior and the chief inspector who were present in court.

Clearly, the information that I have given to the Parliament today has been gathered over a number of days. We will have a much more thorough look at the matter. Clearly, I would return to the Parliament if something were discovered that was in any way inconsistent with the position that I have represented to the Parliament today.

**Bill Aitken (Glasgow) (Con):** Both in the press and by other means this week, I have asked the Lord Advocate to answer three questions. First, was there a full appreciation of the difficulties involved in prosecuting this case, in view of the antiquity of the evidence? Secondly, was all the appropriate evidence led? Thirdly, was the approach to the matter influenced by other factors? This afternoon, the Lord Advocate has gone a long way towards answering those questions. In particular, I have to say that, had that additional evidence been led in court, I do not think that it would have taken the prosecution case much further.



However, the Parliament cannot be satisfied with this situation, which has resulted from the murder of two young girls in particularly horrible circumstances. Accordingly—and following on, to an extent, from the questions that were asked by Ms Curran—I ask the Lord Advocate whether she will consult again with the Cabinet Secretary for Justice with a view to an appeal provision being introduced under a particular section of the Criminal Justice (Scotland) Act 1995. Further, does she have any suggestions about how to avoid the obvious difficulties that would arise in that respect, such as the discharge of a jury in long and complex cases and whether it would be possible for the court of criminal appeal to make a determination in a short period of time, such as five working days, which would clearly be in the interests of justice?

**The Lord Advocate:** As I have mentioned, I have raised the issue of the appeal with the Cabinet Secretary for Justice. Clearly, it is for the Executive, collectively, not for me, as an independent prosecutor, to influence that. It is a matter that the Parliament must consider. However, the idea about a period of five working days sounds reasonable, if such an appeal were to be constructed. Certainly, the notion of having to discharge a jury in the middle of a trial would be unappealing, given that evidence had been heard. I think that some creativity around how that would be constructed would be important in order to ensure that distressing evidence, which will have caused anguish and trauma to people who have had to hear it, does not have to be repeated because of a decision made at that stage.

Of course, the power of the judge to reject the Crown case at its conclusion, following a no case to answer submission, was introduced only in 1980. Prior to that, all evidence would have been put to the jury, unless there was what was known as a common-law submission before the jury. At that time, the right of appeal by the Crown was given, in summary cases, before a sheriff or a justice of the peace. However, that did not happen in solemn cases, which are those that are heard before a sheriff and a jury or in the High Court.

**Roseanna Cunningham (Perth) (SNP):** The anguish of the victims' families can barely be imagined. Will the Lord Advocate therefore agree with me that this case highlights the need for greater openness on the part of the Crown Office, something for which I have long called and which I hope she will consider in the light of this case?

Does the Lord Advocate also agree that every criminal case comprises a series of judgment calls that are made during preparation and during the trial and which include any decision that is made by a judge or, indeed, a jury? Does she agree that, regardless of whether we agree with those

individual decisions, they cannot be micromanaged from outside the process by people with no training and a sketchy understanding of the system who have not sat through the trial, particularly when the decisions relate to evidence? Does the Lord Advocate agree that this parliamentary chamber cannot and must not be allowed to become a criminal court or, worse, a witch hunt?

**The Lord Advocate:** As I said in my statement, the decision about what takes place during the course of the trial must be with the prosecutor. There must be trust in the prosecutor to make decisions based on the way in which he or she perceives the evidence to have emerged in the case. The prosecutor has to make judgment calls, as do the judge and the jury. It is only in circumstances in which there is a right of appeal that the Crown will challenge that thereafter. Of course, as I said earlier, it is important that we all respect the decision of the judge.

**Margaret Smith (Edinburgh West) (LD):** I thank the Lord Advocate for making such a full statement this afternoon. It is only right, given the notoriety not only of the case but of the judgment, that she, as the country's foremost law officer, should come before Parliament to answer our questions.

Before I ask my questions, I say, on behalf of my Liberal Democrat colleagues, that we remember in our thoughts today the families of Christine Eadie and Helen Scott. Our thoughts are with them.

I also place on record our appreciation of the work that has been done by Lothian and Borders Police officers and other law enforcement officers and officials, who have stuck doggedly to their task over many years.

The case also reminds us that our criminal justice system is based on the key premise that any of us, when accused of a crime, is deemed innocent until proven guilty. The job of the Crown Office and Procurator Fiscal Service is to build and present the case beyond reasonable doubt. Given Lord Clarke's judgment, it is clear that the service failed to do so.

Can the Lord Advocate tell us what inquiries are under way in the Crown Office and whether there is any independent element to those inquiries? Does she believe that any purpose would be served by the holding of a public inquiry or any other form of wider inquiry not only into this case but in relation to some of the comments that my colleagues have made, with which I associate myself? On the basis of her examination of the case so far, what lessons, if any, can we learn and what changes might she be able to suggest to the Scottish Government?

**The Lord Advocate:** I agree entirely with the sentiments that the member expresses about the extent of this tragedy for the families and the dignity that they have shown throughout this trying and difficult process.

Inquiries will be made and a review will be carried out, as for all significant and important cases of this nature. When there has been a failure to present the case to a jury—not when there has been an acquittal—we will carry out a review. In this case, a prosecutor at the most senior level who has not been involved in the case in any way will be asked to carry out a review of the case.

As far as a public inquiry is concerned, I hope that what I have set out to Parliament today and the undertaking that I have given, should any other information that is relevant to what I have said today become available, will be sufficient for Parliament. Day in, day out, the prosecution service secures convictions in many difficult and trying cases and, when there are acquittals, knows that that is also part of the system.

As the member rightly said, Angus Sinclair now stands innocent of the murders. It is for the Crown to prove cases beyond reasonable doubt. That is a heavy onus that we readily accept, but it is a difficult challenge in a country whose evidential standards are higher than those of any other country in Europe, where corroboration is necessary and where the timetable for prosecution is so accelerated that many other countries in Europe simply do not recognise the timescales within which we operate.

On that basis, I hope that, as the public would expect, the Parliament accepts that, although there may have been a failure to get the case to the jury, the explanation that I have given today and the performance of the prosecution service more generally mean that a public inquiry will not be necessary.

**Ian McKee (Lothians) (SNP):** I thank the Lord Advocate for her full and helpful explanation of what is going on. It has reinforced my confidence in the ability and integrity of the prosecution service.

In her statement, the Lord Advocate said that some of the evidence that was collected in the case of the operation trinity murders is not available now. Those murders took place at about the same time as the murders of Christine Eadie and Helen Scott, yet abundant evidence has been retained relating to the World's End murders. Does she agree that the lack of evidence relating to the operation trinity murders has inhibited the prosecution case in this circumstance? Can she make any observations regarding the collection and preservation of evidence for future cases?

**The Lord Advocate:** It is difficult to be critical of what took place some 20 years ago. Some of the advances in forensic science and knowledge have been utterly unexpected developments that have taken us all by surprise. Had there been evidence such as we had in this case, the other four cases that were investigated as part of operation trinity would have had a much greater prospect of prosecution. That is not to say that such evidence will not be discovered. We know that, over the years, evidence has been lost. Some of it has deteriorated—it was buried under soil and contaminated—and, despite copious searches of Strathclyde Police's offices, some of the material cannot be located. It was only through the presence of mind of Lester Knibb, of Lothian and Borders Police, that the Crown was able to indict the case of Angus Sinclair. Lester Knibb is to be complimented on his presence of mind and foresight at the time. However, given that there have been some utterly unimaginable developments in this area, it would be unfortunate if we blamed officers for actions taken some years ago.

**Sarah Boyack (Edinburgh Central) (Lab):** Does the Lord Advocate acknowledge that local people feel a deep sense of injustice about this case, which has been raised with me from time to time in the eight years that I have been an MSP, and that many members of the public were prepared to give evidence and statements to the police, who, as she has pointed out, worked for many years to bring the case to trial? Given that many local people feel very let down by the decision, what does she intend to do to restore confidence in the justice system?

**The Lord Advocate:** The fact that witnesses were willing to come from all parts of the world to give evidence in this case and to assist in the investigation is a testament to the good citizens we have in this country. Over the years, more than 14,000 statements were obtained in the investigation, which illustrates the scale of the inquiry and the willingness of members of the public to assist in the administration of justice.

As far as restoring confidence in the system is concerned, convictions happen every day. Although we often see headlines about those convictions, there is little recognition of the work that has been done to secure them or, indeed, of the fact that they have been secured through prosecutors' efforts. The prosecutors in this country go about their business quietly, modestly and without the public annunciations of success that happen in many jurisdictions. Unlike attorneys in other countries, Scottish prosecutors do not come to the doors of the court to proclaim the success of their case. As a result, the many cases that are prosecuted successfully day in, day out do not register in the public psyche in the way that

failures do. After all, it is the failures that make the headlines.

We should not lose confidence in the Scottish criminal justice system, or even suggest that public confidence has gone, simply because of one major and very tragic failure. There has been a frenzy around one case—or, indeed, around one of a number of high-profile cases—when, in fact, the picture day in, day out is very different.

I hope that the public acknowledge the work that is carried out by the public prosecutors. In fact, the Crown Office and Procurator Fiscal Service's efficiency was highlighted in evidence on the Howat report that was presented this week to the Justice Committee, and many witnesses and victims of crime write to thank procurators fiscal for their work. That work, which is unsavoury, traumatic and difficult, happens very much behind the scenes, and the Parliament and the public of Scotland should be grateful to the prosecutors for carrying it out.

The prosecution service is not the most lucrative area of law in which to pursue a career. Those who come into the public prosecution service do so in the knowledge that they will be in a public forum, that they will have to work with great tragedy and that, when they prosecute cases, they are more and more likely to be on television and to be photographed. They are good people who work extremely hard, and I hope that, if public confidence in the system has been dented as a result of this case, it will be restored.

**Stuart McMillan (West of Scotland) (SNP):** Is the Lord Advocate confident that the Crown Office and Procurator Fiscal Service has the capacity to deal with major cases, bearing in mind that, as she pointed out earlier, it has to operate under severe time constraints?

**The Lord Advocate:** Over the past five years, there has been a sizeable increase in the number of prosecutors and the cohort of Crown counsel has increased from 18 to 25, with eight ad hoc deputies in regular use. As a result of successes of police forces throughout Scotland, we are receiving more and more major project cases involving, for example, organised crime and murder, which we are tackling at a higher and more sophisticated level than we have ever been able to. As those new cases raise challenges, we have changed our working practices to ensure that teams are set up to deal with them and that Crown counsel become involved at the very earliest stage. Moreover, according to police forces in Scotland, 42 cold-case murders have become subject to the same kind of investigation as the case under discussion this afternoon.

As a result of our information technology, skills and training, we have never been better prepared

for dealing with such cases. However, major pressures and challenges continue to exist for the prosecution service. The time constraints are a major issue and the disclosure measures, which came to us some 18 months ago through a case in the Privy Council, have added to that. I constantly consider the available resources with the aim of making better use of our people and IT to ensure that we provide an efficient, effective and resilient prosecution service. I am in discussions with the Cabinet Secretary for Finance and Sustainable Growth about the current financing of the department.

**Margo MacDonald (Lothians) (Ind):** I thank the Lord Advocate for her detailed and clear statement. Lord Clarke in his opinion stated:

“There was no forensic evidence linking the accused with acts of violence said to have been the cause of death. There was no evidence that the accused had been the actor in the case of the rape or murder of either of the girls.”

Given that, can the Lord Advocate explain why DNA from skin that was present in the centre of the knot in one of the ligatures that were the murder weapons that killed Christine Eadie and Helen Scott was not produced in evidence? Why was the case not prosecuted by the Solicitor General, given its complexity and the fact that it was prepared during his time as procurator fiscal in the Lothians, which meant that he had great knowledge of all the evidence?

**The Lord Advocate:** I will answer the second question first. In the prosecution service, procurators fiscal investigate crime and prosecute in the sheriff and district court. With solemn cases, an important distinction exists. To ensure that decisions that are taken in our most serious cases are reinforced and that a collegiate approach is taken, Crown counsel take the decisions separately from procurators fiscal. It would have been inappropriate for the procurator fiscal who prepared the case and who was therefore close to the investigation to prosecute it.

Further, in light of the duties of the Solicitor General and the Lord Advocate, it would have been well-nigh impossible for the Solicitor General to prosecute the case. I would like to be in court every day of the week—it is what I joined the prosecution service to do some 24 years ago. I am a prosecutor, not a politician, and my career came through my love of advocacy, as did the Solicitor General's. Although we try to be in court for major and significant appeals as well as for short trials—the Solicitor General was in court this week—the volume of work of a law officer and the need to advise and supervise cases from throughout Scotland simply do not allow us to disappear from the Crown Office to prosecute cases for four, five or six weeks, which is the time that many such cases can take.

**David Stewart (Highlands and Islands) (Lab):**

Does the Lord Advocate share my view that a case can be made for allowing juries sight of analogous previous convictions when defendants have a history of predatory sexual assaults? In the case of Angus Sinclair, what risk management procedures are in place in the event of his release to ensure that he never endangers the public again?

**The Lord Advocate:** In Scotland, evidence of a previous conviction can be admitted in the course of a trial only very rarely and in exceptional circumstances. That is not the case in many other jurisdictions, where evidence of similar fact, including previous convictions, may be introduced as part of the Crown case to show a disposition, particularly if the conviction relates to a similar crime. That is not the situation in Scotland. It would make my life as a public prosecutor easier if I could lead such evidence, but that is not to say that that is the correct approach. The matter must be considered objectively by the Government, the Parliament and others more widely so that a fair balance is reached. It would not be appropriate for someone who could be perceived as partisan to decide on such principles. Of course I would say that I want prosecutions to be made easier and to have more evidence available. My view is that allowing such evidence would enable more prosecutions to take place but, in a democracy, a balance must be struck by the Parliament rather than by prosecutors.

Mr Stewart asked about the risk management of Angus Sinclair. As Mr Stewart knows, Angus Sinclair is serving a sentence of imprisonment. He is not due to be paroled until 2016. That will be a matter for the Parole Board for Scotland. He is serving a number of life sentences and the Parole Board for Scotland will decide if or when he will be released on to the streets. That is not a matter for ministers, nor is it a matter for the prosecutor.

## Planning

15:56

**The Deputy Presiding Officer (Alasdair Morgan):** The next item of business is a statement by John Swinney, on national developments in planning. The cabinet secretary will take questions at the end of his statement; there should therefore be no interventions.

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** Today's statement honours the commitment to provide Parliament with the criteria that the Government will use in designating national developments in the national planning framework. I would also like to take this opportunity to set out the Government's approach to planning reform, the link between planning and the Government's central purpose, and our aspirations for the national planning framework.

The Planning etc (Scotland) Act 2006 was passed by a majority of 114 to 13 in the previous session of Parliament. That represents a significant endorsement and, as I have gone round Scotland over the summer, I have been struck by the general support for the purpose of the legislation. However, there is much still to do to deliver a modern, effective, efficient and responsive planning system, and we will continue to develop the direction of travel that was set by the act, which, as I said, was passed during the previous session of Parliament.

We have consulted on the designation orders and statutory guidance for strategic development planning authorities. This autumn, draft regulations on other aspects of development planning, development management, appeals, enforcement and the conduct of examinations will be the subject of consultation. We will take the opportunity with appropriate dialogue and debate to get this right and to ensure that processes are proportionate, and we will deliver better outcomes.

Planning is in essence a local government function, and some councils have already altered their practices and approaches to embrace the aims of the modernised system. I encourage more to do so. They should take those steps in the knowledge that we are not seeking to change local government boundaries, remove functions from local authorities, or reopen the debate about the underlying principles of planning reform.

I believe that the planning system must contribute significantly to meeting the Government's overall purpose, which is to promote increased and sustainable economic growth. The publication, next month, of the Government's economic strategy will set out how

we intend to improve Scotland's economic performance. Planning will have an important part to play in that strategy.

Ensuring that planning makes a contribution to sustainable economic growth certainly does not mean unfettered development. The qualities of Scotland's cities, towns and countryside are critical assets in promoting the country internationally, as well as in providing places for people to work, live and play. Promoting development regardless of location, quality or environmental impact is therefore firmly not on our agenda. Development must not be at the cost of damaging our world-renowned built and natural heritage. However, economic benefits can and should hold sway over protecting vested interests or knee-jerk resistance to any change.

We need development. A country of 5 million people in the north-west of Europe will not prosper if we place unnecessary or unreasonable constraints on development or take decisions at a pace that discourages potential investors. A thriving economy requires investment in jobs, homes, schools, hospitals and facilities for leisure and recreation. Investment in infrastructure—transport, energy, flood defences, water and drainage, and waste—is fundamental, not an optional extra. Some of those developments raise issues of genuine concern for local communities, but developments must happen somewhere and these are decisions that governments—national and local—must get right to support Scotland's long-term interest.

Early and broadly based discussion with local communities and other parties, including business, on the future direction of change in their area is a fundamental part of the reformed planning system. We remain committed to that. Our expectation is that debate will be held and decisions made in development plans, not through objections to individual planning applications. However, I fully accept that not every development can be anticipated and that planning must demonstrate that it is sufficiently fleet of foot and responsive to emerging opportunities.

The role of the national planning framework is to set a strategy for Scotland's long-term development; in other words, it is about the sort of place that we want Scotland to be—or, more accurately, what sorts of places we want in Scotland, as we have a remarkably diverse natural and built heritage.

The first national planning framework, which was published in 2004, was well received. It was welcomed by local authorities, the business community and the planning profession, and it won international recognition as an example of good practice in spatial planning. In acknowledging the diversity and potential of each

part of Scotland, it raised the profile of geography in policy making, and contributed to the development of a renewed interest in long-term strategic thinking and a belief that we can shape our future rather than react to events.

Although the first framework brought benefits as regards co-ordinated thinking, there was a view that it could have played a more active delivery role. That was reflected in the report of the Parliament's Finance Committee of March 2005, in which the committee concluded that

“there should be a strengthened national planning framework which enables better direction, coordination and prioritisation of project and programme spend”.

From the point of view of legislation, aspiration and the link with the national conversation that the Government has started, I believe that the timing of our second national planning framework could not be better.

The Planning etc (Scotland) Act 2006 put the framework on a statutory footing and the relevant parts of the act have been commenced. The framework must be prepared with the objective of contributing to sustainable development. Strategic environmental assessment has an important part to play in achieving that goal and our approach to it has been well received. Ministers are required to prepare a participation statement that sets out how they will engage the people of Scotland in preparing the framework. The seminars that my officials have held across Scotland have revealed strong interest in and support for the framework.

The framework is about what we want Scotland to be like in 20 to 25 years' time and where things need to happen to make that possible, so it can be an important vehicle for our national conversation. The First Minister has asked

“every Scot to pause and reflect not on the kind of country we are—but on the kind of country we could be—we should be.”

The Government poses the question, “What do we want Scotland to be by 2030?” That is what we are asking people in Scotland to think about.

For too long, the climate around the discussion of planning issues has been adversarial, with the emphasis being placed on objection and protest. Our aspirations for the debate around the national planning framework are identical to those for “Choosing Scotland's Future”. Planning is about shaping our future, so we ask the country to focus on what is best for Scotland and what offers the best opportunities for future generations. Today, I say optimistically what the First Minister said about the national conversation:

“let us have this debate in a context of civility, intelligence and maturity.”

The second national planning framework will guide Scotland's spatial development to 2030. It will take forward the spatial aspects of the Government's economic strategy by highlighting the importance of place and places. It will identify key priorities for investment to enable each part of the country to play to its strengths in building a Scotland that is wealthier and fairer, smarter, greener, healthier and safer and stronger.

The framework will focus strongly on priorities for the improvement of infrastructure to support Scotland's long-term development. On transport infrastructure, it will draw on the work that is being undertaken as part of the strategic transport projects review to further our objectives of cutting journey times between our cities and easing congestion. It will identify strategic priorities for investment in energy and environmental infrastructure. It will reflect the Government's policy commitments on sustainable economic development, climate change, regeneration and housing supply. It will help to move us towards more sustainable patterns of development and a low carbon economy.

The Planning etc (Scotland) Act 2006 makes provision for the national planning framework to be used to designate certain projects as national developments. Major strategic transport, energy and environmental infrastructure projects may fall into that category of development. The essential test will be whether the development is of strategic importance to Scotland's long-term sustainable economic growth. Designation in the framework is the mechanism for establishing the need for such developments, so that any inquiry focuses on issues such as design and the mitigation of environmental impacts, not on matters of principle, which this Government, like the previous Administration, believes are matters for political debate and decision.

The projects that will be designated as national developments will be fundamental to the delivery of the spatial strategy that we will set out in the second national planning framework. They will help to unlock the potential of priority locations for sustainable economic growth and regeneration. They will be not free-standing projects, but planned strategic interventions as part of an overall strategy.

Let me make it clear, though, that designating a project as a national development will not mean making a spending commitment. No minister can make commitments over such a length of time. Indeed, some developments might well be funded entirely by the private sector. What the designation should provide is an indication of relative priorities for investment, thereby helping to create the certainty and confidence that business and local communities seek.

We have been keen to keep the criteria that we will use to identify national developments as clear and as simple as possible. Our approach will be that projects that may be identified as national developments are those that are considered relevant to the following six factors. They must make a significant contribution to Scotland's sustainable economic development. They must strengthen Scotland's links with the rest of the world. They must deliver strategic improvements in internal connectivity. They must make a significant contribution to the achievement of climate change, renewable energy or waste management targets. They must be essential elements of a programme of investment in national infrastructure, or they must raise strategic issues of more than regional importance—for example, projects with impacts on more than one city region.

The first criterion reflects the priority that we give to achieving higher and sustainable economic growth. Projects that are critical to achieving that objective will be identified as national developments. The second criterion reflects our commitment to promoting Scotland as a place in which to do business, as a location for investment and as a top tourism destination. That means a Scotland that is well connected to the rest of the world.

The third criterion reflects our commitment to an effective national transport infrastructure that makes journey times faster and more reliable; improves connections in order to build and sustain economic growth; provides travel opportunities for employment, business, leisure and tourism; and links cities, towns and rural communities throughout Scotland. The fourth criterion reflects our commitment to creating a greener Scotland and specific commitments on reducing CO<sub>2</sub> emissions, making the most of Scotland's renewable energy potential and improving our management and recycling of waste.

The fifth criterion recognises that key individual projects may be critical to the successful delivery of wider programmes of investment in national infrastructure in areas such as renewable energy development, electricity transmission and waste management. The sixth and final criterion ensures that the focus remains firmly on the top tier of projects that are genuinely of national significance, which are those that are important for more than one part of Scotland.

The projects that the national planning framework will identify as national developments are likely to be relatively small in number and genuinely of national strategic significance. We do not intend to use the national planning framework to take decisions that are properly the preserve of local government.

National developments will not be conjured out of thin air. We do not intend that potentially contentious national projects should emerge for the first time in the national planning framework without any prior policy context. Projects that are identified as national developments will be likely already to have been the subject of consultation and debate as part of the development of existing policy commitments and programmes, such as those relating to the economy, transport, energy and waste management. They will be projects such as the replacement Forth crossing, for example.

The national planning framework will not make policy in areas such as the economy, transport, energy and waste management, although it should provide opportunities to improve co-ordination of effort and investment in certain locations. Planning authorities will have to ensure that their development plans fully reflect the national infrastructure needs that are identified in the national planning framework.

In the case of energy, the Government is firmly opposed to further nuclear power stations, so let me make it absolutely clear that the framework will not identify locations for new or expanded nuclear power stations. However, it will address the geographic implications, opportunities and benefits around the generation and transmission of clean energy.

To put it simply, national developments will in essence be infrastructure projects, that in the Scottish Government's view, have a critical contribution to make to our overall purpose of creating a more successful country.

The projects that we propose to designate as national developments will be identified in the consultative draft of the national planning framework, which we intend to issue before the end of the year. The draft framework will contain a statement of ministers' reasons for considering that there is a need for the developments in question. On publication of the draft framework, there will be a further, major round of consultation, including a series of regional seminars. Where the draft framework can be sufficiently specific about the location of a national development, additional, targeted community engagement will be undertaken.

Our proposals for national developments will be subject to scrutiny by the Parliament as part of the statutory process of consultation on the national planning framework, and we will seek to proceed by consensus. There will be opportunities for scrutiny, comment and debate throughout the process.

The second national planning framework offers a timely opportunity for the Government to set the

tone on how it wants the debate on planning issues to be conducted, to demonstrate how an ambitious but stable planning regime can provide the necessary opportunity, certainty and stability, and to provide a mechanism for ensuring that decisions on strategic infrastructure investment are taken as part of a long-term strategy for Scotland's sustainable economic growth. I look forward to discussing it with members.

**The Deputy Presiding Officer:** The cabinet secretary will take questions on the issues raised in his statement. I intend to move to the next item of business no later than 4.50 pm.

**Des McNulty (Clydebank and Milngavie (Lab):** In the spirit of civility, I thank Mr Swinney for advance sight of his statement.

I welcome Mr Swinney's quotation from a report by the Finance Committee in the previous session of the Parliament, which I think was produced before he became a member of that committee. As Mr Swinney said, the Finance Committee recommended that

"there should be a strengthened national planning framework which enables better direction, coordination and prioritisation of project and programme spend".

The problem is that the criteria that the cabinet secretary has produced do not necessarily implement that recommendation, particularly in relation to co-ordination and prioritisation. The criteria do not lend themselves to measurement or systematic evaluation. They are tick-box criteria.

If we are to have a proper national planning framework, projects that are designated as national developments must be seen to be truly national priorities—the process must be completely transparent. The Scottish transport appraisal guidance system allows us to compare projects and evaluate the coherence and appropriateness of programmes. Why cannot that system be used to prioritise projects and feed into a national framework? Will the minister reconsider the criteria, to ascertain how prioritisation might be made more transparent, so that we can all see how projects end up in the framework?

Such transparency is particularly important, given that people will be asked to make their views known not through local planning arrangements but through national planning arrangements. It is clear that not only must the mechanism whereby projects are chosen be transparent, but people must be empowered to take part in the process. What approach will be taken to empowerment and community engagement on designated national developments in the national planning framework?

The priorities in the national planning framework are not just the Government's priorities; they are Scotland's priorities, especially when there is a minority Administration and the party of

Government changes. It is important that there should be broad consensus on how to progress infrastructure projects, which are developed over a long period. Will the cabinet secretary pick up on his colleague Bruce Crawford's comments on increased involvement and parliamentary accountability, which were made before the election, and adopt those ideas in his approach to the national planning framework?

**John Swinney:** Des McNulty is right—I quoted from a Finance Committee report that came before my own vigorous contribution to the committee's proceedings, most of which I suspect I shall regret in my period in office as finance minister. I may as well say that now, because I will have to say it a few times in the period ahead.

I am interested in Des McNulty's point on the criteria for national development. He will know from the contributions that I have made to the Finance Committee and in my more general contributions to the discourse in Parliament that it is important that we are able to see the tangible impact of the decisions that we take. I am minded to move to a system in which we consider the achievement of outcomes in terms of the policy measures that we introduce. We must have an effective assessment process to judge what will be considered to be national developments and be in a position to evaluate what steps will be taken towards those decisions.

I assure Des McNulty that the criteria that I have set out are by no means a tick-box set. In relation to the classification of national developments, the criteria will put a high test on ensuring that we join up elements of decision making, so that we do not simply take a decision on a particular project that has a consequence on another area of policy that is of equal significance to the Government, to Parliament and to the country. I accept the need for transparency in considering those issues.

That brings me to Des McNulty's point about the involvement of the public in the process. My firm view about the planning system—and the Government's view in taking forward this agenda—is that we must maximise public involvement and participation in formulating the priorities. Clearly, Government will have its own contribution to make, but the involvement of people in the early stage of forming the priorities, the direction and the way in which developments will be undertaken is essential because it will avoid trouble later on. Such trouble can be disruptive and damaging not only to the planning process, but to the health and development of our economy.

That in turn brings me to Mr McNulty's final point, about the involvement of Parliament. I accept what he says. We are in a completely different political era because, in the past few

months, the people who were never supposed to get into Government got into Government. "Thank goodness", I hear members say. To me, that says that to ensure that we can move Scotland in an agreed direction of travel in a number of areas, we must bring together political opinion with community opinion and agree on shared priorities in which we all have confidence. As we go through the national planning framework, I hope that we will have the opportunity to encourage that process within the parliamentary process. As always, I look forward to Mr McNulty's contribution to that process.

**Derek Brownlee (South of Scotland) (Con):** I, too, thank the cabinet secretary for advance sight of his statement, and I congratulate him on his ingenuity in managing to link the national planning framework with the national conversation. It is quite an achievement to link planning with independence, but I rather suspect that there is more appetite for planning reform than there is for independence.

I appreciate that the cabinet secretary cannot comment in too much detail on future spending, whether in the short term or the medium term, but—given the welcome words in the statement on prioritisation of strategic infrastructure projects nationally—will he confirm that incremental spending increases will be targeted at the infrastructure projects that will have maximum impact on economic growth, and that the same tests will be applied to allocation decisions on non-infrastructure spending?

**John Swinney:** The link between planning and independence is planning for independence, which is perhaps what is on the minds of some of us here.

On Derek Brownlee's point about public spending, we are beginning to encroach on issues that we will, in due course, discuss with Parliament. What is important, however, is that we give significant recognition to the structure of decision making that has been introduced by this Government. On coming into office, we have established as our purpose an increase in sustainable economic growth in Scotland. Our decisions in support of that purpose are taken through the prism of five strategic objectives, which I have set out and which Mr Brownlee does not need me to repeat. That purpose applies across the board on our policy decisions as an Administration—we will take decisions according to that structure of decision making to ensure that we support at all times our purpose of increasing sustainable economic growth in Scotland. Obviously, those issues will become clearer as we consider the outcome of the spending review, in due course.



**Tavish Scott (Shetland) (LD):** I share Mr Swinney's desire that any conversation of whatever variety—local or national—be conducted in a civil, intelligent and mature fashion. That does not necessarily mean that we will agree, but we will do our best to conduct it in those terms.

Mr Swinney's statement could have been read in large part by his predecessor as planning minister, Johann Lamont, although that might be unfair to both of them.

I note and agree with Derek Brownlee's point about the link to independence. The point about "planning for independence" is that Mr Swinney will be planning for an extremely long time if that is his role in the new Government.

I will ask several specific questions on points that he made this afternoon. I noted his link to the Government's economic strategy—indeed, he has just referred to it again in response to Mr Brownlee. Why will the council of economic advisers not have an input into the spending review over which he now presides? If I am to understand the BBC reports from last night, that spending review is, I regret to say, currently being briefed to the press rather than to Parliament.

I notice that the Minister for Transport, Infrastructure and Climate Change is beside Mr Swinney, which I welcome. How does he plan to achieve easing of congestion, strategic links and improved connections—all important objectives on which many members agree with him—when the Scottish National Party has cancelled the Edinburgh airport rail link project and wants to build more roads? That cancellation is a truly bad decision. I accept that Mr Swinney does not agree with me on that: it is, nonetheless, a bad decision.

I draw Mr Swinney's attention to the report by the Sustainable Development Commission that was published last Wednesday and announced in Parliament. I am sure that he has had an opportunity at least to glance through it—I suggest that the Government read it carefully before it pronounces on major transport projects. In particular, I draw his attention to the comments on reducing CO<sub>2</sub> emissions and making the most of Scotland's renewable energy potential.

Mr Swinney also said that economic benefits can and should hold sway over protecting vested interests or knee-jerk resistance to change. That is a sentiment and approach with which I entirely agree. Therefore, why did Alex Salmond declare last Friday green energy day but cancel a major wind farm development in Aberdeenshire on Monday? Is the reality of Mr Swinney's Government that, on wind power, it wants to oppose schemes where opposition exists, as it did on Monday? Does not it realise the huge potential for wind power in the strategic planning document

that it has announced this afternoon, not only for clean energy production but for the manufacturing industries that can go with it? Will wind farms be judged to be small and medium-sized developments rather than significant developments under the national planning framework? Does that mean that the Government's policy of a local moratorium will become one of a national moratorium? Today is an appropriate time for Mr Swinney's Government to be clear on that. Not only Parliament but the industry expects clarity, so a straight answer would be welcome indeed.

**John Swinney:** I thank Tavish Scott for a long question, which is what I used to ask him, although I will not apologise for that.

Mr Scott said that the statement could have been delivered by Johann Lamont. That may be the case and, to be frank, it is not a particularly bad thing in the context of the planning debate. I am trying to encourage a debate in which Parliament focuses on shared priorities in order to ensure that we provide exactly the type of continuity that Mr McNulty was asking about, and some agreement on direction. I would have thought that that was to be welcomed, but I live in hope that consensus politics might gravitate towards Mr Scott at some stage in the future. I travel optimistically on that.

I assure Mr Scott that the council of economic advisers will have a number of opportunities to provide input to thinking on a number of policy areas that affect the Government's economic strategy, and to work on the issues that I am raising in connection with the national planning framework. The advisers have been appointed to give us the distinguished international input that they can provide.

On transport projects, the criteria that I have set out give a clear steer as to where the Government is going. Our investment programmes for the rail industry and a variety of other public transport projects are intended to encourage greater use of public transport and less use of cars. I am not going to talk about the Edinburgh airport rail link, because Mr Stevenson will make a statement on it to Parliament in due course, as Parliament requested in June.

I had an interesting meeting with Professor Bebbington, a vice-chair of the Sustainable Development Commission, and I read the commission's report with interest. There remains a big challenge for the Government to face in relation to sustainable development, which it will address. We did not inherit a perfect situation—the commission's report highlights adequately the situation that we inherited.

I acknowledge that wind farms are a sensitive issue. Mr Scott mentioned the decisions that the Government took in response to recommendations from reporters on wind farms, but he omitted to mention that the Minister for Enterprise, Energy and Tourism, Mr Mather, approved the Harestanes wind farm in the south of Scotland which, if I recollect correctly, is the second largest wind farm that has been approved—I am looking behind me for a nod from Mr Mather. The Government is prepared to take such decisions and it is churlish to suggest otherwise.

We went over this ground before the election. I remember when the Deputy First Minister, Nicola Sturgeon, quoted the Prime Minister as saying that wind farms cannot go everywhere. That is the reality of the planning legislation; wind farms are not appropriate everywhere. The Government will assess decisions based on the information in front of us, exactly as we have done so far. Mr Scott suggested that there is an issue with the Government's stance on that point, but I really do not understand what further clarity he is seeking.

**The Deputy Presiding Officer:** From now on we should have short questions and, I hope, short answers, too.

**Shirley-Anne Somerville (Lothians) (SNP):** I draw to the cabinet secretary's attention the controversial Caltongate development, which is planned at the heart of our historic capital city. Leading conservationists fear that it will threaten Edinburgh's prized world heritage status and the community in the old town feels that the previous administration in the City of Edinburgh Council held little more than a tick-box consultation on it. Given the importance of our architecture and built environment to the tourism sector, not only in this city but throughout Scotland, will the cabinet secretary assure Parliament that the Government will do all that it can to ensure that developments do not put economic growth before the built heritage?

**John Swinney:** It is a pleasure to welcome Shirley-Anne Somerville to Parliament. I wish her well in serving the people of the Lothians.

I cannot get involved in the debate about the particular development that she mentions, but I reiterate what I said in my statement: we cannot have development just at any price. Our purpose as a Government is to encourage more sustainable economic growth, but that cannot happen just at any price. In my statement I referred to the importance of protecting our natural and built heritage, which contributes formidably to Scotland's strength, reputation, prestige and attractiveness. We should undertake our development activity in that context.

**Mary Mulligan (Linlithgow) (Lab):** I welcome the opportunity to ask the cabinet secretary about planning. Although I acknowledge the reasons for including major national strategic transport projects in the national planning framework, I am a little concerned about the interface between the framework and development plans.

The supporting road network for a new Forth crossing could be at odds with a local development plan to provide for an extension to a village, which could include houses, shops and businesses. I do not expect the cabinet secretary to comment on a particular case, but in such circumstances what part of the planning system, if any, would take precedence? How would the cabinet secretary expect planning officials both centrally and locally to handle the discussion?

How will he ensure that as many people as possible are part of the development of the national planning framework and local development plans, and that they do not just become dissatisfied objectors who are fighting one another?

**John Swinney:** Mary Mulligan raises a fair and substantial point. Compatibility between decisions that are taken in the national planning framework and the development of local development plans is essential, but that is easier said than done. The essential step towards making it happen is to have regular and substantial dialogue between the Government officials who are preparing the national planning framework and local authority officials. Ministers will also be involved in those discussions.

I stress that, as we envisage that the national planning framework will contain a relatively small number of developments, there will be no need for a large number of such conversations. The importance of the new planning regime that is required under the Planning etc (Scotland) Act 2006 lies in more regular updating of development plans. I hope that, as a consequence, any possible loss of continuity in the matters that Mary Mulligan raised will be minimised.

Regarding the involvement of individuals in formulating the contents of the national planning framework and wider development plans at local level, I reiterate a point that I made earlier: the way to establish a stable, efficient, ordered and focused planning regime is to carry out early consultation and ensure satisfaction with the content of the plans, so that specific decisions can be taken in the context of those plans. There will be exceptions, but we have to keep them to a minimum because that is where the chance of friction arises between members of the public and the development process.

To secure input to the national planning framework, the Government will undertake an

active communication and participation exercise involving groups around the country, local authorities and other organisations. Parliament also has a big role to play in that exercise.

**Christine Grahame (South of Scotland) (SNP):** I concur, as I think everyone would, with the view that we need local and national development, but that it must be sensitively handled. Even so, it will not please all the people all the time, and probably not the lean machine known as Mr Tavish Scott.

Like many others, I welcome early consultation. The word "consultation" has lost most of its currency and has been devalued over many years. I heard the cabinet secretary's answer to Mary Mulligan's question, which anticipated one that I was going to ask about public involvement in consultation. However, given that parliamentary committees are masters of their own agendas and fate, what role will they have in dealing with the national planning framework?

On a different matter, I commend to the ministerial team and MSPs the Planning Aid for Scotland event in the garden lobby on Wednesday 26 September. That is a plug. At that event, all MSPs can hone their consultation skills.

**John Swinney:** I cannot imagine that Christine Grahame needs to develop her consultation skills any further. She is very good at consulting.

The participation of members of the public in consultation on development plans and the national planning framework lies at the heart of the process that I set out today. The Government will invest a lot of energy in ensuring that that dialogue is effective.

It is not for me to direct parliamentary committees—I assume that that is the point that Christine Grahame makes in her question. The national planning framework will sit with Parliament for 60 days and the Government will, whatever participation committees wish to have, be more than happy to make whatever contribution they require.

**Malcolm Chisholm (Edinburgh North and Leith) (Lab):** I welcome the substantial—in fact, more or less complete—continuity in carrying forward the previous Administration's policies on the national planning framework and planning more generally. A fundamental principle of planning reform was early participation. Will the cabinet secretary say a little more about the forthcoming participation statement—the timing and possibly the substance?

I also welcome in particular the climate change criterion, but will the cabinet secretary explain whether it refers to specific developments or

whether all developments will be expected to contribute on climate change?

**John Swinney:** I welcome Malcolm Chisholm's contribution, and I record the fact that a large part of the input into the legislation that Parliament decided on came during his time as a minister. I congratulate him on that.

On public participation, we will introduce the national planning framework before the end of the year. There will be opportunities, through a series of seminars around the country and other participation events, to secure input from members of the public. Obviously, Parliament will also have the opportunity to create further dialogue.

On climate change, the Government has been clear in setting out its legislative intention to create statutory targets. The nature of those commitments means that, like other authorities, we have to take decisions on a case-by-case basis that is consistent with supporting that direction of travel. The Government will pursue that as a line of approach, and I look forward to discussing how we can bring effect to that agenda long before we consider the introduction of the climate change bill.

**Patrick Harvie (Glasgow) (Green):** I had a few successes and many glorious defeats during the amendment stage of the Planning etc (Scotland) Bill. I will draw Mr Swinney's attention to one of each.

First, the sustainable development duty gives the minister and his colleagues the duty to carry out their functions in relation to the NPF with the objective of contributing to sustainable development. It is not just an objective—it is the objective, so will the cabinet secretary tell us why the list of criteria appears to be one of alternatives rather than one that places sustainable development as the criterion that has primacy, which is what the legislation appears to suggest should happen?

Secondly, I have been less able to convince my colleagues on robust parliamentary scrutiny. I agree with the earlier comments that when there is a minority Administration, Parliament—rather than ministers who do not represent a legislative majority—should have the final say. I was not able to convince the ministers at the time, but I gained some support from my SNP colleagues. Will the minister tell us whether he will persuade the Minister for Parliamentary Business to propose a timetable that will allow all committees the time to take part in the process? Will he also say whether his Government will abide by the vote of Parliament on the NPF?

**John Swinney:** I suppose that the statement will be welcomed in some quarters but not in others, but a direction of travel was established by

the passage of the 2006 act, albeit that it was without Mr Harvie's consent. Rather than reopen the contents of that legislation, we are developing that line of travel. The Government has come to that judgment in a spirit of consensus and in trying to establish the broadest possible support for the direction forward.

Some important points were made during the passage of the legislation. In the past, consultations were about involvement of communities and participation of individuals in early consultation—those elements will be developed by the Government.

On how Parliament relates to the process, the 2006 act requires the Government to provide Parliament with 60 days during which to consider the contents of the national planning framework. The Minister for Parliamentary Business is a very reasonable individual, and I am sure that he will be able to look sympathetically on some of the questions on the involvement of committees. I am anxious to take forward the contents of the 2006 act in their entirety.

Patrick Harvie raised the issue of sustainable development. Sustainable development is adequately covered by the Government's purpose and the criteria that I mentioned in my statement. As I said in response to the question that Mr Scott asked, the Government must seriously consider the contents of the Sustainable Development Commission's recent report. We will do so and, obviously, we will take decisions that are consistent with establishing sustainable development. The Government's decisions will be set in that context.

**Alex Johnstone (North East Scotland) (Con):**

I am not normally taken by the idea of describing the Cabinet Secretary for Finance and Sustainable Growth as a little Scotlander, but I will do so today in order to invite him to rise to the challenge of addressing an issue that perhaps he did not address in his statement.

It seems that the cabinet secretary has not taken into account the fact that the effects of the criteria that he has outlined will influence things that happen beyond Scotland's borders, and that the changes in what happens beyond Scotland's borders will come back and affect what happens here. I give as an example his commitment to the generation and distribution of clean energy. If he achieves his aims, the generation and distribution of clean energy may result in Scotland's hills being littered with a massively disproportionate number of the United Kingdom's wind turbines and pylons, while Scotland's new and inevitably constructed nuclear capacity is constructed south of the border.

**John Swinney:** Where do I start with that?

In the summer, I made a fascinating visit to the European Marine Energy Centre in Orkney. Scotland is leading the world in marine energy technology, which is a fantastic achievement. We would be failing in our duty if we did not seize the opportunity to develop the connectivity opportunities that arise from that technology and the opportunity to generate power from it, transfer that power and translate it into an asset for our country. The Government wants to protect Scotland's natural and built environment, which is one of the principal reasons why I made it expressly clear in my statement that we will not be persuaded by the arguments for more nuclear power stations. We want to attach a premium to the quality of Scotland's natural environment. Our statement and approach amply demonstrate how we intend to do that.

**Alison McInnes (North East Scotland) (LD):** I commend the previous Administration for developing the first national planning framework and welcome the new Administration's commitment to progressing the second framework.

It is essential that the criteria for identifying which projects will be included in the planning framework be rigorously applied—we have already debated that—because such a designation will take decision making away from local authorities, which should not be done lightly. It must be clearly demonstrated that projects are genuinely of national significance. Therefore, I welcome the assurances that Mr Swinney has given.

Reconciling strategic needs and local sensitivities is difficult. As many members have said, the greater involvement of people in the planning system at an early stage is the way to ensure that our communities trust the planning system. However, successful participation follows groundwork and capacity building. I noted the cabinet secretary's response to the questions that Des McNulty and Christine Grahame asked on good words about consultation, but will that groundwork and capacity building be properly resourced so that our citizens can successfully participate early in the planning process? I commend in particular the well established and respected work of Planning Aid for Scotland. The cabinet secretary might like to take that model forward.

**John Swinney:** I will certainly consider that point. I am keen to ensure that there are effective methods of local involvement.

During my visits around the country in the summer, I was struck by the techniques that organisations that operate in the voluntary sector use. Those techniques struck me as being particularly effective in drawing people together and helping people to reach agreements on how to progress sensitive issues, some of which

related to planning matters. The voluntary sector can be more fully involved in that area.

I reassure Alison McInnes that the planning reforms are not designed to encroach in any way whatever on the role of local authorities. Indeed, I am reminded of the fact that the Convention of Scottish Local Authorities gave a warm welcome to the contents of the planning reform agenda, which devolves more responsibilities to local authorities—a trend that I actively and enthusiastically support.

We have to recognise—it is implicitly recognised in the legislation—that some developments have to be defined as national developments. As I said in answer to Mary Mulligan, such definitions will be kept to the absolute minimum in order to ensure that we have the right decision-making power at local authority level.

**The Deputy Presiding Officer:** If members keep their questions short, I will get everyone in.

**Johann Lamont (Glasgow Pollok) (Lab):** I note the cabinet secretary's comments, including those on consensus. Although plenty of members now talk the talk on consensus, planning is a very good example of the previous Executive's record of walking the walk on consensus. I welcome the fact that, in building consensus, John Swinney has expressed support for the previous Executive's approach. By comparison, many in his party, including his business manager, wish to take a different approach.

The statement encourages us to recognise the power of effective planning in transforming our communities and of the critical role that participation by individuals and communities—not consultation, but participation—plays at an early stage in ensuring the right kind of strategic planning decisions. My questions are on resource issues, which I believe are critical to successful realisation of the aims that lie behind the national planning framework. First, will the cabinet secretary continue to consider capacity in the planning system? How do we make planning an attractive career? Are we looking actively at scholarships and incentives to encourage people to come into planning—a profession that gives individuals a powerful means of taking part in the transformation of communities?

Secondly, and importantly, will Mr Swinney acknowledge that real participation involves skilled facilitation at local level? Is he willing to support organisations such as Planning Aid for Scotland that have credible track records in facilitating such work? In the need to look for cuts across government spending, will he resist the temptation to cut funding to such organisations? Doing so may be seen as a soft option, but such skilled

facilitators are critical to the delivery of an effective planning process in Scotland.

**John Swinney:** In an earlier response to Tavish Scott, I tried to be generous in what I said about Johann Lamont in order to encourage her. I am not sure that I succeeded.

Johann Lamont's first point was on capacity in planning. The Government's planners are actively promoting exciting opportunities to enable people to contribute to the development of the national planning framework. The framework gives an absolutely fantastic opportunity for people to take part in a process that will lead to the design of our country in 20 to 30 years' time—a picture of what it will look like. Exciting career opportunities are involved and our planners are encouraging the process. I will remain mindful of the matter in all the decisions that I take on the planning service.

Johann Lamont's second point was on the skill that is involved in encouraging participation. She is absolutely right that we must have the right type of facilitation if we are to ensure that people can make proper and effective input into the planning process. I agree entirely that, if we secure early participation, the planning process is made ever more robust at the point at which decisions come to be taken.

**Stuart McMillan (West of Scotland) (SNP):** Do the cabinet secretary and Scottish ministers accept the problem of underfunding in local authority planning services? If so, what will he and ministers do about it?

**John Swinney:** Governments always have to wrestle with the question of resources. Predominantly, the issues that are involved relate to the effectiveness of local authority planning departments. A number of developments have been taken forward on issues such as e-planning and improvements in the efficiency of the planning process. Those developments will assist in improving the efficiency and smooth running of planning activities in different parts of Scotland. The area is one in which the Government will continue to take an active interest. We will give it our full support.

## Smoking, Health and Social Care (Scotland) Act 2005 (Variation of Age Limit for Sale of Tobacco etc and Consequential Modifications) Order 2007 (Draft)

**The Deputy Presiding Officer (Alasdair Morgan):** The next item of business is a debate on motion S3M-445, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, on the draft Smoking, Health and Social Care (Scotland) Act 2005 (Variation of Age Limit for Sale of Tobacco etc and Consequential Modifications) Order 2007. I call Bruce Crawford to move the motion.

*Motion moved,*

That the Parliament agrees that the draft Smoking, Health and Social Care (Scotland) Act 2005 (Variation of Age Limit for Sale of Tobacco etc. and Consequential Modifications) Order 2007 be approved.—[*Bruce Crawford.*]

16:49

**The Minister for Public Health (Shona Robison):** I will speak to the motion.

The draft order will raise the age for tobacco sales in Scotland to 18 years, from 1 October 2007. Making this country a healthier place is one of the top priorities for the Scottish Government and raising the age of purchase for cigarettes to 18 will help us achieve that.

We have already seen the health dividends that tackling smoking can bring if we are prepared to take bold, decisive steps such as legislating for smoke-free public places. The evaluation of that legislation shows that the number of people who have been admitted to hospital with heart attacks has fallen by 17 per cent since it was introduced.

We should not, however, view the smoke-free legislation as a case of job done on tobacco. We need to start with our young people by discouraging them from starting to smoke. Those who start smoking at 15 are three times more likely to die from a smoking-related disease than those who take up smoking in their 20s. Indeed, the younger people start smoking, the greater the likelihood of their continuing to smoke throughout their adult life. Raising the age limit for tobacco sales will make it more difficult for young people to buy cigarettes and it will bring the age limit into line with that for alcohol sales. It will make the law easier to enforce and it will help younger children to resist peer pressure.

The draft order is part of our strategy to denormalise cigarette smoking. Raising the age for tobacco sales should not be viewed in isolation, but as part of a wider range of measures

that include prevention, education, tougher enforcement and help for young people to give up smoking. I have already committed to publishing a five-year smoking prevention action plan next year that will draw on many of the recommendations of “Towards a Future without Tobacco—The Report of the Smoking Prevention Working Group”.

We need more vigilance among retailers to avoid illegal sales and more effective enforcement of the law by trading standards officers. We will ensure that that happens. We are already working with retail organisations and trading standards officers to ensure that the new age limit is introduced as smoothly as possible. Subject to the order being approved by Parliament, we will launch a communications campaign to alert young people to the change in the law and we will issue information packs to all tobacco retailers.

Smoking is the greatest preventable cause of premature death and ill health. I firmly believe that raising the age limit will stop more young recruits taking up the habit and reduce the terrible toll that smoking takes on Scotland’s health.

I urge Parliament to support the motion.

16:52

**Duncan McNeil (Greenock and Inverclyde) (Lab):** I appreciate the opportunity to say a few brief words on the motion.

It is said that almost all political careers end in disappointment because no matter what politicians want to change when they set out, they inevitably become disheartened by how long things can take and how tortuous the system can be. However, perseverance sometimes pays off, as the draft order proves.

Back in 2005, when we amended the Smoking, Health and Social Care (Scotland) Bill to give ministers the power to raise the age limit, I did not think that we would need to wait more than two years before the order would be introduced. Nor did I think that it would take this long when the expert group, which was led by Dr Laurence Gruer of NHS Health Scotland, recommended that the age limit should be increased. The hold-up was largely down to the delaying tactics of the Liberal Democrats, who have demonstrated over the period some confused thinking and policy on the rights of our 16-year-olds to drink and smoke. Nevertheless, I will not allow that frustration to detract from my delight that we now, at long last, have the chance to vote for a change that the evidence shows will stop young people taking up the lethal habit.

I support the motion and urge members to vote to make it harder for young people to buy

cigarettes so that it is harder for them to make the worst mistake of their lives.

16:54

**Mary Scanlon (Highlands and Islands) (Con):**

The Scottish Conservatives support the order, which will raise the age for the sale of tobacco from 16 to 18. It is worth pointing out that, over the past 10 years, the number of 15-year-old boys who smoke has decreased by 18 per cent and that the number of girls of the same age who smoke has decreased by 12 per cent. The trend is undoubtedly in the right direction.

We are concerned about several matters. How will the Government ensure that under-18-year-olds do not purchase from cigarette vending machines? How will the Government stop family and friends selling on cigarettes to under-18-year-olds? How can enforcement be ensured when the Government has not committed any additional resources for trading standards officers but has given a commitment only to consider that as part of the comprehensive spending review? Finally, how can the Government and the Parliament expect the order to be advertised, publicised and made known to all of Scotland in the two-week period between its being passed today and the implementation date of 1 October?

Today, the chief executive of the Scottish Grocers Federation said:

"we are dismayed by the failure of the Scottish Government to get the message out to young smokers"

given that

"the change was first announced by previous health minister Andy Kerr on New Year's Day this year and was put forward by the new Health Minister Shona Robison in June."

The Scottish Grocers Federation also states—*[Interruption.]*

**The Presiding Officer (Alex Fergusson):**

Could we have fewer conversations in the chamber, please.

**Mary Scanlon:** Thank you, Presiding Officer. As I was saying, I am quoting from the Scottish Government—I mean the Scottish Grocers Federation. *[Laughter.]*

**Tavish Scott (Shetland) (LD):** Same thing.

**Mary Scanlon:** I would be grateful if Tavish Scott would listen to my speech. If he does not, I will have to start all over again.

According to the Scottish Grocers Federation,

"the Scottish government has been paralysed by procedure ... Already, retailers and shop workers face intimidation, violence and abuse when challenging some youngsters to prove their age. Now, with 16 and 17 year olds set to lose their ability to smoke overnight, it is shop workers not the

police or politicians, who will be expected to enforce the law."

I would be delighted if the minister could respond to that point.

16:57

**Ross Finnie (West of Scotland) (LD):** It is always intimidating to follow the comments of a representative of the party that is represented by the daughter of a grocer.

Duncan McNeil has established a reputation for many things, but I think that almost everyone in the chamber will agree that even a passing acquaintance with the basic principles of liberal democracy is not one of them.

This is an important instrument and the Liberal Democrats will support it—we are persuaded by the findings of the Gruer report—but there is an issue of concern that will not be decided tonight or, even, by the Minister for Public Health. It is that, without a shadow of doubt, there is some confusion about the 10, 12 or 14 powers that are shared between the ages of consent of 16 and 18. The Parliament might want to address that.

In her evidence to the Health and Sport Committee yesterday, the minister was good enough to recognise that this instrument, on its own, will not be sufficient to achieve its end. I hope that the minister will follow up the undertaking that she gave yesterday to improve the situation in relation to enforcement, which Mary Scanlon talked about. Answers to parliamentary questions that have been asked this session show that enforcement in this area has been poor.

In terms of enhancing the powers of those who sell and holding them to account, I was pleased to learn that the minister is considering the introduction of some licensing. Liberal Democrats favour a negative form of licensing, which would give considerable powers over those who sell and would raise the possibility of addressing the issue of vending machines, which are unregulated by this instrument.

**The Presiding Officer:** Christine Grahame, I can give you 45 seconds.

16:59

**Christine Grahame (South of Scotland) (SNP):** The process has been truncated to meet the timing of similar legislation that is being dealt with in Westminster—I would have thought that the Conservatives would welcome that.

It is fair to say that the fact that there were only 11 prosecutions in this area last year—which was revealed in an answer to one of my parliamentary questions—is poor. That is why I am pressing

ahead with a proposal for positive licensing of the retailers of tobacco products. We wait to be persuaded that negative licensing will be sufficient.

I hope that that was 45 seconds.

**The Presiding Officer:** It was even less, and I am grateful to the member. The question on the motion will be put at decision time.

## Decision Time

17:00

**The Presiding Officer (Alex Fergusson):** There are four questions to be put as a result of today's business. The first question is, that amendment S3M-457.2, in the name of Fiona Hyslop, which seeks to amend motion S3M-457, in the name of Hugh Henry, on education, be agreed to. Are we agreed?

**Members:** No.

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

### FOR

Adam, Brian (Aberdeen North) (SNP)  
 Ahmad, Bashir (Glasgow) (SNP)  
 Allan, Alasdair (Western Isles) (SNP)  
 Brown, Keith (Ochil) (SNP)  
 Campbell, Aileen (South of Scotland) (SNP)  
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Don, Nigel (North East Scotland) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 FitzPatrick, Joe (Dundee West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Christopher (Mid Scotland and Fife) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hepburn, Jamie (Central Scotland) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Adam (South of Scotland) (SNP)  
 Kidd, Bill (Glasgow) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)  
 Marwick, Tricia (Central Fife) (SNP)  
 Mather, Jim (Argyll and Bute) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West of Scotland) (SNP)  
 McKee, Ian (Lothians) (SNP)  
 McKelvie, Christina (Central Scotland) (SNP)  
 McMillan, Stuart (West of Scotland) (SNP)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Paterson, Gil (West of Scotland) (SNP)  
 Robison, Shona (Dundee East) (SNP)  
 Russell, Michael (South of Scotland) (SNP)  
 Salmond, Alex (Gordon) (SNP)  
 Somerville, Shirley-Anne (Lothians) (SNP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow Govan) (SNP)  
 Swinney, John (North Tayside) (SNP)  
 Thompson, Dave (Highlands and Islands) (SNP)  
 Watt, Maureen (North East Scotland) (SNP)  
 Welsh, Andrew (Angus) (SNP)  
 White, Sandra (Glasgow) (SNP)  
 Wilson, Bill (West of Scotland) (SNP)  
 Wilson, John (Central Scotland) (SNP)

### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)



Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brocklebank, Ted (Mid Scotland and Fife) (Con)  
 Brown, Gavin (Lothians) (Con)  
 Brown, Robert (Glasgow) (LD)  
 Brownlee, Derek (South of Scotland) (Con)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Carlaw, Jackson (West of Scotland) (Con)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Margaret (Glasgow Baillieston) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Foulkes, George (Lothians) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Annabel (West of Scotland) (Con)  
 Gordon, Charlie (Glasgow Cathcart) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Henry, Hugh (Paisley South) (Lab)  
 Hume, Jim (South of Scotland) (LD)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kelly, James (Glasgow Rutherglen) (Lab)  
 Kerr, Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lamont, John (Roxburgh and Berwickshire) (Con)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 MacDonald, Margo (Lothians) (Ind)  
 Macintosh, Ken (Eastwood) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McArthur, Liam (Orkney) (LD)  
 McCabe, Tom (Hamilton South) (Lab)  
 McConnell, Jack (Motherwell and Wishaw) (Lab)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McInnes, Alison (North East Scotland) (LD)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mulligan, Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Elaine (Dumfries) (Lab)  
 O'Donnell, Hugh (Central Scotland) (LD)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Elizabeth (Mid Scotland and Fife) (Con)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stewart, David (Highlands and Islands) (Lab)

Tolson, Jim (Dunfermline West) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Whitton, David (Strathkelvin and Bearsden) (Lab)

**The Presiding Officer:** The result of the division is: For 48, Against 76, Abstentions 0.

*Amendment disagreed to.*

**The Presiding Officer:** The second question is, that amendment S3M-457.1, in the name of Jeremy Purvis, which seeks to amend motion S3M-457, in the name of Hugh Henry, be agreed to. Are we agreed?

**Members:** No.

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

**For**

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brocklebank, Ted (Mid Scotland and Fife) (Con)  
 Brown, Gavin (Lothians) (Con)  
 Brown, Robert (Glasgow) (LD)  
 Brownlee, Derek (South of Scotland) (Con)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Carlaw, Jackson (West of Scotland) (Con)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Margaret (Glasgow Baillieston) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Foulkes, George (Lothians) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Annabel (West of Scotland) (Con)  
 Gordon, Charlie (Glasgow Cathcart) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Henry, Hugh (Paisley South) (Lab)  
 Hume, Jim (South of Scotland) (LD)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kelly, James (Glasgow Rutherglen) (Lab)  
 Kerr, Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lamont, John (Roxburgh and Berwickshire) (Con)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McArthur, Liam (Orkney) (LD)  
 McCabe, Tom (Hamilton South) (Lab)  
 McConnell, Jack (Motherwell and Wishaw) (Lab)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McInnes, Alison (North East Scotland) (LD)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)

Mulligan, Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Elaine (Dumfries) (Lab)  
 O'Donnell, Hugh (Central Scotland) (LD)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Elizabeth (Mid Scotland and Fife) (Con)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stewart, David (Highlands and Islands) (Lab)  
 Tolson, Jim (Dunfermline West) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Whitton, David (Strathkelvin and Bearsden) (Lab)

#### AGAINST

Adam, Brian (Aberdeen North) (SNP)  
 Ahmad, Bashir (Glasgow) (SNP)  
 Allan, Alasdair (Western Isles) (SNP)  
 Brown, Keith (Ochil) (SNP)  
 Campbell, Aileen (South of Scotland) (SNP)  
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Don, Nigel (North East Scotland) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 FitzPatrick, Joe (Dundee West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Christopher (Mid Scotland and Fife) (SNP)  
 Hepburn, Jamie (Central Scotland) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Adam (South of Scotland) (SNP)  
 Kidd, Bill (Glasgow) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)  
 Marwick, Tricia (Central Fife) (SNP)  
 Mather, Jim (Argyll and Bute) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West of Scotland) (SNP)  
 McKee, Ian (Lothians) (SNP)  
 McKelvie, Christina (Central Scotland) (SNP)  
 McMillan, Stuart (West of Scotland) (SNP)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Paterson, Gil (West of Scotland) (SNP)  
 Robison, Shona (Dundee East) (SNP)  
 Russell, Michael (South of Scotland) (SNP)  
 Salmond, Alex (Gordon) (SNP)  
 Somerville, Shirley-Anne (Lothians) (SNP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow Govan) (SNP)  
 Swinney, John (North Tayside) (SNP)  
 Thompson, Dave (Highlands and Islands) (SNP)  
 Watt, Maureen (North East Scotland) (SNP)  
 Welsh, Andrew (Angus) (SNP)  
 White, Sandra (Glasgow) (SNP)  
 Wilson, Bill (West of Scotland) (SNP)  
 Wilson, John (Central Scotland) (SNP)

#### ABSTENTIONS

Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 MacDonald, Margo (Lothians) (Ind)

**The Presiding Officer:** The result of the division is: For 75, Against 46, Abstentions 3.

*Amendment agreed to.*

**The Presiding Officer:** The third question is, that motion S3M-457, in the name of Hugh Henry, on education, as amended, be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brocklebank, Ted (Mid Scotland and Fife) (Con)  
 Brown, Gavin (Lothians) (Con)  
 Brown, Robert (Glasgow) (LD)  
 Brownlee, Derek (South of Scotland) (Con)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Carlaw, Jackson (West of Scotland) (Con)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Margaret (Glasgow Baillieston) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Foulkes, George (Lothians) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marilyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Annabel (West of Scotland) (Con)  
 Gordon, Charlie (Glasgow Cathcart) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Henry, Hugh (Paisley South) (Lab)  
 Hume, Jim (South of Scotland) (LD)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kelly, James (Glasgow Rutherglen) (Lab)  
 Kerr, Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lamont, John (Roxburgh and Berwickshire) (Con)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 MacDonald, Margo (Lothians) (Ind)  
 Macintosh, Ken (Eastwood) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McArthur, Liam (Orkney) (LD)  
 McCabe, Tom (Hamilton South) (Lab)  
 McConnell, Jack (Motherwell and Wishaw) (Lab)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McInnes, Alison (North East Scotland) (LD)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)

Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mulligan, Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Elaine (Dumfries) (Lab)  
 O'Donnell, Hugh (Central Scotland) (LD)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Elizabeth (Mid Scotland and Fife) (Con)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stewart, David (Highlands and Islands) (Lab)  
 Tolson, Jim (Dunfermline West) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Whitton, David (Strathkelvin and Bearsden) (Lab)

#### AGAINST

Adam, Brian (Aberdeen North) (SNP)  
 Ahmad, Bashir (Glasgow) (SNP)  
 Allan, Alasdair (Western Isles) (SNP)  
 Brown, Keith (Ochil) (SNP)  
 Campbell, Aileen (South of Scotland) (SNP)  
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Don, Nigel (North East Scotland) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 FitzPatrick, Joe (Dundee West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Christopher (Mid Scotland and Fife) (SNP)  
 Hepburn, Jamie (Central Scotland) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Adam (South of Scotland) (SNP)  
 Kidd, Bill (Glasgow) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)  
 Marwick, Tricia (Central Fife) (SNP)  
 Mather, Jim (Argyll and Bute) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West of Scotland) (SNP)  
 McKee, Ian (Lothians) (SNP)  
 McKelvie, Christina (Central Scotland) (SNP)  
 McMillan, Stuart (West of Scotland) (SNP)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Paterson, Gil (West of Scotland) (SNP)  
 Robison, Shona (Dundee East) (SNP)  
 Russell, Michael (South of Scotland) (SNP)  
 Salmond, Alex (Gordon) (SNP)  
 Somerville, Shirley-Anne (Lothians) (SNP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow Govan) (SNP)  
 Swinney, John (North Tayside) (SNP)  
 Thompson, Dave (Highlands and Islands) (SNP)  
 Watt, Maureen (North East Scotland) (SNP)  
 Welsh, Andrew (Angus) (SNP)  
 White, Sandra (Glasgow) (SNP)

Wilson, Bill (West of Scotland) (SNP)  
 Wilson, John (Central Scotland) (SNP)

#### ABSTENTIONS

Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)

**The Presiding Officer:** The result of the division is: For 76, Against 46, Abstentions 2.

*Motion, as amended, agreed to.*

*Resolved,*

That the Parliament regrets that education has not been given a higher priority by this administration; calls for an urgent explanation to be given on funding for higher education and further education; calls for the missing detail to be given on the manifesto commitment to write off student debt; calls for a statement on how the commitment to reduce class sizes for primary 1 to primary 3 which has not been fully explained or costed will be delivered by 2011; calls for more detail on how a teacher will be provided to every early years class by 2011; regrets that nothing has been said about tackling indiscipline in Scotland's schools, and calls for an early statement on how funding will be provided to improve the school estate in Scotland and further calls for an early announcement on when the SNP manifesto pledge for a 50% increase in free nursery education for 3 and 4-year-olds will be met and how much it will cost.

**The Presiding Officer:** The fourth question is, that motion S3M-445, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, on the draft Smoking, Health and Social Care (Scotland) Act 2005 (Variation of Age Limit for Sale of Tobacco etc and Consequential Modifications) Order 2007, be agreed to.

*Motion agreed to.*

That the Parliament agrees that the draft Smoking, Health and Social Care (Scotland) Act 2005 (Variation of Age Limit for Sale of Tobacco etc. and Consequential Modifications) Order 2007 be approved.

**The Presiding Officer:** That concludes decision time.

## Points of Order

17:04

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** On a point of order, Presiding Officer. Yesterday, the Parliament refused to endorse the Government's skills strategy—a defeat for the Government. Today, in response to Robert Brown's question, the Minister for Schools and Skills confirmed that the education ministers have submitted to the Cabinet Secretary for Finance and Sustainable Growth a funding bid to allow the Government to meet in full its commitment to have maximum class sizes of 18 in primaries 1 to 3. In earlier answers to written parliamentary questions, the Government stated that it did not have such information and that it was in discussion with local authorities. Today, the Government has again been defeated. Indeed, Parliament has just resolved that a clear statement needs to be made by the Government on the paucity of information that is provided to Parliament on the delivery of its policies.

Presiding Officer, will you confirm that, if a Government minister misleads a member in a written parliamentary answer, such behaviour has the same status as if it had happened in the chamber? Moreover, will you indicate how the Presiding Officers can protect this Parliament in the event that an early statement that is requested from this Government is not brought forward?

**The Presiding Officer (Alex Fergusson):** I find it difficult to respond to the member's point of order, because I need more details about the matter to which he refers. If he furnishes me with those details, I will return to the issue on another occasion.

**Patricia Ferguson (Glasgow Maryhill) (Lab):** On a point of order, Presiding Officer. Further to Mr Purvis's point of order and, indeed, to the points of order that Mr Purvis and I raised earlier today, will you rule whether it is acceptable to this Parliament and to you as Presiding Officer that the only way that members have any opportunity of getting the information that is available to the Government is through freedom of information legislation rather than through statements or information relayed to the chamber?

**The Presiding Officer:** I might be able to understand the member's frustration, but, at the end of the day, it is a matter for the Government as to how it makes such information available.

**Andrew Welsh (Angus) (SNP):** On a point of order, Presiding Officer. This morning, I raised a point of order about parliamentary language to which you promised a response. Do you have that response?

**The Presiding Officer:** I do not believe that I promised to come back to the chamber on the matter. However, I am happy to do so.

When we looked into the records, we found that similar language has been used on 16 occasions by—I think I can safely say—prominent members of all parties. As a result, although I do not like such language when it is used directly at another member, I must accept that it has been used in the past. However, I encourage all members to absolutely minimise its use.

## Recovered But Not Covered Campaign

**The Deputy Presiding Officer (Trish Godman):** The final item of business is a members' business debate on motion S3M-273, in the name of Brian Adam, on Macmillan Cancer Support's recovered but not covered campaign.

### *Motion debated,*

That the Parliament condemns the extortionate premiums charged by many travel insurance firms to cancer patients or persons with a history of cancer treatment, which often lead to their travel insurance prices being considerably higher than journey costs; acknowledges that this problem will worsen with growing numbers of people diagnosed with cancer and living longer who want or need to travel; recognises its impact on patients and their families in Aberdeen North and elsewhere in Scotland; furthermore supports Macmillan Cancer Support's Recovered but not Covered campaign which seeks to make it easier for people affected by cancer to get fair travel insurance prices, and welcomes joint research between Macmillan and the Royal Bank of Scotland to investigate how cancer sufferers can obtain fairer travel insurance, but considers that these discriminatory and insensitive charges should be ended by other insurance companies.

17:08

**Brian Adam (Aberdeen North) (SNP):** Earlier this year, I had the opportunity to discuss a number of matters with Macmillan Cancer Support, which drew my attention to the particular problems in obtaining travel insurance that are faced by patients who have had or who might continue to have cancer. The current arrangements are quite discriminatory. However, that is the very nature of any insurance policy, and companies will inevitably make what they regard to be actuarially sensible commercial decisions. That is primarily a matter for the companies, but I believe that a range of issues associated with this matter should be resolved, and I hope that in her response to the debate the minister can reassure me that she will approach insurance companies through their joint body to address the concerns of cancer patients.

I will spell out the three principal problems that people who have cancer encounter in purchasing travel insurance: higher premiums; refusals of and exclusions from coverage; and the way in which companies deal with their potential customers.

Macmillan Cancer Support has identified that 39 per cent of people who are affected by cancer are quoted higher premiums and that some companies fail to distinguish between people who are undergoing active treatment and those who have been cancer free for several years. The cost of travel insurance is often higher than the cost of the trip. The problem is not exclusive to cancer

patients—it affects many people with chronic health conditions. When the Minister for Public Health responds and, I hope, contacts the Association of British Insurers, she might wish to mention the wider context, as well as the particular context of cancer patients.

One in 17 people who are affected by cancer say that they have been refused travel insurance altogether. I do not know how other members deal with their insurance arrangements, but I tend to be a creature of habit. I would perhaps be better served if I shopped around every time I wish to purchase insurance coverage, but I often just go back to a company that provides a range of products for car insurance, house insurance or whatever. Rightly or wrongly, many folk simply go to their normal insurer. However, one in 17 people say that they have been refused, and the reason for the refusal is not always made clear to the customer. People are often not offered advice on where they might get insurance—they are just told, "No." Insurance companies are commercial organisations and are entitled to make decisions about how they conduct their business, but it is not necessarily in their interests to behave in that way. The companies are in a competitive environment, so it might be in their interest to be rather more accommodating in dealing with the issues that we are discussing.

Another of the vehicles by which insurance companies deal with applications for insurance is to say, "Yes, we are happy to insure you, except for your current condition," but that kind of arrangement is almost valueless for many people, so it is not the best approach. From time to time, the responses of the staff who deal with such inquiries are rather insensitive, which may be to do with their training. Macmillan Cancer Support has provided a quote from one of its clients, who states:

"I was offered insurance excluding cover for carcinoid tumour in my right lung, which I found amusing as I had already advised them that as my right lung has been completely removed it is highly unlikely that I would claim unless I make medical science by growing it back in again. As my cancer was very rare and not 'normal' lung cancer I had extreme difficulty getting insurance people to understand the difference".

People who take part in Macmillan Cancer Support research activities report that type of insensitivity. The insurance companies would be best advised to consider closely how they deal with the issue.

I will close by giving an example from my constituency, for which I have permission to identify the individuals concerned. Norma Forbes and her husband, from Aberdeen, have had this type of problem. Mr Forbes has prostate cancer and is still undergoing treatment. Initially, the couple were covered by the insurance that they

had already taken out, but when it ended they had terrible problems in trying to renew. They have had to accept cover that does not include Mr Forbes's cancer.

Many people want to be able to continue to travel. Of course the insurance companies have to deal with the risks, which are undoubtedly different, but we can significantly improve the situation. I commend the motion and Macmillan's campaign to the minister. I hope that she will be able to respond positively to my suggestion that she might approach the insurers.

17:15

**Shirley-Anne Somerville (Lothians) (SNP):** As someone who was driven to get involved in politics by a belief that Scotland could be a fairer and better place, I think it appropriate that my first contribution to a debate in the chamber is to support a campaign to tackle a form of discrimination that still exists in our society. The Macmillan better deal campaign has successfully highlighted some of the grossly unjust financial hurdles facing people who have already been dealt one of life's biggest blows. It is simply unacceptable that people who are facing the stress and anxiety of being affected by cancer then find themselves also having to cope with the unexpected extra costs that seem to come hand in hand with a long-term health condition or illness.

I would like to pay tribute to Macmillan Cancer Support at the beginning of my speech for the work that it has undertaken to highlight the financial and emotional burden that is placed on cancer patients due to the cost of simply parking their car when visiting a hospital. Although we must of course encourage people to use public transport as much as possible, that is often not an option for cancer patients because of the treatments that they must undertake.

Brian Adam's motion highlights another financial cost—that of travel insurance. For people who are affected by cancer, the positive benefits of relaxing and recuperating on holiday should not come with extra baggage that none of us would relish—the exasperating task of speaking to countless insensitive insurance company call centres while desperately searching for someone who is sympathetic to their needs and can offer a deal that is not more expensive than their flights, if indeed they can offer a deal at all.

The stories of refused cover or downright silly sums being asked are unfortunately all too common. I will give members two examples from here in the Lothians. The first example is of a man in Edinburgh who was diagnosed with bowel cancer in 2006. He was quoted £2,000 for a short break in the sunshine. The second example is of a

lady who had recovered from breast cancer after a mastectomy one year ago. She was advised by her doctor not only that was she fit to travel but that a holiday would be a good idea. She had hoped to visit a friend in Benidorm, and members can imagine her disappointment when she was refused cover entirely.

As those examples make clear, many people who have had cancer or other serious medical conditions are unsuccessful at wading their way through the murky waters of travel insurance to find a fair deal. Many end up scrapping their holiday plans altogether while others take the risk of going abroad uncovered. It is time to put an end to this inequitable treatment.

I commend Macmillan for the work that it is doing to make the system fairer, easier and less stressful. One example of that is Macmillan's useful web forum, which has been very helpful for people trying to access specialist insurance. It also offers sensitive and reasonably priced services. The forum has allowed many people to bypass the stress of going through several harrowing phone calls and horrifying quotes.

Macmillan's recovered but not covered campaign highlights one of the many ways in which people with cancer still face discrimination. Anti-discrimination legislation sends a signal of the kind of society that we want Scotland to be, but as the campaign shows, legislation is simply not enough. Changing society is about changing attitudes, and it is vital that employers, service providers and people from all walks of life receive that message loud and clear from the Parliament today. Discriminatory practices will continue to exist while we continue to put up with them. I commend the work of Macmillan Cancer Support in shining a light on this issue, and I thank Brian Adam for bringing it to the chamber today.

17:19

**Mary Scanlon (Highlands and Islands) (Con):** I, too, thank Brian Adam for securing the debate. I also thank Macmillan Cancer Support for its excellent work. The central point that we are here to discuss concerns travel insurance premiums, but the debate offers an opportunity to acknowledge that nowadays many people who are diagnosed with cancer can recover and live full and active lives.

As Brian Adam said, the higher premiums for travel insurance that cancer sufferers face also apply to people who have, or who have had, other conditions, such as asthma.

I hope that Cancer Research UK and other cancer charities will inform insurance companies of the new statistics on cancer recovery, as there seems to have been a lack of awareness of

cancer as an illness. Macmillan Cancer Support believes that the approach that insurance companies have taken to cancer probably relates to the significantly lower survival rates of decades ago rather than to today's survival rates. I welcome Macmillan Cancer Support's proposal that we urge insurance companies to ensure that their staff receive cancer awareness training. However, such training can be beneficial only if those staff have full knowledge of cancer recovery statistics.

When I did my research for the debate, I was surprised by some of the personal stories that I read. For example, a woman who is now in her 40s was diagnosed with cancer at the age of 17 and finished her treatment five years later. She has never had a recurrence of the illness, but was understandably shocked when she was informed that her history of suffering from cancer back in the 1980s would almost double her travel insurance premium. Fortunately, she had worked as a Macmillan nurse and was able to inform the call centre operator that the fact that she had suffered from Hodgkin's lymphoma decades earlier did not represent a risk, with the result that her quotation was vastly reduced. Unfortunately, others are not as lucky or as well informed, so it is imperative that insurance companies are aware of all the facts.

There is no doubt that quotations of £3,500 to £4,000 for travel insurance are extortionate. It is unfortunate that people who have fought an often long and painful battle against cancer still face situations in which they are punished by insurance companies for recovering.

I am pleased to use the debate to highlight the fact that, according to our briefing from Macmillan Cancer Support, a number of patients have found the good old Post Office to be the best provider of reasonably priced travel insurance cover for cancer patients. Given the threat of closure that hangs over our post office network, I hope that many more people will get a quotation from their post office, not only for their benefit, but to help with the retention of the post office network.

I reiterate my earlier point that cancer sufferers often endure years of treatment to overcome a disease that can kill, so when they are given a new lease of life, no further barriers that restrict the enjoyment that they deserve for beating cancer should be put in front of them.

17:23

**Richard Baker (North East Scotland) (Lab):** I congratulate Brian Adam on securing a debate on such an important issue, and congratulate on her excellent maiden speech and welcome to the chamber Shirley-Anne Somerville.

Recovered but not covered is one of many excellent campaigns that Macmillan Cancer Support runs. I am sure that we all look forward to taking part in Macmillan coffee mornings in the near future and I am glad that the organisation has raised an important issue, which Brian Adam has given us the opportunity to discuss.

Last night, a number of us were at a citizens advice service event to mark the launch of its new role in advising people with health problems, one aspect of which is the provision of financial advice. When someone has an illness, especially a serious one, the last thing that they want to have to worry about is financial matters. I have encountered that issue in a number of contexts. I was pleased to hear that there are now ways in which people who have serious illnesses can access benefits and advice more quickly from citizens advice bureaux.

Financial problems cause worry and can depress people who find themselves in the difficult circumstance of suffering from cancer. It must be particularly frustrating for people in that position to face such problems when they seek a holiday to help alleviate the daily stress and worries of their illness. As Brian Adam said when he spoke effectively about how some individuals have been affected, such treatment amounts to financial discrimination. As Shirley-Anne Somerville said, such discrimination is simply unacceptable.

Insurance companies must engage on the issue and I hope that they will be willing to do so. I hope, too, that all levels of government will support them to take action.

The joint research by Macmillan Cancer Support and the Royal Bank of Scotland is welcome. Let us hope that that ends with positive action and the right response from the insurance companies involved, which is to end the discrimination. I am sure that we wish to do all that we can to ensure that they engage properly in that process. I hope that we can give Macmillan all our support in making its campaign effective. The Royal Bank of Scotland is supporting the research and joining Macmillan in trying to progress the situation; that is welcome, but it is vital that the bank is not alone in doing that and that other companies, too, come to the table.

It is unacceptable that people in vulnerable circumstances are being put through the stress of having to meet higher insurance costs, or faced with the prospect of not being able to go on holiday. I hope that we can all support the campaign until its goal is achieved and the discrimination is ended.

17:25

**Cathy Peattie (Falkirk East) (Lab):** I had not planned to speak in the debate, but I am doing so because the subject is important; I thank Brian Adam for bringing it to the chamber. I recognise the work that Macmillan Cancer Support does in supporting cancer sufferers.

When people are diagnosed with cancer, they often expect that certain things will be in place, such as ready access to information, advice and benefit systems. It can be a shock for people to find out that such things are often just not there. There are many examples of people struggling not only with the illness, but with finding appropriate information and support. In such cases, organisations such as Macmillan Cancer Support and Marie Curie Cancer Care can offer support to sufferers and their families. When my mother was diagnosed with cancer—she eventually died—I was surprised at how difficult it was to find out where to get support or basic information. Even though I was involved in community work, I did not know where to get the support, so what chance do other people have?

Apart from advice on benefits for cancer sufferers, it is important that advice is available on insurance in general, not just travel insurance. Constituents have come to me with issues around insurance for mortgages and loans, for example. People have found out that they have lost their insurance cover because they had an illness at some time in the past. They did not know until it was too late that the insurance company was taking away their insurance cover. I have fought a number of such cases for constituents.

It is important that the travel insurance issue is not only highlighted by Macmillan, but taken up by politicians and others, and raised in the Parliament and elsewhere. The last thing that someone needs when they are facing cancer or dying—although people can recover—is having to worry about money. They should be able to get the support and advice that they need. If they have taken out an insurance policy, they should have the assurance that it will be there for them when they need it and that they will have the same right to travel as others do.

One of my constituents was advised that everything was fine when she bought her travel insurance online. However, she took ill when she travelled to America and was faced with paying large bills when the insurer decided that they should not have insured her in the first place, because she had been much more ill than she said. It is unacceptable that people have to face such situations.

I thank Brian Adam for raising this important issue.

17:28

**The Minister for Public Health (Shona Robison):** I have listened with great interest to the issues that have been raised during the debate. I congratulate Brian Adam on bringing the debate to the chamber and Shirley-Anne Somerville on her maiden speech.

It is hard to imagine what someone who has faced the undoubted difficulties and challenges of having cancer must feel like when they face yet another hurdle along the road to full rehabilitation. As Mary Scanlon said, survival rates have been improving. For example, breast cancer five-year survival is now at 80 per cent, bowel cancer survival is at more than 50 per cent and testicular cancer survival is at more than 90 per cent. More and more people are living longer with cancer, so the insurance issue that we are debating is a hurdle that more and more people will undoubtedly encounter.

It seems to me that this issue is not faced only by people who have cancer or who are recovering from it, nor is it unique to Scotland. The problem is surely a common feature for a great number of people, including those with diabetes and people who have had heart surgery, a stroke, or countless other diseases and conditions that may strike any one of us at any time, as Brian Adam said. The problem applies equally to other insurance, such as life insurance, mortgage protection, income protection and critical illness cover.

It is well known that insurance companies are likely to charge people who have a pre-existing condition that might increase their chance of becoming ill while on holiday increased premiums or offer an increased excess. The national health service cannot meet the costs of treatment abroad in such circumstances. The duty of NHS boards is to attend to the health needs of people who are resident in their areas in Scotland. There is no duty on boards to meet the medical costs of residents who become ill on holiday abroad. The onus is on the individual to take out suitable insurance. It follows that if the Government were to take the initiative to help people who have had cancer to obtain health insurance, a substantial body of people who have or have had other conditions might expect equal consideration.

**Mary Scanlon:** The minister said that the NHS is not responsible for people who are taken ill abroad. Does that also apply to visitors who come to this country, or do such people receive free treatment from our NHS?

**Shona Robison:** I will come on to reciprocal arrangements.

Financial services, including investment business, banking and deposit taking, collective investment schemes and insurance are reserved



to Westminster, but it is surely in all our interests to avoid discrimination by seeking to work with the industry to make progress for the benefit of people in difficult circumstances.

Members might be aware that the United Kingdom has reciprocal health agreements with some countries. Except for countries in the European economic area and Switzerland, such agreements provide only for

“treatment the need for which arose during the visit”,

which is generally taken to mean treatment for accidents and any newly diagnosed condition, and not the routine management of a long-standing condition. An unexpected exacerbation of a long-standing condition might or might not be deemed to fall within the agreements. That would depend on clinical judgment in the individual circumstances of the case.

Under the terms of the European treaty, a person who was visiting another member state of the European economic area and became ill would be entitled to any necessary health care on the same basis as a permanent resident of that member state. However, the state health care systems in EEA countries vary and there might be charges for services that the NHS provides free. Treatment for a pre-existing condition is not excluded from that arrangement. The only requirement is that a person invoking treaty rights must produce a European health insurance card that has been issued in the member state in which the person is resident. The EHIC replaced form E111 in January 2006. In the UK, the EHIC is issued free to residents on request and no details of medical history are sought.

Insurance companies are aware of the arrangements and should adjust travel insurance policy premiums to take account of them—companies usually warn the buyer that the policy will not cover them if they neglect to acquire an EHIC and are charged for treatment as a result. Travellers are therefore advised to take out private travel health insurance in addition to carrying an EHIC.

I am advised that some brokers specialise in higher-risk cases and might be prepared to help people who have had cancer or other pre-existing conditions.

As members said, the area is complex, so I welcome the efforts of Macmillan Cancer Support not only to raise awareness but to seek a practical way forward. I look forward to hearing more about the joint study between Macmillan and the Royal Bank of Scotland, which will investigate how cancer sufferers can obtain fairer travel insurance, especially as the findings could have a significant impact not only on people with cancer but on

many other people who suffer from long-term conditions.

In response to Brian Adam's request, I will write on behalf of the Scottish Government to the Association of British Insurers, to highlight the issues that have been raised in the debate and to seek the ABI's views on what might be achieved through collaboration and partnership between the industry and Government. I hope that that will be of assistance to Macmillan's campaign and to Brian Adam. I thank all members who raised important issues during the debate.

*Meeting closed at 17:34.*



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