

# **MEETING OF THE PARLIAMENT**

Thursday 20 September 2007

Session 3

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## Scottish Parliament

*Thursday 20 September 2007*

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

### Flood Risk Management

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

Good morning. The first item of business is a debate on motion S3M-499, in the name of Richard Lochhead, on managing the risks of flooding in Scotland.

09:15

**The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead):** Flooding can devastate lives, communities, property and the environment. Flooding will happen: this debate is about what needs to be done to improve how we manage the risk to Scotland.

Floods are natural, but they have been exacerbated and made more problematic by human activity. Historically, we have built on flood plains, straightened rivers and forced them into underground culverts, and drained land for agricultural production. In 21<sup>st</sup> century Scotland, increasing climate change means greater likelihood of floods. Climate scenarios for Scotland tell us that our climate will, over the course of the century, become wetter and stormier. As evidenced by events such as the 2002 Glasgow flood and the 2005 Western Isles storm, the implications of severe weather events are wide ranging across society, the environment and the economy.

The Scottish Government has a role to play in helping to equip Scotland with the tools that it needs to tackle climate change. However, we also know that some degree of change is unavoidable as the impacts of climate change in the next 30 or 40 years have already been determined by past and present emissions. As a result, we can expect an increase in flood risk—for all types of flooding. In some areas of Scotland, the potential risk of flooding could double before the end of the century, and that increase in flood risk could be damaging to both Scotland's economy and society as a whole. Our recently published flood maps highlight that around 100,000 properties are at risk from flooding from rivers and the sea.

Scotland needs to adapt to that change if it is to minimise the impacts of costly disruptions, and to safeguard the continued smooth functioning of services and infrastructure. How we manage the risks and events will be one of Parliament's main challenges for the future. It is clear that we have to

leave behind the idea that we act only after a flood; we must instead seek to reduce the risk of significant impacts of flooding through sustainable flood management.

As members may be aware, after the recent devastating flooding in England, the Minister for Environment, Michael Russell, wrote to the chairs of the eight Scottish strategic co-ordinating groups, in which local responders co-ordinate the preparation for and response to emergencies in police force areas, seeking assurances that they were satisfied that arrangements were in place to deal with flooding in their areas. All the groups responded positively about their arrangements for dealing with flooding. Many referred to the process of risk assessment, which includes an assessment of various types of flooding in their area, and all have published a community risk register, which describes the risk rating for flooding in their areas.

As a Government, we want Scotland to become wealthier, fairer, healthier, safer and stronger. The flooding summit that the Minister for Environment and I hosted in Perth last week demonstrated unanimous support for a fresh approach to flood management. Key to such a fresh approach are the desire to declutter the process and the establishment of a framework to enable all organisations to work together effectively to deliver flood risk management for the 21<sup>st</sup> century.

I asked for frank and productive discussion at the flooding summit, and I am delighted to say that that is exactly what we got. The outcomes of the summit will be used to develop further our proposals for amending the current flooding legislation, as will contributions to today's debate. I was pleased that the summit supported the need to take a more strategic, catchment-based approach to flood risk management. It was obvious from those who were present that although we already have the expertise in Scotland to meet the challenge, we need clear leadership to manage the process and ensure that all the organisations involved work in partnership to achieve a collective goal. The aim is to join up processes wherever possible so that they complement, rather than conflict with, each other and so that they are seamless rather than encourage duplication.

I will take the opportunity to talk in more detail about that partnership approach, because the Government believes that it is the key to successful implementation of sustainable flood management in Scotland. At the moment, a wide range of organisations in Scotland deal with flooding. It is therefore essential that we find some way to co-ordinate those organisations to obtain the best possible solution to our flooding problems. There is a view that local authorities, which are accountable to local communities, are

best able to judge the needs of their areas and should be responsible for implementing flood alleviation measures. However, in the move to a catchment-based approach, individual local authorities cannot operate in isolation.

Although we need to debate the case for a national flooding authority, if that route is favoured we have to make it clear that the Scottish Government's preference is to avoid the creation of any new body to fulfil the role. What is certain is that we need some way of co-ordinating catchment-based flood management planning at either regional or national level—in essence, a national approach delivered locally.

To achieve that, it makes sense first to consider how the role and responsibilities of existing bodies might be extended to carry out new work. It is essential that in an attempt to co-ordinate flooding-related matters we do not create unnecessary layers of bureaucracy for practitioners. However, if the best way to achieve partnership working involves a reorganisation of current responsibilities, we will not hesitate to bring that about. In the end, people in Scotland who are at risk from flooding matter most in this debate. We must do everything we can to protect them from the worst impacts of flooding.

There was a great deal of frustration among delegates at the summit in Perth about the sheer number of processes that local authorities have to go through to develop a flood alleviation scheme. It is also confusing for people who are at risk of flooding to be told that a scheme that has been approved under one regime cannot proceed because applications for other consents have to be made, with further rounds of public consultation. Even for non-contentious schemes such as those in Larkhall or Saltcoats, the statutory processes can take up to six months. For contested schemes, even where objectors withdraw without a public inquiry, such as for the Braid Burn and White Cart schemes, the processes can take nearly two years. The process is much longer when modifications to a scheme have to be considered, possibly involving further reference to the planning authority if there is a material change to the scheme. Preparation can take far longer. Many communities that were devastated by flooding many years ago are still waiting for flood alleviation schemes to be up and running.

The provision of flood defences, as with any major infrastructure, impacts on individuals, communities and the environment, and it requires careful and thorough planning. The studies that are needed to identify the right options take time to complete. Nevertheless, we recognise that the present statutory approach is cumbersome and time consuming, so we will consider how we can

streamline the planning, flood alleviation and environmental protection processes to avoid duplication of effort. Legislation dating back to 1961 is simply not fit for purpose in the 21<sup>st</sup> century.

As many members will know, the flooding issues advisory committee was set up in 2005 to offer advice on how to move forward Scotland's national flooding framework. The committee is an excellent example of stakeholders working together to reach consensus on difficult issues. Like all members, particularly those who were in the previous Administration, I am grateful to the members of the committee and its sub-committees for their work and advice in recent years. The committee's final report is published today. Some of its suggestions—for example, the development of a more sustainable approach to flood management—have already been adopted by the Scottish Government. Other recommendations will require further discussion.

We can all agree that a sustainable approach to flood management means our being proactive at strategic level. That will require that stakeholders, including the public, work together from the beginning to share responsibility for final decisions. It is about joined-up thinking among and within organisations when developing strategies, plans and programmes.

Practitioners will have to consider how an incremental approach, using a combination of solutions across the catchment, might help in meeting new challenges as we go through the next 100 or 200 years. That approach may well include engineered works, but those will be sympathetic to the environment in which they are built.

We must recognise that sustainable flood management is not about soft versus hard engineering: rather, it is about considering a wide range of options, from flood warning schemes to river restoration projects; from flood prevention schemes to how we collect data and assess risk; from campaigns to raise awareness in areas at risk of flooding to reassessing how land is managed; and from considering the role of planning and building standards to sustainable drainage systems. We must ensure that the public has confidence in the benefits that land management changes and natural flood processes can bring to flood alleviation. To do that, we must continue to improve our knowledge through detailed studies and modelling.

Given the increased risks that we face, we need to begin now to build such processes into our flood alleviation plans. If we wait 10 or 20 years for scientific studies to be completed, we may well be too late for many communities. We must consider all sustainable flood management options if we are

to meet the challenges in a way that will satisfy the economic, environmental and social aspects of sustainability now and for future generations. That means that we need to make available flexible funding and to join up different funding streams—including, for example, the rural development programme—to make it possible to consider a wider range of flood management options.

**The Presiding Officer:** Minister, you have one minute.

**Richard Lochhead:** The advisory committee suggested that communities could be more aware of, and better prepared for, flooding. It highlighted the importance of improved risk assessment, flood warning schemes and awareness-raising in communities that have been identified as being at risk from flooding. All those allow individuals and communities to take informed decisions about how they can help themselves to manage their own flood risks, for example by ensuring that they have adequate insurance, by storing valuable or sentimental items and important documents upstairs or in a high cupboard, and by making up a flood emergency kit.

**The Presiding Officer:** My apologies, minister. You have another two and a half minutes.

**Richard Lochhead:** I thought so. I was watching the clock on my right. I wondered why it was different from the clocks elsewhere.

We must also consider how the planning and building standards systems can complement each other to address flooding issues in Scotland. We must ensure that we strike the right balance on how we use land so that we can avoid inappropriate development on flood plains and other locations that are at risk of flooding.

As the representative for the Moray constituency in the Scottish Parliament, I have a personal interest in the impacts of flooding. In July 1997, 150mm of rain fell over two days, resulting in 1,200 people being evacuated from more than 400 homes in the Elgin area. As recently as this July, I visited a young family who had been flooded out of their home in Rothes following flash floods. I am only too aware from my constituents of the distress that such flood events cause, the difficulties that are experienced in repairing damage to property and the despair of losing family treasures, photographs and memories. I know that many members will have come across similar devastation in their constituencies.

With that in mind, I am pleased that we are here to debate the issues around flood risk management for the 21<sup>st</sup> century. We now have a real opportunity to consider what is best for a safer and greener Scotland. In doing so, we must not abandon existing good management practices that are being taken forward nationally and

internationally, but should instead seek to identify them and learn from them. As all members do, I want Scotland to be more proactive about tackling flooding. The challenges for the future are great, but we must take this opportunity to consider our future responsibilities and roles both individually and collectively. Clearly, no single body can do it all on its own, so we must work together on various levels to ensure that future strategies, programmes, plans, processes and funding streams are not taken forward in isolation.

What the flooding summit began and what today's debate is all about is a new start. We should all take this opportunity to consider what is best for the future of flood management policy in Scotland.

I move,

That the Parliament notes that a Flooding Bill will be introduced during this parliamentary session; acknowledges the need for Scotland to take a more sustainable approach to flood risk management in order to tackle the increased risk of flooding associated with issues such as climate change; recognises the importance of the publication of the final report of the Flooding Issues Advisory Committee, which ran for two years, and considers that similar positive engagement with stakeholders, including those who have suffered the effects of flooding, should continue throughout the development of the draft Flooding Bill.

**The Presiding Officer:** I call Mike Rumbles to speak to amendment S3M-499.1. If I have this right, Mr Rumbles, you have 11 minutes.

09:28

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** The commitment to introduce a consultation ahead of publishing a flood prevention bill is—like many other aspects of the Government's programme—a continuation of the work of the previous Executive and is to be welcomed. I welcome it.

We all know that climate change predictions suggest that our winters in Scotland will become wetter, with increases in rainfall intensity and frequency. Therefore, floods that are currently considered extreme will become more common in the future. That is a given. We are all aware that we face challenges as a result of climate change—increased risk of flooding is just one of those challenges.

It is not enough just to focus on managing the effects of climate change. The Government must take urgent action to help to reduce climate change in the first place. In this situation, cancelling public transport investment or blocking renewable energy projects is ludicrously short-sighted. The Scottish National Party Administration's attempt to sabotage the Edinburgh airport rail link, its rejection of wind farm

applications and its failure to implement its manifesto commitment to annual climate change targets represent a failure to recognise that it is simply preposterous to attempt to mitigate the effects of climate change without also taking action to reduce that change in the first place. That is why the Liberal Democrats have lodged our amendment. [*Interruption.*]

Rather than challenge me from a sedentary position, the minister should try to intervene. I would be more than happy to give way to him.

I hope that our amendment will receive support from all around the chamber. We believe that the motion is far too complacent, as was the cabinet secretary's speech this morning and we believe that there is much that the Government can do in advance of primary legislation. In particular, we regret that neither the motion nor the minister's speech give any commitment to increasing the financial resources that are available to address this important issue.

**Brian Adam (Aberdeen North) (SNP):** Will the member give way?

**Mike Rumbles:** Yes—perhaps the minister has asked the member to make an intervention.

**Brian Adam:** Would Mr Rumbles care to tell us how much the Liberals would commit in increased financial resources to address flooding?

**Mike Rumbles:** Brian Adam fails to recognise that he is no longer in the Opposition. He must remember that he is sitting on the Government front benches. The Government's responsibility is to bring forward its plans, programmes and budgets; the Opposition's job is to test them, but we cannot test them if the Government does not bring them forward.

**The Minister for Environment (Michael Russell):** Will the member give way?

**Mike Rumbles:** I will in a minute, as I have just given way.

I am astonished that the cabinet secretary completely avoided addressing the issues that are raised in the amendment. He could have addressed all those issues, but he failed to do so. As far as the practical issues are concerned, the role of the single authority that the minister mentioned could be considered to ensure consistent implementation of national flooding policies at regional level—I am pleased to hear that that will be the case—and the pursuit of better co-ordination of all those who are involved in, for example, the rural development programme, the Scottish forestry strategy and the biodiversity strategy.

I repeat what I said in the Rural Affairs and Environment Committee yesterday: the minister

has still not published the full £1.6 billion rural development programme. According to the Scottish Parliament information centre, details for only £1.1 billion of the programme are in the public domain. I ask him again—when I asked him at yesterday's committee meeting, he refused to give any commitment—to publish the details of that programme.

**Michael Russell:** I think that the member is unduly addicted to conspiracy theories, but let me press him on a substantive point—

**The Presiding Officer:** Minister, will you raise your microphone?

**Michael Russell:** I am sorry, Presiding Officer. I am a little throaty this morning.

I want to press Mike Rumbles on the point that Brian Adam raised. The motion refers to our desire for consultation—we recently held a flooding summit—so we would welcome the member's good ideas if he has any. Can he tell us, for example, what balance he would strike between soft solutions and hard solutions and how that would relate to a financial package? If he would help us in that regard, we could move the debate forward.

**Mike Rumbles:** Certainly. The Liberal Democrats are not in favour of a hard approach to flooding programmes. We want to move forward to what the minister has called a soft approach. That is quite clear.

I can also tell the minister that we have no conspiracy theory. Rather, the theory is one of incompetence on the part of ministers, who have been unable to publish the basic facts on the rural development programme. I look forward to hearing ministers tell Parliament where they will spend the £1.6 billion. Details for only £1.1 billion of the programme have been published. I repeat that they should tell us what they are doing with the other money.

Let me return to the main thrust of the debate. Practical pilot projects could be set up to test the effectiveness of natural flood management measures—I repeat that the Liberal Democrats favour natural flood management measures—but to date only one pilot has been set up in Clackmannanshire to demonstrate and quantify the effectiveness of such techniques. We need resources for such pilots. Natural flood management techniques include the restoration of wetlands, gullies and woodlands with the aim of reducing the flow of water from the hills by storing it along the catchment using natural techniques. Those are the subjects that Mike Russell asked me to outline, so I wish he would pay a bit more attention. If more projects like that were led by the Scottish Environment Protection Agency and the Scottish Executive, natural flood management



techniques could be applied on a much larger scale.

I repeat that the minister said nothing in his speech about funding. We had an apple pie speech and we have an apple pie motion, with which we cannot disagree. The problem is not in what the minister said, but in what he did not say. That is the Scottish Executive's problem in this field.

We all know that the Scottish Executive's budget is limited, as are all budgets, and that the money can be spent only once. That is why we have not heard much about the budget. Heaven forbid that the Government should promise to fund more projects than it has resources available to it—that would be terrible. However, I am sure that we will address that issue at the turn of the year, when we examine in greater detail the budget that the Scottish Executive must produce.

**Richard Lochhead:** Mr Rumbles is not listening.

**Mike Rumbles:** Mr Lochhead may say that I am not listening, but I wish he would listen. The job of a minister is to listen to what the Opposition has to say and not just criticise from a sedentary position.

Before the election, Richard Lochhead was quick to say that he would

"work with the SNP's Members of the European Parliament to further European Regional Development Funding ... to finance the flood defences,"

and

"ensure the Association of British Insurers will take into account specific Scottish conditions and flood prevention measures when setting insurance risk calculations in Scotland."

I wonder whether the minister can tell Parliament in his summing up exactly how he is getting on with the commitments that he made on those two initiatives. I would like a little update on that.

The risks and costs of flooding in Scotland are great. Around 5 per cent of the land area of the country and about 4 per cent of all properties are at risk—it is serious. The previous Scottish Executive took action to address the matter—we increased the budget for flood defence schemes to £89 million and allowed local authorities to invest a total of £111 million in a programme of flood prevention schemes. Yes—we are mentioning money and what the previous Scottish Executive did. I would like to know what the new Scottish Executive will do.

The previous Executive introduced the world's first digital mapping of entire land areas in order to develop the most accurate flood risk maps and so aid flood prevention, and it more than doubled grants to authorities for flood defence schemes for

2005-08, with grant aid increasing from 50 per cent to 80 per cent.

The minister asked me about money, so I am pointing out the facts about what the Labour-Liberal Democrat coalition did in the previous Parliament. We put our money where our mouths were. What will the new Scottish Executive do about funding the necessary schemes? We have heard nothing about that.

As well as legislating, the previous Executive took real action to assist with flood prevention measures and it was committed financially to improving Scotland's flood prevention schemes. Missing from the SNP Administration's motion and from the minister's speech is any reference to the continuance of that financial commitment. The motion is complacent and inadequate. I urge members from across the chamber to support the amendment.

I move amendment S3M-499.1, to insert at end:

"further believes that there are policy and funding issues that can be addressed in advance of primary legislation, and regrets that no commitments have been made to increase financial resources to address this important issue."

09:38

**Sarah Boyack (Edinburgh Central) (Lab):** We on the Labour side welcome the SNP's commitment to introducing a bill on flooding. We would have done that, too, as it was a clear manifesto commitment. I also welcome today's debate because it is clear that current legislation on flooding prevention is out of date and not fit for purpose. I agree with the cabinet secretary on that.

That is not to say, though, that there were no legislative changes during the first eight years of the Scottish Parliament. During consideration of the Water Environment and Water Services (Scotland) Bill, we persuaded ministers to add references to flooding. It was important that we had a much more joined-up approach to river basin management—that is now happening across Scotland. That has been important, as were the annual reports to the previous Environment and Rural Development Committee, which enabled us to ensure accountability for implementation of the Water Environment and Water Services (Scotland) Act 2003. The reports have also enabled stakeholders to review progress.

I, too, congratulate the members of FIAC for their excellent work in identifying the challenges and some of the tough solutions that we need to debate. There are now improved warnings for householders and businesses to ensure that they get adequate notice of potential flooding incidents. There is also the new planning guidance on

flooding, although I am concerned about whether that is being fully implemented. I would like ministers to address monitoring of implementation of the flooding guidance. I believe that there have been instances in which the precautionary principle has not been fully applied. We must ensure that that happens in every planning decision in Scotland.

At the end of the day, it is householders who suffer. They are left with the devastation that flooding causes and they have increased difficulties in getting insurance cover. That issue will not go away, because climate change is happening and instances of heavy rainfall will increase.

There are big issues for the new SNP ministers to address. For example, there is the critical issue of the speed of decision making, to which the cabinet secretary referred in his speech. Speaking from my experience as an MSP, one of the first difficult issues that I had to deal with in my constituency of Edinburgh Central was the Water of Leith flooding incident in the spring of 2000—we still do not have full flood protection measures in place. We do not, however, lack expertise or engaged communities: the Water of Leith flood action group and Murrayfield community council in my constituency alone, never mind groups in the rest of the city, have had to engage with potential solutions for seven years now.

It will be controversial to speed up decision making because individual rights must be dealt with. However, we currently have a tortuously long process and double handling from the local authorities and the Scottish Executive. The technical process and the planning process must be brought together. We will work with the new ministers to ensure that we get something to which Parliament can agree—that is critical for managing flood risks in the future.

Flooding events have a tremendous human cost, with people sometimes being out of their houses for the best part of a year. However, the problem is not just loss of money: when we get bad rainfall, some of my constituents phone me to ask what is happening because they now have a fear of being in their own houses at such times. We must never accept that.

On a more basic level, individual householders can make changes that make their area more prone to flooding. In my constituency during the election campaign, I saw that several people in one street had concreted what had previously been their gardens. They now experience flooding in that street. We need to get basic information out to people because they do not think about the cumulative impact of what they do in their own gardens. We need to develop communication of such information.

Scottish ministers and Parliament face a big challenge, so it is vital that the bill consultation engages fully with those who have experienced flooding incidents because their perspective is crucial. There is the issue of the responsiveness of the emergency services: how well equipped is each service in the country? There is also the basic issue of funding for flood management, not just for the building of schemes. The longer they take to build, the more they cost. That has been the case in Edinburgh and elsewhere in the country.

I want to add to the debate coastal inundation, on which we have not, in the context of long-term management of flood risks, engaged sufficiently. It may not be possible to save our entire coastline, so we will have to deal with tough questions. We must consider managed-retreat strategies for some places and protection strategies for others. We must ensure that communities and local authorities in such areas are brought to the table for the debates. We need to undertake the critical analysis, discussion and information sharing now.

There are particular problems for smaller and island authorities that have extensive coastlines that will be exposed to stormier weather. They are unable to employ the range of staff in-house to address the technical and management issues that flooding and coastal erosion generate. Ministers will need to talk to such authorities. I know that there were issues in the past and that changes were made, but we need to ensure that those authorities have the resources—the people as well as the money—for the bigger challenges in the future.

**Rob Gibson (Highlands and Islands) (SNP):**

Does the member agree that the Scottish Environment Protection Agency map shows that large parts of the housing development section of the Leith foreshore development area are at risk of flooding?

**Sarah Boyack:** All our estuaries will have similar problems in the future. Work that was done 20 years ago at the University of Strathclyde identified areas that were at risk of flood. There are major flood risk problems across Scotland in our river estuaries, but particularly in the Clyde, the Forth and further up the Tay. I want to flag up the issue of rural communities because there is an issue about our coastline, but I agree that flood risk is also a huge issue for urban communities in Scotland. I know that my colleagues will focus on that point.

It is critical that SEPA is not regarded as being just a rural agency. We must continue to support its excellent work in identifying flood risk and we must keep a weather eye on its staffing levels and expertise, especially for planning applications and development plans.

Resources are a major issue, which Mike Rumbles was absolutely right to raise. Flood expenditure has increased significantly since Parliament was established, but we need to go much further. I note that last week the First Minister said about flooding that

“We cannot address the seriousness of the issue without additional funds being provided.”—[*Official Report*, 13 September 2007; c 1746.]

I suspect that Scottish National Party members say that to everyone. However, we face a significant challenge and choices will have to be made in the spending review. Local authorities will be strapped for cash if the SNP’s council tax freeze backs them into a corner and they will need extra support if they are to begin to cope with the challenges that they face. I ask ministers to consider the spending review and to give greater priority to the issue. They should also keep an eye on what is happening down south. Given the recent floods, Barnett consequentials are likely to deliver more resources to tackle flooding—if we in Scotland choose to take them.

Sustainable flood defences must be part of the solution, but they will not always be the cheapest option. If we are to pay to retain flood plains that are not used for economic activity, and if compensation is required, tough issues will need to be considered. I call on ministers to continue the work that is being done, to consider the issue on a cross-party basis and to ensure that money is available, not just centrally but in SEPA and in local authorities.

The debate on flooding must not take place only in Parliament; it must include a range of key players. I urge everyone to contribute to the work that the Rural Affairs and Environment Committee will carry out this year on flooding. Such input will be vital if we are to raise awareness about the risks of flooding.

09:46

**John Scott (Ayr) (Con):** I thank the cabinet secretary for the early sight of the flooding issues advisory committee’s report, which was published today. I welcome FIAC’s conclusions—in particular the recommendations of the alleviation sub-committee.

I welcome the Government’s proposal to introduce a flood prevention bill. Scottish Conservatives think that such a bill is vital and will provide an opportunity to update and integrate the legislation on flood management in Scotland. Almost 100,000 homes and more than 7,000 businesses are under threat of flooding, including homes and businesses in the Ayr constituency, so the bill is urgently needed, particularly given the

increased rainfall that is predicted for Scotland as a result of climate change.

The human cost of flooding, which was evident during the recent floods in Tewkesbury and Hull, is a further compelling driver for action. Members of the Parliament have a duty of care to remove or reduce, if at all possible, the threat that flooding increasingly presents to our fellow citizens, which the cabinet secretary and Sarah Boyack mentioned. We must make a start on assessing and evaluating the best way forward, which is a daunting, but exciting, responsibility.

As members know, a flooding summit was held in Perth to inform the debate. Like other members, I am grateful to the people who took the time to attend the summit and highlight the seriousness and complexity of flooding issues in Scotland. Yesterday, the Parliament’s Rural Affairs and Environment Committee initiated an inquiry into flooding. I welcome the Government’s intention to conduct an inquiry into the subject later this year. I hope that the two pieces of work will not overlap. The inquiries must grapple with many huge issues.

The differences between river, coastal, surface and groundwater flooding are self-evident. Different and unique solutions will be required to address various types of flooding. The committee’s inquiry and work on the bill will need to start with an attempt to evaluate the risks that are associated with greatly increased rainfall in Scotland during the past 40 years, which were evidenced in the study by the Scotland & Northern Ireland Forum for Environmental Research—SNIFFER—and the risks that are associated with increasing storminess and rising sea levels, which lead to surges in coastal areas.

The bill will build on and update earlier legislation and should propose more sustainable and long-term solutions than were previously thought necessary. A combination of soft and hard engineering solutions must be found for each river basin or catchment area, and each solution or plan will be unique to the defined flooding problem. The concept of integrated flood management will need to be developed, particularly to reduce peaks of flooding, which usually—but not always—pass quickly.

I am a farmer, so the tops of the hills are familiar to me—I declare an interest in that regard. It will be important not to markedly increase drainage on open moorland. Afforestation, particularly with native woodland, should be encouraged, to create rainfall sponges that retain water in the hills and uplands. Upland valleys, which are naturally occurring flood plains and are often the best and most productive agricultural land, might have to be used for the public good, to hold water temporarily and accommodate peak flooding. However, if that involves breaching existing flood defences, it

should happen only with the consent of affected farmers and landowners. If prime land is occasionally to be used for the public good in that way, it is vital that long-term compensation packages should be negotiated with affected farmers and landowners. Long-term commitments between landowners and public agencies, perhaps for up to 20 or 30 years, need to be considered and could perhaps be integrated into agri-environment schemes. A balance will need to be struck between using land for flood prevention and using it to grow food, given that food security is becoming an issue.

Environmental and wildlife issues will also need to be considered and balanced. All such issues will need to be integrated into an agreed plan for each river basin and married to the river basin management plans that have been and are being developed as a requirement of the water framework directive.

Best practice throughout the world should be studied and copied, to deliver soft and hard engineering solutions. The lessons learned from the experiences in Hull, Tewkesbury and elsewhere should help to inform the Rural Affairs and Environment Committee's inquiry and the bill.

Coastal defences will require individual analysis and multi-agency working will be necessary to develop sustainable long-term protection. I agree with Sarah Boyack's comments in that regard.

If possible, efforts must be made to separate sewage from rainwater, but we all know that that is easier said than done, given the current infrastructure. However, a direction of travel should be established in the context of planning for the future, and longer timescales should be envisaged, to accommodate the anticipated threat of increased river and coastal flooding.

The creation of flood management schemes such as the Glasgow strategic drainage plan needs to be streamlined and simplified, and local authorities should incur less funding risk before seeking approval for plans. The bill should consider the process for putting in place demountable, temporary and householder flood defences. Planning timescales should be extended—to 40, 60, 80, or even 100 years—if research into global warming predicts rising river and sea levels. The bill will provide a once-in-a-generation opportunity to put the right solutions in place. Of course, some people think that global warming can still be stopped or reversed, so the advice that we receive will be crucial.

Local authorities, police and fire services might need new powers, so that they can act in the best public interest when extreme flooding events loom. The insurance industry, which so far has largely picked up the bill for flooding in the United

Kingdom, will have to be persuaded to continue to insure our homes and businesses. It will do so only if the Government does more to reduce the risk of flooding. We should not forget that the UK insurance industry is almost unique in Europe in insuring against flooding risk. The industry will not continue to do that in the long term if the risks and payouts are too great.

Adequate funding will need to be found. I welcome the commitment that the First Minister made last week in response to a question that I asked him about flooding. He said:

"We cannot address the seriousness of the issue without additional funds being provided."—[*Official Report*, 13 September 2007; c 1746.]

If Mr Rumbles had been paying attention, he might have agreed with me that the First Minister seemed to be making a commitment to provide adequate funding.

Much needs to be considered before work can start to address river and coastal flooding. Time is not on our side. This generation and the next one must make a start as soon as possible, and we must get the modelling and predictions right first time. Engineering skills will be tested to the limit if we are to anticipate and cope with flooding, but I am optimistic that elegant solutions can be found, so that we can reduce flood risk throughout Scotland and provide a safer environment for our homes and businesses.

**The Deputy Presiding Officer (Alasdair Morgan):** We move to open debate.

09:53

**Roseanna Cunningham (Perth) (SNP):** Floods are not a new phenomenon—no doubt Noah would attest to that. What is perhaps new, however, is the frequency with which such events are occurring in places where only occasional flooding might have been expected over the decades and even centuries. When events that used to happen once in a lifetime begin to occur with greater frequency, expectations about the response change. The events are no longer viewed as acts of God; they are more likely to be regarded as failures to plan properly.

Until now, the usual response to flooding has been wholly defensive. Like Canute, we seek somehow to hold back the water, with schemes that usually cost a lot of money, involve a lot of construction and—it must be said—are of varying effectiveness, as my colleague Keith Brown will no doubt say.

The recently publicised flood risk maps were a scary example of how continuing with that approach will be more and more difficult, as 100,000 Scottish homes and 7,000 Scottish

businesses are now at risk. Humans have always built on flood plains because they are highly productive areas and are close to fast-flowing rivers and the sea, which were important avenues of communication, but the kind of building that we did in the past did not exacerbate the problems in flood-prone areas. That is not so now.

For members who, like me, represent areas with serious flood problems, the debate is not academic. Scottish Environment LINK estimates the average annual cost of damage from flooding to be around £20 million. Well, the total cost of the flooding in Perth in one year—1993—was £39 million. In that flooding, 1,600 properties were affected. It cost £26 million to put the Perth flood prevention scheme in place, 50 per cent of which was provided by the then Scottish Executive. Perth and Kinross Council had to apply for borrowing consent for a sum of £21.3 million before work could even start, and that money came from the Scottish Executive challenge fund. That meant that the Perth scheme was up against other schemes that were also seeking funding. That is not to mention the years that it took to get the funding together and build the defences.

That is a crazy way of doing things. The worst of it is that the rainfall that fell in Tewkesbury in July would have overwhelmed the new Perth defences. They are only recently built but are already potentially inadequate. That prompts the question of how far we can go and how much money we can spend on doing things the way that we have always done them if the net result is obsolescence only a few years down the line.

Many other smaller floods take place frequently in my constituency and throughout Scotland. They do not get the publicity that the really big events get, but they are continual and affect many people regularly. I attended the flood summit that the cabinet secretary organised in Perth on 10 September. I am sorry that more members were not able to take up the opportunity to go to that summit, because it was timely and profoundly useful. The commendably open discussion highlighted the key problems that face us and the issues that we must now address. The potential scale of the events that we may now face became clear from those discussions.

There is pretty much unanimous agreement that the Flood Prevention (Scotland) Act 1961 is no longer fit for purpose. Leaving aside the question of incorporating the European Union floods directive, I think that there are big issues of funding that seriously need to be addressed—and I suggest that they be addressed in a slightly more constructive fashion than Mike Rumbles proposes. The complete nonsense of using challenge funding for flood defences needs to be rectified.

Either flood defences are required or they are not and, if they are, they must be built.

It is equally important that we widen the definition of flood management so that money is not only directed towards hard construction but is also applied to soft schemes, which are perhaps much more sustainable. I say to Mike Rumbles that we are all aware that it will cost more, but we will not know how much more until we know how best to tackle the problem. He is in danger of becoming the Victor Meldrew of the Scottish Parliament if he does not mend his ways.

**Mike Rumbles:** Roseanna Cunningham raises a legitimate question, but the point that I am making is that a commitment from the Scottish Executive to increase or continue with the funding is missing from this important argument. Where is any such commitment?

**Roseanna Cunningham:** Mike Rumbles raises the possibility that the Government is somehow going to axe funding for flooding. What a piece of nonsense that is. If he would only listen to himself, he would realise how ridiculous he is beginning to sound.

Given the potential scale of the events and the flood risk maps to which I referred, serious questions must be asked about why planning and responses are left to local councils when the problem is arguably much greater and should be addressed at the catchment level. I appreciate that there is a danger of resorting to yet another level of bureaucracy, but there is no doubt that many local councils are now overwhelmed by the expectation of handling a problem of far greater scale than their local resources allow.

The cabinet secretary is not short of suggestions from a number of lobbying organisations, and I hope that he will accept the Rural Affairs and Environment Committee's suggestions when it concludes its inquiry into flooding and flood management. That inquiry was announced yesterday and there are 12 weeks for written evidence to be submitted. I urge all members to get local groups to submit evidence and perhaps even to submit evidence themselves.

We are now into autumn and moving into the winter months, which are traditionally the months when Scotland is most vulnerable to high rainfall—although, on the evidence of this summer, we may have to change our perceptions of that. God forbid that we experience any more flooding this winter. However, the Parliament must move as fast as possible on the issue. We all want to minimise the potential for further damage on the scale that we saw in England in July.

10:00

**Des McNulty (Clydebank and Milngavie) (Lab):** Presiding Officer, I apologise to you and to members for not being able to stay to the end of the debate. The new Clydebank College building, which cost £30 million, is opening this afternoon and I am pleased that I will be there rather than here on this occasion. For that reason, I will have to forgo the pleasure of listening to Michael Russell closing the debate and, perhaps even worse, the delight of a second speech from Mike Rumbles.

**Richard Lochhead:** We will all go to Clydebank College.

**Des McNulty:** Absolutely.

As a member of the Transport and the Environment Committee, I was closely involved in the scrutiny of the Water Environment and Water Services (Scotland) Act 2003, under which Scotland became the first part of the UK to transpose the European water directive into statute. That act creates a new duty on public bodies to promote sustainable flood management and envisaged the creation of joint bodies based on eight river catchment basins across Scotland to oversee and co-ordinate a range of activities, including flood management.

During the passage of the Water Environment and Water Services (Scotland) Bill, I successfully argued for responsibility to be given to Scottish Water for the future maintenance and capital enhancement of public sustainable urban drainage systems—or SUDS, as they have become known. Despite advice that was issued by the Scottish Executive in the form of planning advice note 61, developers had been reluctant to create public SUDS while it was unclear where responsibility for maintaining and enhancing the systems would rest in future.

Scottish Water was not made responsible for all elements of SUDS. As the drainage authority, it has only partial responsibility, shared with developers and local authorities. However, because it will accept responsibility only for properly constructed schemes and is in a position to encourage the development of several ponds in series, to set standards for pollutant loading and to make developers abide by maximum run-off rates, the use of SUDS has greatly increased across Scotland and we have an effective management regime.

**John Scott:** Both Des McNulty and I sat on the committee that examined that bill. Does he recall and accept that the big weakness was the lack of funding at the time? That is why, to pick up on Mike Rumbles's point—notwithstanding the First Minister's commitment—it is essential that adequate funding is put in place this time.

**Des McNulty:** I will come on to funding in due course, but the example of SUDS demonstrates that legislation can assist with the management of drainage. Like Sarah Boyack, I welcome the minister's commitment to a flooding bill that will provide a framework for taking forward soft measures, such as planting trees along riverbanks and restoring wetlands, alongside harder engineering solutions. However, John Scott is right that, for that to be effective, the minister needs to ensure that there is adequate access to funding for sustainable flood prevention measures. I hope that he has the ear of the Cabinet Secretary for Finance and Sustainable Growth, Mr Swinney, in that regard.

Indeed, I hope that Mr Swinney will pay particular regard to the importance of sustainability in the decisions that he takes in the spending review and that he will live up to his full title. Labour doubled the amount of money that was directed towards flood prevention last year. Will he maintain that level of funding? Indeed, given Mr Lochhead's commitment to do whatever is necessary and practical to protect communities from the risk of flooding, will he substantially increase expenditure on flood prevention? The UK Government has made between £600 million and £800 million for flood management in England and Wales. Will the Barnett consequential be available for flood management in Scotland and will the Scottish Executive—or the Scottish Government, as it now styles itself—ensure that that money is red lined and maintained for flood action?

Although Mr Lochhead became the member for Moray only relatively recently, he will be well aware of the problems that were experienced by the people of Elgin, which were spelled out to the Finance Committee when it took evidence from local organisations in late 2005 and which prompted greater generosity from Mr McCabe. Christine Grahame will no doubt talk about the flooding in Hawick in 2005 and other members may talk about the recent flooding at Milnathort in rural Stirlingshire, but there are problems throughout Scotland—even in my constituency. More than 2,000 properties are registered as being at risk of flooding in West Dunbartonshire and just under that number in East Dunbartonshire. However, recent flooding problems affecting some of my constituents in Clydebank show that the deterioration of drainage infrastructure, much of which dates back to before the first world war, is a significant problem that needs to be addressed alongside river-based flooding.

**Michael Russell:** Before I make my point, I welcome Des McNulty to his new post. I am sorry that he will not be here to hear a personal tribute in my summing up—maybe I will not bother with it.

He raised an important point about the decay of drainage systems, which points to another financial issue that should be borne in mind—indeed, it is raised in the WWF Scotland document “Slowing the Flow: A natural solution to flooding problems”. There are a number of funding streams that need to be applied to the issue of flooding, so the lack of subtlety in the amendment is another problem with it because we need to call on a number of resources, not just one.

**The Deputy Presiding Officer:** Des McNulty has half a minute.

**Des McNulty:** Lack of subtlety is no excuse for not having a thorough debate—it is important that there is a proper consensual debate on these important infrastructure issues, and all the parties should be involved. I referred earlier to the Water Environment and Water Services (Scotland) Act 2003. If there are obstacles to implementation of the duty to provide sustainable flood management, they need to be identified and removed. The framework in the act allows for statutory regulation of integration of flood prevention and management across public bodies.

It is clear that some departments, organisations and agencies are not as fully engaged as they could be—the cabinet secretary indicated that that concern had emerged at the summit. That needs to change, and that change can be effected not just through new legislation but by effective implementation of existing legislation and the application of funding. All those strands need to be tied together. I hope that we can achieve that.

10:06

**Keith Brown (Ochil) (SNP):** The cabinet secretary said that flooding can decimate lives, and there is no question but that he is right about that. Flooding is a Scotland-wide, UK-wide—as we saw this summer—and global problem, which is made worse by climate change. I will use one or two examples from my constituency to demonstrate that fact. The idea that all was great under the previous Executive and that, under the new Government, all is complacency as Mike Rumbles put it, is—to use Mr Rumbles’s own word—preposterous. Complacency would be a party omitting all mention of flooding from its manifesto—as the Labour Party did.

**Sarah Boyack:** Will the member take an intervention now?

**Keith Brown:** Not just now—the member should wait until I get started.

**Sarah Boyack:** Will the member not take one now?

**The Deputy Presiding Officer:** The member is not taking an intervention.

**Keith Brown:** I want to highlight the situation in Milnathort, which has been mentioned—I must point out that it is in Kinross-shire, not Stirlingshire. The example of Milnathort shows that, as Roseanna Cunningham pointed out, hard engineered flood defences are not always of comfort to local communities. Half a million pounds was spent on new flood defences at Milnathort, yet, within a few months of their completion, major flooding—with all the accompanying trauma that other members have described—took place there. Some people have still not returned to their homes, they have lost all their belongings and they have to live some distance away, with no real prospect of returning to their homes. More important, they have no confidence about going back to their houses—Sarah Boyack referred to that. There is real fear. I live 13 miles away from Milnathort, but every time that there are two successive days of rain I start to wonder what is happening there. That is becoming more acute with the onset of winter.

Bridge of Allan, in my constituency, is an example of a place in which one house can be affected by flooding, but the cause of the flooding can be traced back to previous flood defence systems that were put in place. It is hard to get funding to deal with that problem. Another case is the Wallace high school, which is currently under construction in Bridge of Allan and is said by local people to be Scotland’s first underwater school. It has been built on a flood plain, and it is behind schedule and well over budget because of the cost of pumping out the water during its construction.

In the middle of my constituency, we had—as Mike Rumbles mentioned—the River Devon natural flood management scheme, which was funded not by the previous Executive but by HSBC working in partnership with Clackmannanshire Council and WWF Scotland.

As the cabinet secretary has said, it is not a simple case of new soft, natural flood defences being far better than the old engineered system. We must have the right solution for the right place. It is important that we review the Flood Prevention (Scotland) Act 1961—I am very pleased that that is included in the Government’s programme. It is essential that we streamline the processes and the funding regime, as the cabinet secretary outlined.

Regarding Sarah Boyack’s point about councils and funding, it is also essential that we do not impose new burdens that we do not then fund. I worked on a council for a long time, so I know that local government is fed up of that happening in the past, and it should not happen in the future. However, that is not the same point as the red herring about a council tax freeze, which is a completely different issue. I agree that if we oblige

councils to do more on flood management, we should fund the costs.

I welcome the urgency with which the Government has sought to address the matter, by including it in the legislative programme and through the recent flood management summit, which I could not attend because of constituency obligations. I am grateful to Roseanna Cunningham and her Rural Affairs and Environment Committee for accepting an inquiry on flooding as one of its first items of business and I hope to give evidence to that inquiry. The urgency that her committee and the Government have shown on the issue stands in stark contrast to the complacency that existed under the previous Executive, of which Mike Rumbles's amendment, which I will oppose, is redolent.

10:10

**Peter Peacock (Highlands and Islands) (Lab):**

I am pleased to take part in the debate, because flooding is unquestionably an important issue that touches more and more people's lives in Scotland every year. With the climate change that is taking place, it is probable that rainfall will become more intense, the patterns will change and more people will be affected over time.

Major questions now arise about whether the infrastructure that we have created over the years in towns and cities is capable of coping with current pressures. There is also a question about whether engineering solutions will ever be fully capable of coping with the pressures, which points to a need to utilise flooding protection mechanisms that are far more natural than those that we have used in the recent past. Such an approach has many benefits and may have important implications and good by-products for the management of uplands, biodiversity and the improvement and restoration of habitats. In our towns and cities, there is a potential to create new green corridors to manage flooding, which could bring major environmental and amenity benefits as well as providing more effective protection from flooding.

I welcome the Government's intention to introduce legislation on flooding, because we need to update the current legislation. I also welcome the Rural Affairs and Environment Committee's decision to hold a major inquiry into flooding. Those initiatives build on the previous Administration's actions, to which other members have pointed, such as the creation of a national flooding framework, the introduction of new planning guidance, an increase in funding and the commissioning of expert advice through the flooding issues advisory committee.

Flooding can have a devastating impact on individuals and communities. In recent years in my region, the Highlands and Islands, many communities have been affected by flooding. For some individuals in the community, each of those incidents results in trauma, a potential effect on property value, anxiety, stress and the loss of irreplaceable personal items. An individual from Elgin, in giving evidence on their experience, said:

"I think you've a fear factor initially and adrenaline helps carry you through it. In a lot of cases panic sets in. Then the desperation to get alternative accommodation. Then it's getting the loss adjuster to come and have a look. You walk back through your house again and it's covered in sewage. That is a devastating moment."

Another person from Elgin, who had recently lost her mother to cancer, then lost every photograph of her mother in the flooding—those were irreplaceable personal items. Flooding touches people in a real way. The human cost, the cost to economic activity, the disruption to community life and the fear and anxiety in which people continue to live—which Sarah Boyack mentioned—are all reasons why we must make more advances in how we manage flooding. I will play a constructive part in the discussions about the bill when it is produced.

That said, I am seriously concerned about some aspects of the Government's policy, particularly the impact of other policies that the Government is pursuing on local authorities' ability to fund flood alleviation schemes. The Government has hitherto funded approved flood alleviation schemes at a rate of about 80 per cent. The local authorities then fund the balance using a mix of the potential sources: capital receipts, direct council tax and prudential borrowing, the interest payments of which, as well as the capital, are paid back over many years.

As we know, the Government proposes a council tax freeze. Further, if the council tax was ever abolished, as the Government proposes, a national capped rate of extra local income tax would be introduced. Under either of those policies, local authorities' discretion to raise extra local taxes to pay their part of flood alleviation schemes would in effect be removed. The only alternatives would be to reduce spending on other services or to sell assets, whereas other local authorities that do not have flooding issues could sell assets to spend on improvements to schools, local roads or social work facilities.

Considerable sums are involved. The total bill for the various flood schemes in Moray Council's territory comes close to £140 million. Under current conventions, Moray Council's share of that is some £29.5 million, of which it has already set aside some £12 million from capital receipts. The council therefore has to find a further £17.5 million. That is a large sum by any standards but, for a



small local authority with a very small tax base, it is a huge burden. I will give members an idea of the costs involved. If the sums were all to be funded in one year, an increase in the council tax of roughly 50 per cent would be required.

**Richard Lochhead:** The member will of course accept that Moray Council's financial problems have been around for a number of years, including the years under the previous two Administrations in Scotland.

**Peter Peacock:** I am trying to make a serious point about the planning and implementation of the present Government's policies and about their implications for the council's ability to cope.

If the sums were funded over a three-year period, the increase in council tax would be some 16 per cent per year; if funded by prudential borrowing, the cost would be something like 3.5 per cent on the council tax for perhaps 25 years or more. However, all funding avenues are now being blocked by the minority Government, which could mean that schemes will not be able to proceed or that they will have to be funded by millions of pounds in cuts in other services. That is a ridiculous position for the Government to put the people of Moray in.

The Government's policies on local taxation will cause huge problems for Moray. There can be only one solution: the minority Government must guarantee to fund flood alleviation schemes in Moray by 100 per cent. Nothing less will do. It would be intolerable if Moray's citizens had to forgo crucial public services that others enjoy, or if they were faced with large tax rises when taxes are being frozen in other parts of Scotland. When he sums up, the minister will have to put these matters beyond doubt. If his party sticks to its pledge to freeze council tax, he must guarantee 100 per cent funding for the Moray flood alleviation scheme.

I have said that I support the Government in considering legislation on flooding, but it will also have to consider the impact of its other policies on local communities' ability to cope. I will not support the Government if it puts undue burdens on the people of Moray.

10:17

**Elizabeth Smith (Mid Scotland and Fife) (Con):** As the speeches of Roseanna Cunningham and Keith Brown have already made clear, none of us who represent Mid Scotland and Fife need reminding of the horrors that afflicted the residents of Milnathort last year or the horrors that afflicted the residents in the Perth, Kinross and Strathearn areas in 1993.

It goes without saying that flooding is one of the worst natural disasters that can affect a community. As Peter Peacock has just said, flooding can have deep psychological and social effects as well as the obvious economic costs. Those costs amounted to something in the region of £40 million in the case of the Tay and Strathearn floods in 1993. It is obvious that flood management is hugely important, but the Government is absolutely right to stress that the sense of urgency is increased because of recent climate change trends. We should be under no illusions about the dangers of delaying new legislation.

The Scottish Government has already indicated that it takes flooding extremely seriously, and its proposal for a new flood prevention bill for Scotland is to be warmly welcomed. I hope that work can begin immediately on investigating best practice in other parts of the world and on ensuring that we have a comprehensive understanding of the complex science that underlies flood prevention. Clearly, a variety of interested stakeholder groups wish to participate in the debate, and the facilities to allow such participation should be put in place as soon as possible.

That said, the key focus has to be on responsibility—first, responsibility for what happens when flooding takes place, and secondly, responsibility for flood prevention. Scotland needs national legislation that clearly identifies where the responsibilities lie in both cases, and it should be in language that is familiar to the general public as well as to the scientists and technical experts.

As members are fully aware, Perth and Kinross Council faced severe criticism from many residents in Milnathort for its response to the flooding chaos. That criticism has now prompted a full investigation into where the different responsibilities should lie. Perth and Kinross Council has taken matters very seriously indeed, as is evident from the paper that its enterprise and infrastructure committee produced in August. It is absolutely right to initiate procedures to not only investigate what went wrong but put in place measures to improve transparency and accountability.

With that in mind, it is important to recognise that the primary responsibility for ensuring that water is kept out of a property lies with the property owner or occupier. That is not always recognised by the individuals concerned. It is therefore the owner's responsibility to undertake precautionary measures, and in particular to ensure that their property is adequately covered by their insurers. That is particularly important in light of the fact that the costs incurred by the insurance industry after the recent UK floods were

sufficiently high to make the industry re-examine its commitment to provide full insurance cover. Incidentally, such cover is not always available in other countries. Measures will be successful only if the other parties involved in flood prevention are fully responsible and accountable in that role, so that insurers have confidence that they are not the only people to carry the economic cost.

The new bill must concentrate on that aspect of policy, and it must do so in three main areas. First, it must streamline the decision-making process to allow a much more holistic approach to be taken throughout the UK. As things stand at present, a large number of groups are involved in flood management and prevention, and it may take time to rationalise that structure so that responsibilities are more clearly defined and there is less scope for buck passing.

Secondly, the science that is relevant to flooding is changing all the time, which inevitably means that an important debate has to take place to find the appropriate balance between soft and hard engineering defences. That will undoubtedly involve additional resources.

Thirdly, if we are to continue to place on the individual the primary responsibility for keeping water out of their property, emphasis must be placed on assisting responsible landowners and punishing those who default. Huge amounts of money can be involved—to say nothing of the amount of work that is required—in maintaining efficient defences. Flood management will therefore not be successful unless individual landowners are able to recognise and deal with their responsibilities.

I said at the beginning that no one needs reminding of the horrors that flooding can bring. It is therefore imperative that the proposal for a new flood prevention bill is fully supported.

10:21

**Jim Tolson (Dunfermline West) (LD):** Flooding is one of the most important subjects facing not just Scotland but many places in the world, from Aberdeen to Africa and from Inverness to India. No matter where in the world we are, the risks of flooding are rising as quickly as the floods themselves. However, today we have yet another SNP debate that is short on substance and has little hope of passing muster at 5 pm.

My colleague Mike Rumbles was quite right to lodge an amendment to put some substance on the SNP motion. Once again, the SNP is being found out by a much more effective Opposition—an Opposition that has a good track record of governing in Scotland, and an Opposition that has led significant improvements in the financing of flood prevention infrastructure in Scotland. I have

seen the benefits of that investment in my constituency. Indeed, one scheme that is very near my home in Dunfermline has already shown great benefits. Like so many other schemes in Scotland, it is a combination of soft and hard engineering.

I know that members have been lobbied by the Royal Society for the Protection of Birds, which is seeking a bill, but it wants only natural flood prevention schemes to be used. Unfortunately, the RSPB has got it wrong, because one type of scheme will not prevent flooding in all areas: as in Dunfermline, a combined scheme is often the best scheme.

Members may be aware of Dunfermline's major expansion in recent years. Drainage for the massive new development was centred on sustainable urban drainage systems, which are known as SUDS to you and me, Presiding Officer. However, for those who are less familiar with them, SUDS are described by the Scottish Environment Protection Agency as

“an alternative to conventional urban drainage systems and are designed to reduce pollution and flood risk in watercourses and wetlands ... SUDS are physical structures built to receive surface water runoff. They can include detention basins, retention ponds, constructed (storm water) wetlands, infiltration devices, swales and permeable surfaces. As well as dealing with water quality and flooding issues, SUDS can be designed to improve amenity and biodiversity in urban areas.”

In fact, some of the SUDS ponds in Dunfermline have become home to mating pairs of swans and other wildfowl. People have come to view Dunfermline's Duloch Park SUDS ponds from as far away as Japan.

The issue of flooding is nothing new to me in this Parliament. I submitted a number of questions on flood prevention on 31 July and, not being too happy with the answers, I followed up with more detailed questions on 5 September. Only one of the questions that I submitted on 5 September was answered by the Scottish Government by yesterday's deadline. Perhaps not providing the answers that were due yesterday has something to do with today's debate. When I ask questions about flooding, Stewart Stevenson promises a review and soon afterwards Richard Lochhead offers us a bill. I wonder whether every time I ask a question it will result in a Government review and then a bill backing me. If so, I will happily submit a series of questions on the housing crisis, eradicating poverty and more powers for the Parliament—all areas in which I would welcome the Scottish Government's support.

**Michael Russell:** Just in case the hysteria that is breaking out behind me goes too far, I give the member a personal assurance that the questions

that he asked did not precipitate this debate or the bill.

**Jim Tolson:** I thank the minister for that intervention.

More serious is the threat to homes, businesses and agriculture from serious floods, and the huge impact that that can have on our economy. The high cost of insurance, or indeed the withdrawal of insurance in flood-prone areas, is causing a great deal of concern to many people. Much of Scotland's important infrastructure is located in valleys around the coast. A severe coastal flood off the River Forth, with the flooding of Longannet power station in my constituency and the Grangemouth refinery in Cathy Peattie's constituency, could have nationwide economic consequences.

Climate change is likely to exacerbate the problem. A recent study by the Scotland and Northern Ireland Forum for Environmental Research indicates that we are already seeing the impact of climate change on the weather. Between 1961 and 2004, there was an increase in winter precipitation, with the north of Scotland experiencing an increase of 70 per cent in winter rainfall, the east of Scotland an increase of 37 per cent and the west of Scotland an increase of 61 per cent. Minister, we need to take action now.

10:26

**Christine Grahame (South of Scotland) (SNP):** I hope that this will not descend into a party-political sniping match. It is perfectly possible for the Opposition to hold the Government to account and to use the correct tone. I welcome Sarah Boyack's speech, which, while robust, was consensual in some respects. My able colleague Roseanna Cunningham has already dealt with Mr Rumbles, whose contribution was as ill-judged and mischievous as ever.

**Mike Rumbles** *rose—*

**Christine Grahame:** As for Mr Tolson, I shall be gentle with him, because he is a novice in the chamber.

The topography of the Borders, whose many rivers—the Tweed and its tributaries; the Ettrick; the Yarrow; the Gala; the Leader; the Teviot and its tributaries; and the Liddel—powered the mills of the 19<sup>th</sup> and 20<sup>th</sup> centuries, can lead to the kind of flash flooding that may not always hit the newspapers. Roseanna Cunningham referred to the small occurrences that can make lives a misery. In the Borders, inland and along the coast, about 4,500 properties are at risk of flooding. Sarah Boyack rightly reminded us—not that we needed it—of the human misery that flooding can bring.

In 2003, the Bannerfield estate in Selkirk was flooded and more than 50 houses were affected. I was called in a week later, because Scottish Borders Housing Association was, to put it mildly, being tardy in its response. The houses were stinking. There were black flies everywhere and beasts crawling about. It was a mess. Elderly people were upset. People with young children were at real risk of illness and disease—this in Scotland in the 21<sup>st</sup> century.

In a small hamlet 10 miles up the road in the Yarrow valley, an entire house had been swept away because a culvert had become blocked. Water is unforgiving and cruel. It finds its natural course. It left other houses standing, with the house, garden and everything else absolutely untouched, while two doors away everything was wiped out. An elderly couple called me into their house, where the only thing left intact was a row of bright orange geraniums in the conservatory. I said to the couple, "Your conservatory has stayed up. It has a sloping glass wall." They told me, "It doesn't have a sloping glass wall." If someone had pushed it with their finger, the conservatory would have collapsed, leaving the couple with the plants that had somehow managed to survive the flood.

In 2005, I visited a house in Hawick that the woman whose home it was had not lived in for a year. She had been about to move back in but the house was flooded again. None of us can imagine what that must have been like for her. She lost everything, for example family photographs—things that really mattered. Furniture can be replaced, but such reminders of the past cannot. She did not have the heart to cross the doorstep into the stinking mess, with its warped floors and doors. That is another reality of flooding.

I have previously raised the issue of housing associations being unable to access the Bellwin scheme for funding to help in flooding disasters. If housing associations have to insure properties, they have to recover the premiums from rents. There is a real issue about the unintended consequences of wholesale stock transfer.

What is Scottish Borders Council doing? To put it politely, nothing. In 2005, I discovered that Dumfries and Galloway Council—which, as the Deputy Presiding Officer knows, is very honourable—obtained £638,000 of national funds for flood prevention. Scottish Borders Council has obtained nothing. When I challenged Scottish Borders Council in 2006, Councillor Edgar told me that a number of schemes were being considered, and said:

"One of our schemes is already on its way to the executive for preliminary evaluation."

Well, jolly good. In a recent question, John Lamont asked my colleague Mike Russell—he answers

questions, and they are very good answers—which local authorities had applied for and been granted financial support for flood prevention schemes. Dumfries and Galloway was there again, but Borders was not. While I appreciate that not all councils have plans in place, some of them are soundly failing in their duty.

I welcome the cabinet secretary's wide embrace of groups. There are issues about Scottish Water and the impact that house building has on water courses. As Sarah Boyack rightly pointed out, there are issues to do with how we deal with our little bit of garden. If we put down tarmac or slabbing, we change the water course and drainage. We can all do soft engineering in our own gardens. I welcome the debate, and I hope that it continues in the tone set by Opposition members to my left.

10:32

**Elaine Murray (Dumfries) (Lab):** Flooding, like fire, must be one of the most frightening things that can invade someone's house. Those of us who are fortunate enough never to have experienced severe flooding can only begin to understand how terrifying the ordeal can be through our contact with constituents who have suffered it. Although the constituency of Dumfries has been spared events of the type witnessed in Hull and the south of England during the so-called summer, residents of Annan, Eaglesfield, Langholm and Eskdalemuir have suffered to differing degrees over that period.

As members have said, a variety of factors have contributed, including deforestation, which particularly affects places such as Eskdalemuir; the amount of land on which drainage cannot occur due to house, garden and road building, as Sarah Boyack said; and, of course, climate change, which has produced exceptionally heavy bouts of rain with which drainage systems just cannot cope. Another factor is the piecemeal development of many conurbations, because when new developments are added to existing systems, the connections are not always in the most appropriate places. There is also a need to replace existing infrastructure to increase capacity.

John Scott referred to the problem of combined road drains and sewers being unable to cope with heavy rain, resulting in the ingress of flood waters contaminated by sewage. On top of that, there is the problem that local authorities have no control over agricultural land. As members will know, there is a lot of agricultural land in my constituency. Unfortunately, the lack of field drain maintenance can create serious problems for nearby residents.

After flooding, fear is often followed by frustration. There is a family in Eaglesfield—a family with whom the Minister for Environment is familiar, as he has also been involved in their case—who I know will not object to their case being mentioned, as it has been highlighted in the local press. They purchased their home three or four years ago, having been advised that flooding was a one-in-200-year risk. I believe that they have now been flooded three times in 18 months. Prevention measures were taken by Scottish Water and the council, but because of the different responsibilities it took time to work out whose duty it was to do what. Meanwhile, because the flooding was caused by a bout of heavy rainfall that lasted only 15 minutes, the family is living in constant fear.

**Michael Russell:** The member raises an important case that illustrates an issue that needs to be highlighted, which is the absolute need for much simpler procedures in cases of flooding. As Sarah Boyack said, when four or five local authorities are involved, it can be a nightmare.

**Elaine Murray:** I absolutely agree. That is one of the reasons why we are all agreed that a flooding bill needs to be introduced. I am pleased that the Scottish Government is progressing down the same route as the previous Executive in that regard. We all agree that such a bill is necessary, because the current situation causes extreme frustration among people who have been flooded, particularly when no agency is able to compel private landowners to face their responsibilities to prevent flooding. In the case that I highlighted, three fields are allowed to flood into neighbouring properties, which is unacceptable. When I inquired into the matter, I was told that the insurance companies would have to pursue the landowner with regard to the damage. That is little consolation to a family who are manning the pumps at 4 o'clock in the morning to try to prevent the water getting into their home again.

The planning and environment services committee of Dumfries and Galloway Council agreed only last week to introduce a flood prevention scheme for the Whitesands area of Dumfries, which is an area that is notorious for flooding. Usually, the flooding is caused by high tides coming up the river when the river is swollen by heavy rainfall. The agreed approach is to employ a combination of soft and hard engineering techniques, with a number of flood plains being opened upstream and a barrier system being created in the town centre. The hard engineering side has caused some concern among residents because of the potential visual impact on one of the focal points of the town centre, which is one of the town's greatest assets. Many people are attracted more to flood prevention techniques that involve natural flood plains and riparian woodlands

that collect water in times of overflow and slowly release it back into the river during drier times.

River channels need to be improved to allow increased water flow. Over a long period of time, I have had arguments with SEPA and the Scottish ministers—past and present—about the removal of gravel from river beds, which can be done only under a licence that is extremely difficult to get. I understand that the removal of gravel from the River Esk at Hawick was permitted only after the floods to which Christine Grahame referred. In Langholm, there are concerns about the build-up of gravel, but it has been difficult to get a licence to remove it.

I do not know whether the soft measures will be enough to address the problems that are caused by the tidal surge on the River Nith. Christine Grahame paid tribute to Dumfries and Galloway Council for its application for funding for Portpatrick, but I have to be a bit critical and point out that it took the council a heck of a long time to produce a scheme for the River Nith that it could present to the Scottish ministers. I understand that much of the funding is now committed and that the chance that the council will get the funding that it requested is substantially reduced.

In welcoming the proposals to modernise flooding legislation that is only a few years younger than me, I say to ministers—in a consensual way—that we need to consider the funding. If local authority budgets are to be constrained, the money will have to be provided centrally. Many of us who will be scrutinising the budget and the spending review in a few weeks' time will be interested to find out what sort of funding is being allocated to address the problems that we have all raised.

10:38

**Mary Scanlon (Highlands and Islands) (Con):**

One of the problems with speaking late in a debate is that many members have already raised key issues. My speech might, therefore, be shorter than I had planned.

Rather than going through all of the money concerns in Moray, I will simply thank Peter Peacock for raising them and state that I fully endorse all of the points that he made.

I share the concerns that others have raised about financial issues, given that the resources that are needed in Moray are more than the council's annual budget. I appreciate that that situation might change now, but genuine concerns remain. Although we might disagree about the manner in which some members raise those concerns, we should be respectful and acknowledge that we are talking about hundreds of millions of pounds, not pennies.

Many members have mentioned the traumatic effect of flooding on families. In the previous session, a class of nine and 10-year-olds from Elgin came to visit the Parliament. When we had asked them all of our questions, we said, as we normally do, "Do you have any questions for us?" All of them asked, "What are you doing about flooding?", and said, "We are worried about flooding. My mother's worried, my grannie's worried and I'm worried." I was left thinking that that was some legacy to have left that generation. The fact that nine and 10-year-olds are worried about flooding has stayed with me since then.

The recent publication by the Government of a detailed national map showing the areas that are most in danger of being deluged by rising water levels demonstrates that around 100,000 homes and businesses in Scotland are affected. As others have said, there is a large number of at-risk communities in the Highlands and Islands, prominent among them being Inverness and Elgin. The cabinet secretary is well aware of the problems in Elgin and Moray and of the devastating floods that hit the area in 1997 and 2002. Other members have mentioned events that took place two or three years ago; I am talking about floods that took place 10 years ago, and we are still waiting for flood alleviation schemes. After people's family homes were destroyed by flood waters or their businesses were ruined, they were subjected to living or working in temporary accommodation for many months.

One of the obstacles to progress seems to be bureaucracy. A headline in last week's *Northern Scot and Moray & Nairn Express* said it best: "Cut the red tape, flood chiefs plead". Officials on the ground who are trying to implement flood schemes in Moray and throughout Scotland appear to keep coming up against red tape at every stage. That adds more delays to schemes that need to be in place sooner rather than later in order to give residents of areas that have flooded in the past peace of mind that they will be protected. I do not suggest that we take away the democratic right of people to object to flood alleviation schemes, but the fact that it is possible for them to object more than once in relation to three different pieces of legislation clearly demonstrates that we need to streamline the process. The convoluted legal process that local authorities have to follow to gain a flood prevention order takes up huge amounts of council time and resources that could be better spent implementing the schemes much sooner. That probably partly explains why Elgin is still waiting for a flood alleviation scheme 10 years after the floods of 1997.

John Scott, Des McNulty and others mentioned land management techniques. Paragraph 28 of the flooding issues advisory committee's report mentions promoting rural land-use solutions. We

are all aware that trees are one of the best upstream solutions, because woodlands absorb water above and below the ground and slow the passage of that water. I understand that the previous Moray Council applied for money for forestry as part of a flood alleviation scheme but that money is not granted for such measures under flood alleviation funding. Perhaps the new Scottish Government's more joined-up approach will enable the minister to examine that situation and consider providing money for forestry from flood alleviation funding rather than keeping the budget in a separate silo.

Inverness, where I live, had serious floods some years ago. I remember the television news showing a honeymooning couple leaving the Thistle hotel in a boat. The main cause of that flooding was the fact that councils were not cleaning out culverts. We can pass all the acts of Parliament that we wish, but our efforts will come to nothing if we do not ensure that all stakeholders play their part and ensure that drainage work is done.

I welcome the motion and the fact that a flooding bill will be dealt with in this parliamentary session. I ask the cabinet secretary and others to work closely with local authorities and help them to move more quickly to put schemes in place.

SEPA's flooding website has the slogan:

"Flooding: You can't prevent it. You can prepare for it."

I hope that the new flooding legislation will mean that we can prepare for it much more quickly than we have done in the past.

10:44

**Robin Harper (Lothians) (Green):** I welcome the Government's commitment to introduce a flooding bill, but I have many concerns, some of which I will bring to the Parliament's attention. The folly of decades of river straitjacketing, building on flood plains and deforestation of our uplands is coming home to roost. It will not be easy or cheap to solve those problems, but the Government can do creative things, especially if its policies are joined up.

We have heard several references, particularly from Mary Scanlon and John Scott, to the advantages of soft engineering in controlling flooding. I was glad to hear about that from members with rural constituencies. There is an opportunity to diversify farming subsidies for agri-environment schemes in Scotland's uplands to reduce flow, but the recent decision on such schemes seemed to miss that opportunity. I urge ministers to rethink their decision during the forthcoming budget process.

It should be possible under the existing agri-environment scheme to say that, if a forestry scheme will also help to prevent flooding, it has added value and therefore a greater chance of getting a subsidy from the Government. Without changing the rules, it should be possible for the Government to say, "This scheme has added value, so we're more likely to give you the money."

**Richard Lochhead:** If it gives the member any comfort, we are considering ways in which each area of Scotland can influence the regional priorities of the rural development programme when those are set. That will take into account the need for flooding support and other aspects, to try to promote our cross-cutting agenda.

**Robin Harper:** I am glad to hear that. As Peter Peacock said, forestry has environmental, biodiversity and social benefits in any case. It is common sense to get started now.

In February, WWF Scotland published a report on the River Devon natural flood management demonstration site. I am sure that the cabinet secretary and the minister understand that forestry works and is far cheaper than putting concrete defences in villages and towns further down the river.

**Michael Russell:** I certainly yield to no one in my enthusiasm for forestry these days, but let us be absolutely realistic. A recent report states:

"Although it is very unlikely that floodplain woodland on its own would be able to provide complete protection for downstream towns or cities, it could make a valuable contribution".

Forestry has to be regarded as part of the mix and not as a solution in itself.

**Robin Harper:** Clearly, Jim Tolson's criticism of the RSPB came from reading that report, but I do not think that even WWF Scotland would claim that forestry is the answer on its own. Because of the seriousness of climate change, which has to come into the debate at some point, it is sensible to consider all the other suggestions that have been made and take a sensible approach to flood defences. Climate change is not predicted to get any better and it will probably get worse.

Elaine Murray made a detailed and sensible speech on the problems that are faced in Dumfries and Galloway. What did the Parliament hope to achieve through the Water Environment and Water Services (Scotland) Act 2003? Like Des McNulty, I was involved in considering that legislation and, with others, I was successful in making certain that it included a commitment to integrated flood management. I am slightly concerned that, rather than making statements, the cabinet secretary asked questions such as whether we need a national approach. I think that we do need such an approach. He said that he is

concerned about creating a surplus layer of bureaucracy, but whatever we call the integrated flood management organisations that we set up throughout Scotland—WWF is calling them flood liaison advisory groups, or FLAGS—we will have an extra layer of bureaucracy of some kind. I hope that the bureaucracy will be light and that the integrated organisations will do everything they can to produce the best possible solution, both upstream with soft engineering and downstream with hard engineering where it is needed.

It will come as no surprise that I have a slight fear. In passing the 2003 act, we were the first in Europe to pass such legislation. Quite rightly, we were proud of ourselves. I certainly felt content when the bill was passed. I thought, “Good for Scotland—that is wonderful.” However, progress has been slow since then. There is no point in being first in 2003 if, by 2015, when the legislation should be fully in operation, we are last.

10:51

**Rob Gibson (Highlands and Islands) (SNP):** In November last year, we had an emergency question-and-answer session after major floods devastated many communities between Orkney and Dingwall. The then Deputy Minister for Environment and Rural Development listened to our arguments and agreed that, if funding streams and processes needed to be changed, they would be changed. Today, we have established a cross-party consensus that that will be the aim of the flooding bill. I am glad that we have that consensus.

At the margins, small individual cases throw up problems and anomalies, and I will highlight a couple of those. Other members mentioned the maintenance of culverts. A number of bodies are responsible for that, including the roads authority, Scottish Water and local authorities. It is often the failure to clean out rivers further upstream that creates situations such as one that I saw on “Gardeners’ World”, in which two 40ft tree trunks were carried by a stream in Shropshire and ended up in a couple’s garden. They were trying to rebuild something that had taken them 40 years to create. Those tree trunks were the responsibility of landowners further upstream. Householders are responsible for their properties, but landowners, including the owners of croft land, are also responsible for their property, for flooding and for insurance. They have to be brought into the picture.

In another example, communications to the north of Scotland were cut at Portgower near Helmsdale. A stream that comes down from the crofting communities clogged up the culverts. The bridge that carried the road survived but the train track bed was washed away to the extent of 50yd

and it took months to fix. That simple case flooded the house of crofter Miss Margot MacGregor. We wait to see how the required co-ordination between the different bodies that are responsible will happen. I still have to have a meeting with the landowner to discuss how the stream can be kept clear, although that is apparently contradictory to the idea of slowing down water, which is the major issue in catchment areas.

We have to find ways in which water can escape quickly in the case of flash floods, but we also have to try to prevent problems further upstream. *[Interruption.]* There is water in the system.

There are three areas—*[Interruption.]*

**The Deputy Presiding Officer:** Order. Brambles, even if they are on silent, will interfere with the sound system.

**Rob Gibson:** Brambles are the Scottish version. Thank you, Presiding Officer.

There are three areas to consider. We need to extend the range of grants; we have to deal with emergencies; and the Bellwin scheme has to be reformed. In the long term, the flood prevention scheme is now better funded, but it needs to be better targeted. In the medium term, the many small issues that are created by major floods take so long to fix.

In the October floods, an iron footbridge in Thurso was washed away. Highland Council took until May this year to make a claim to the Scottish Government for that and the whole process of replacing that important asset in the town will take far more than a year. Older people and others use that footbridge for winter walks—it is part of the health agenda, among other things. The process is far too long. When the relevant committee has discussions as part of the consultation ahead of the flooding bill, we must find out how to shorten the process.

Mary Scanlon highlighted the point that councils—especially smaller councils—do not have the resources to dedicate planners’ time and so on to working out what the process is. I am sure that if Alasdair Allan gets to speak—I hope that he does—he will tell members about such problems in the Western Isles. A school there was devastated, and a site on which to rebuild that school has still not been sorted out after nearly two years. Dealing with such matters after coastal erosion and flooding takes far too long. If we can find a means to speed the process, that will be one of the measures for which people will most thank us.

There is much consensus about achieving such changes, but we must be wary of putting all our eggs in one basket. We must slow waters in

catchment areas upstream, but we must also find better ways to channel water in built-up areas.

If Scottish Water is to be involved, it must say how often it has ignored small incidents that have happened repeatedly and whether its budget is geared up to maintaining the infrastructure. For example, houses on Clyde Street in Invergordon have been flooded about five times and it has taken two years with us on the case to get Scottish Water to agree to alter the drainage system. Through pressure, we succeeded at last, but there is a question about Scottish Water's budget. All the integration between landowners, councils, utilities and the Government must be speeded up. The consensus is that we must find a way to do that.

10:57

**Helen Eadie (Dunfermline East) (Lab):** As other members have said, what ministers propose is a continuation of the important work that the previous Administration started. I welcome the proposals and the chance to have the debate. We need only remember what has happened across the world and in England in recent months to know the anguish that flooding can cause families. As Christine Grahame said, Sarah Boyack's speech was consensual and constructive. I hope that my speech will be like that. The debate is important.

I welcome the fact that the flooding summit was held in Perth. I have heard positive feedback from some officials who attended it. The summit highlighted several issues, including the important question of co-ordination, which the cabinet secretary spoke about. I wrote to John Swinney about that early in the summer, because it is important to have clarity about the situation, which is unclear.

If I may be parochial, I will say that as a former spokesperson for roads and transportation on Fife Council, my remit included coastal protection, which Sarah Boyack mentioned. That is an important element that needs to be taken on board in any strategy that is agreed. Fife's coastline is more than 100 miles long. Fife is almost surrounded by water, and several rivers run through it, so many areas are at particular risk of flooding.

In common with many areas of Scotland, Fife has coastal erosion issues. When I was the spokesperson on Fife Council, I witnessed how homes and factories in East Wemyss were flooded because of coastal erosion—I am sure that Marilyn Livingstone will forgive me for mentioning part of her constituency, which I do in a historical context. Remedial work there cost the taxpayer £6.5 million. When a family were sitting in their home in the village of East Wemyss late one

evening, one whole side of their house was ripped out, along with a 5ft-thick sea wall, by the force of the sea. The risk is real. In every coastal area of Fife, coastal erosion issues are enormous.

As other members have said, a global context exists, but so does a European Union context. Sarah Boyack talked about coastal erosion. A critical action point that I ask the minister to address in his continuing work is arranging ways of securing feedback from our local authorities that engage at a European level with organisations such as the North Sea Commission when coastal zone management plans are worked on. Councillors engage with our partner countries all round the North Sea and have been involved in coastal zone management plans. The Scottish Executive needs to secure their feedback, as do relevant parliamentary committees. I hope that Sarah Boyack will take that on board when the Rural Affairs and Environment Committee undertakes its flooding inquiry. The North Sea Commission provides a possible pathway to EU funding. Will the minister take on board the possibility of a partnership approach to funding from the EU? He and his officials need to examine how flooding and coastal erosion are being addressed in other countries. Other parts of the North Sea Commission's area offer examples of best practice.

The minister needs to answer questions about funding in his wind-up speech. Labour committed to making available £75 million to support flood prevention and coastal protection programmes over the two years to March 2008 and to increasing the rate of grant support to 80 per cent. My question is simple: will the minister match that?

Coastal erosion management plans, such as that produced in Fife in 1999—a copy of which I just happen to have with me—are not universal to every local authority, although Fife Council determined that producing the plan was a key action point for it. Will the Executive require and fund other local authorities to prepare action plans? The point is important. As Mike Rumbles said, the risk of flooding is great. We need such plans to tell us where urgent work needs to be done.

National planning policy guideline 13, on coastal planning, clearly requires a planning authority to refuse planning permission in an area in which a flooding risk or coastal erosion has been identified. Why, then, is it possible that an inquiry reporter may give planning permission at St David's harbour in Dalgety Bay, which I represent? The minister needs to draw in such cases and tell the reporter that, under the precautionary principle, we do not accept such development. I have written to ask John Swinney for a meeting about that situation. We need to get a grip on that planning



point. The national planning policy guideline is clear and we need to require local authorities to say no. I attended and gave evidence to that inquiry, at which planning officials did not even talk about coastal protection, so I implore the minister to ensure that that issue is addressed.

11:03

**Alasdair Allan (Western Isles) (SNP):** There is a tidal island on the west coast of North Uist called Baile Sear. At first sight, that name is curious, as it means “eastern village”. It is difficult to understand how one of the most westerly communities in Scotland could ever have got such a name, until we realise that there was once, next door to it, a Baile Siar—the western village. That was until one night 300 years ago, when Baile Siar simply disappeared permanently beneath the waves.

I tell that story only to give some idea of the extent to which the Uists are at the mercy of the weather and the tides. There are probably few communities in Europe, outside the Netherlands, where flood prevention is of such dramatic and obvious concern. The islands of South Uist and Benbecula rely heavily on the natural flood defences that have built up on their machairs over the centuries, because many communities in the islands are at or, in some cases, even below sea level. That was illustrated in January 2005, when a storm of unparalleled intensity hit the Western Isles. People were lifted off their feet and caravans, sheds and even the front half of a hotel disappeared without trace overnight. For days, people were without electricity and, in many cases, found themselves living on islands within islands. As Rob Gibson mentioned, the school in Balivanich was also rendered unusable.

A far more tragic event occurred on the Uist causeway network: three generations of one family lost their lives and a whole community was left devastated. All members will have had the experience of leaving a meeting in their constituency feeling rather humbled. The Minister for Environment and I attended one such meeting recently in Uist. At the meeting, members of the local community, including bereaved relatives, made a polite but straightforward plea for a number of basic coastal protection measures to be taken to prevent disasters of the same kind occurring in future. Those measures were repairs to the causeway network, a hydrographic survey of the coasts, and attention to rebuilding and seeding the damaged machairs. Many members have spoken of soft solutions to flooding problems. The traditional method of coastal protection that the machairs provide is an instructive example of such a solution.

As the Minister for Environment will testify, the lasting impression of the meeting was of the quiet,

patient hope of that community. However, as scripture has it, a hope often deferred maketh the heart sick. Two years ago, the Executive promised those measures as a matter of “urgency”. It would be dishonest of me to say that anybody in the Uists, of any political persuasion, feels that evidence of such urgency has yet been easy to see. Nevertheless, I am confident that the situation can be changed, not least in the context of the proposed flooding bill and in the evident interest that the Minister for Environment has taken in the subject.

It is with that hope and confidence that I commend to the Government and to Parliament as a whole this very real, painful and urgent concern of my constituents.

11:07

**Jim Hume (South of Scotland) (LD):** Many people in the south of Scotland will be familiar with this subject. Christine Grahame mentioned the flood in Yarrow, where I live. I will never forget the frantic telephone call I received from my two sons, who were on the school bus when 5ft of water was lifting the bus off the ground. Elaine Murray mentioned the infamous Whitesands area of Dumfries, which is home to my father. I also mention Eskdalemuir, where more than 100 shepherds were washed away in the 1800s. Flooding is nothing new, and I am sure that it will be around for some time to come.

While we were in power and Ross Finnie was the minister, the Liberal Democrats made real commitments to flood defence. As Mike Rumbles mentioned, we increased the budget for flood defence schemes to £89 million, introduced the world’s first digital mapping of entire land areas and doubled grant aid to local authorities for flood defence schemes. In addition, the Liberal Democrats introduced real and practical planning and flooding policy to prevent further development that would have a significant probability of being affected by flooding. We led the way, and I am glad that Alasdair Allan recognised that.

The consultation paper on the proposed flood prevention bill will be issued in January but, given the urgency of the issue, certain policy and funding issues should be addressed ahead of the legislation being introduced. A single authority should be considered, to ensure consistent implementation of national flooding policies at regional level and better co-ordination. Co-ordination with existing plans and policies—for example the Scottish rural development programme, the forestry strategy, the climate change adaptation programme and the biodiversity strategy—is needed to ensure more widespread delivery of flood prevention benefits where appropriate.

New legislation should aim to integrate with the aims of the proposed EU flood risk directive, which will contain three main requirements for a flood risk assessment based on past flooding events by 2011, the production of flood risk maps by 2013 and the preparation of flood management plans by 2015. Flood management plans must set objectives for tackling flooding to protect natural and cultural heritage and to reduce economic impacts. They must also contain measures for flood prevention, protection, preparedness, early warning systems and sustainable flood management.

**Michael Russell:** I have listened with care to what the member has said. He has listed a number of policy issues that he says will need to be addressed in advance of the introduction of legislation. He claims that those issues have not been addressed, but each of them was mentioned in the cabinet secretary's opening speech. Will the member therefore withdraw that assertion, as he is clearly wrong about that?

**Jim Hume:** I will just carry on, thank you.

Many towns in Dumfries and Galloway suffered severe flooding in 2005 and I recall two serious landslides. I am glad to say that Galashiels and Selkirk—two areas that have been badly affected by flooding in the past, as Christine Grahame mentioned—have been given priority status by the local authority, and their flood defence schemes could be in place in two to five years' time.

Hawick, on the other hand, which has experienced several devastating floods recently, may not have its flood defence scheme implemented for eight years. The cost of Hawick's flood defence scheme has been estimated to be £38 million—more than half the £70 million budget for the whole of the Borders region.

**Christine Grahame:** Will the member take an intervention?

**Jim Hume:** Not just now, thank you.

The delay in fully implementing the scheme is due to the cost and the fact that the defences must be built to withstand a one-in-200-year flood, which would result in a wall 2m high being built through the middle of Hawick—almost like a new Berlin wall. The idea is not popular and would be very expensive. Building a wall to withstand a one-in-75-year flood would lessen the cost, reduce the height of the wall and quicken its delivery to the town.

I would like greater emphasis to be placed on the provision of easier access to more funding, so that what needs to be done can be achieved in good time. The impact of flooding on families and businesses cannot be underestimated. I ask the Scottish Government to make funds more easily

accessible for local flood plans in the areas that are worst affected, such as Hawick and Dumfries.

I could not consider flooding without talking about climate change. As Mike Rumbles said, it is predicted that floods that are currently considered extreme will, in future, become common. Without action to reduce carbon dioxide emissions significantly by 2080, what is now a one-in-50-year flood could become a one-in-20-year flood. We need clarification from the Government about what urgent action it will take to reduce the amount of harmful emissions. Scotland needs investment in its public transport services as well as in renewables initiatives.

The SNP is mothballing the Edinburgh airport rail link and ignoring expert advice on the growth in traffic levels while, at the same time, pledging to build bigger roads. The SNP also seems to be blocking wind farm applications.

**Michael Russell:** Where?

**Richard Lochhead** *rose*—

**Jim Hume:** I am sorry, but I am in my last minute.

Frankly, it is not good enough. I am sure that many people in Scotland will be saddened by the Government's lack of proper and serious commitment to the environment. It is obtuse to use mitigation as a way of dealing with the effects of climate change. Furthermore, the Government has not yet committed to retaining the flooding issues advisory committee—the expert panel that was set up by the previous Executive. Can the minister confirm that he and his colleagues are committed to that group?

I sincerely hope that the Scottish Government will take the problem of flooding as seriously as the Liberal Democrats did when we were in government. Actions speak louder than words. With that in mind, I call on members to support wholeheartedly the amendment in the name of my colleague, Mike Rumbles.

11:13

**Nanette Milne (North East Scotland) (Con):** I reiterate the Scottish Conservatives' appreciation of the minister's decision to give us early sight of the report from the flooding issues advisory committee. It is an important piece of work, and the recommendations of FIAC's three sub-committees will, no doubt, substantially inform the development of a sustainable and integrated approach to flood risk management, which is the stated aim of the Scottish Government and has our full support. We welcome the SNP's proposal for a flood prevention bill, and we look forward to its introduction to Parliament next year. We also look forward to the flooding inquiry that the Rural

Affairs and Environment Committee is undertaking in this parliamentary session.

This interesting and important debate has covered issues that are extremely concerning to the many people in Scotland who are increasingly at risk of having their lives disrupted by flooding as climate change affects our rivers and seas. I note Mike Rumbles's remarks about funding and the similar concerns that have been raised by other members. Adequate funding will be crucial if satisfactory flood management is to be achieved and John Scott pointed out that the First Minister recently gave him a commitment on that; I hope that the First Minister will hold true to it.

Even if we have not had direct experience of flooding, our television screens have in recent years increasingly brought home to us the devastation caused by flooding. I have often thought how awful the aftermath must be of having one's home and possessions destroyed by flood water. Apart from the sheer unpleasantness and hard work of clearing up after a flood and trying to restore some sort of normal living, I am told that the emotional impact is akin to that of bereavement. That does not surprise me. Nor does the fear of flooding go away. Christine Grahame's and Peter Peacock's accounts of flooding in their constituencies were particularly moving.

The threat of flooding is real to almost 100,000 homes and 7,000 businesses in Scotland. There is an urgent need to put in place policies to reduce the risk of flooding and to support people who are affected by the aftermath of a flood.

If we are to take a more sustainable approach to flood risk management in Scotland, we must address several big issues, many of which have been touched on today. We know that, as well as the long-term risk of rising sea levels as a result of climate change, we can also expect more frequent storms to bring water surges that will threaten our coastal defences and cause surface flooding with which our urban drainage systems will struggle to cope—as we saw in several parts of the UK this summer. We need to look anew at long-term planning with more emphasis on sustainable flood management. The proposed flood prevention bill, together with the EU floods directive, will provide the opportunity to get it right.

The concept of sustainable flood management is not new to us. The Water Environment and Water Services (Scotland) Act 2003 introduced a new duty on the Scottish ministers, the Scottish Environment Protection Agency and other responsible authorities to promote it. However, there is concern that we are seeing very little change on the ground four years later. Most councils still react to flooding by promoting local hard flood defence schemes, rather than by

managing flooding on a catchment scale. Urgent reform of flood legislation is needed to change the current approach.

**Robin Harper:** Does the member agree that, if the height of the walls to contain flooding that are being planned for various towns and cities in Scotland was predicated on the significant contribution that could be made to reducing flooding by tree planting in catchment areas, the cost of those walls could be significantly reduced?

**Nanette Milne:** I am not an expert on that, so I am not prepared to comment on it, although it sounds like sense to me.

Urgent reform of flood legislation is needed so that we can move towards managing flood risk by working with the natural environment rather than against it. It seems to make sense to revert to natural flood management where possible, using systems such as flood plains and wetlands to absorb river water and slow its flow to the coast, and to have undeveloped coastal land that can cope with encroaching sea water. I understand that these so-called soft engineering techniques are not only effective, but generally less costly than hard engineering solutions—Mr Harper mentioned some—although the two are not mutually exclusive.

Such an approach to flood management will have an impact on riparian and coastal land owners who currently have the main responsibility for flooding. They are already under enormous regulatory pressure and they would need to be given incentives to adopt the natural flood management schemes being recommended.

Full implementation of sustainable flood management will require a lot of work and preparation as well as advice from experts outwith Government. There needs to be a wholesale review of where responsibility for flooding lies. Better co-ordination of flood risk management is also needed, and there are indeed calls for a national overseeing authority, such as SEPA, to deal with it. However, like the cabinet secretary, we do not wish that to result in added bureaucracy; we need less of that, not more, as Mary Scanlon said.

Land use planning for flood plains needs to be examined, and we need to investigate best practice elsewhere. It is important to understand the complex science of flood prevention.

I see that I am running out of time. I would have covered other areas such as the review of existing legislation to bring it into line with requirements for sustainable flood management, review of funding streams, and advice on insurance cover. The work of the flooding issues advisory committee has shown the complexity of the issue and it is important that the sort of dialogue that FIAC has

had with stakeholders should continue as the flood prevention bill is developed, including consultation with victims of flooding. It is important to get this urgently needed legislation right.

11:20

**Karen Gillon (Clydesdale) (Lab):** I welcome the opportunity to participate in the debate and to reiterate the Labour Party's support for the introduction of a bill on flooding. For Keith Brown's benefit, page 75 of the Labour Party manifesto shows our commitment to appropriate legislation.

Members' speeches have shown how, when things go wrong, floods have a devastating effect on communities and individuals in rural and urban Scotland alike. There has been consensus in the chamber about the need for co-ordination and better joined-up working, for more accurate information, and for imaginative solutions. I welcome the cross-Scotland buy-in to the strategic, catchment-based approach that the cabinet secretary outlined this morning. He rightly says that local authorities have a unique insight into the needs of their local areas, but they cannot be allowed to work in isolation.

There will rightly be a debate about the need for a national flood agency and, as others said, the system needs to be less complex rather than more. The questions for the minister, therefore, are what it is that SEPA, the national environment protection agency, cannot now do that it would need to be able to do to fulfil such a co-ordinating role, and what additional benefits a new national agency would bring.

Another key partner in the debate is Scottish Water as it invests in infrastructure and provides robust advice to planning authorities. Many constituents have expressed to me their concerns that some developments, particularly housing developments, simply add to the flooding pressures in local areas further down the network. That is not always the case, but it has certainly become an issue and I sign up to the consensus on resolving that speedily.

In 1999, my constituents in Larkhall were flooded as a result of a lack of capacity in the water and sewerage network. The minister knows the case well from his previous life in the Parliament. It took years and further flooding before Scottish Water found, developed and put in place an appropriate solution. It was devastating for those families in the area and they are still living with the consequences through increased insurance premiums, as well as little things like their gardens being infected by material that has introduced new species which cannot be eradicated.

Local authority staff have a wide variety of expertise, as Sarah Boyack said, and I welcome

the minister's comments on how best to share that expertise across local authorities and agencies at an earlier stage so that models can be developed and taken forward much more quickly. Some of our smaller local authorities might not have the necessary expertise, but the larger ones might and we need to find out how to share that.

The need for accurate information was highlighted particularly by Roseanna Cunningham's thoughtful contribution about how the changes of the past few years have resulted in Perth's flood defences being less robust than we would want them to be.

Flooding is, of course, a natural phenomenon that cannot, in itself, be attributed to climate change. However, much of this summer's flooding in the UK was caused by the jet stream being where we did not expect it to be. Climate change is exaggerating the impact of natural occurrences and, when the low pressure systems sat over many parts of the UK in June and July this year, it was chance more than anything else that meant that Scotland was not at the receiving end of a deluge.

Climate change will make such events more common. The past 40 years have seen remarkable increases in winter precipitation, from 37 per cent in east Scotland, to 61 per cent in west Scotland and 70 per cent in north Scotland. Increased trends in heavy rainfall and rainfall intensity have also been recorded. Over the summer, the Met Office issued generalised warnings, but more needs to be done so that we can accurately predict what is happening and what is going to happen in specific localities. If we were able to do that, we would be able to deal more effectively with flooding. We need earlier and more accurate predictions of intense precipitation on a highly localised scale, so we will need more investment in the Met Office and in the development of higher resolution models. What discussions has the minister had with the Met Office on the matter? What resources can be made available? How does he think we can integrate flooding and weather modelling better, so that we can predict events better, instead of spending billions on cleaning up the aftermath?

This is a critical issue. We know from climate change work that there will be different impacts on different parts of Scotland and that a one-size-fits-all approach will not work. We need accurate information to be able to take forward the imaginative solutions that many members seek. Some of those relate to land management systems. There have been many calls for the Flood Prevention (Scotland) Act 1961 to be revised, because the model of payment under the act is not as effective as it could be, and for the rural development model to be used to provide

further incentives to farmers and land managers to allow the development of wetlands. However, as John Scott pointed out, that will be complex and will need to be done in partnership. My colleague Elaine Murray raised the issue of afforestation. It would be helpful for us to know how the minister believes that progress can be made in that area and what level of funding can be anticipated for it.

I welcome the cabinet secretary's commitment to a regional approach to implementing the rural development plan, but that will be meaningless if it is not matched with hard cash. Sarah Boyack, Helen Eadie and Alasdair Allan, in a very thoughtful speech, raised the issue of coastal inundation and its effects. In that area we require far more imaginative solutions than we have used in the past. Sarah Boyack was right to point out that there may be occasions when there is nothing that we can do and we must move to a model of retreat.

It has been an interesting and, on the whole, consensual debate. Members have brought a range of issues to the table. My Labour colleagues and I look forward to working with the Scottish ministers to make progress in this area. The motion is consensual, and the cabinet secretary made a consensual speech. However, a one-line commitment by the First Minister to additional funding cannot answer the hard questions of how much money will be available and to whom it will be paid. Labour members will give credit where credit is due, but we will not shirk our responsibility of holding the Government to account and asking tough questions on finance, when required. We look forward to more excellent debates such as this and welcome the chance to work with the Scottish ministers on the issue.

11:27

**The Minister for Environment (Michael Russell):** Croaking a little, I welcome the new team on the Labour benches. It will be most enjoyable—as it always has been—to work with Karen Gillon. I congratulate Sarah Boyack on her promotion. One of my lifelong ambitions has been to spend more time with Des McNulty; it will now be fulfilled.

I praise those who have taken part in the debate for their consensual approach. Karen Gillon is right to say that it is the role of every Opposition party to press hard on issues of resources and policy. I confirm that additional resources will be required. However, given that the spending review is currently under way, it is impossible at this stage for me to say anything in detail about those additional resources. There are a number of other reasons why that is impossible.

The one contribution to the debate that was completely unhelpful was that of the Liberal

Democrats. There are six strong reasons why the amendment should be rejected, and I will give them all. First, since 1999 there has been a degree of consensus in the chamber on environmental issues, and we should try to maintain that. Of course we should ask tough questions, but Scotland's environment is more important than individual political careers. Mr Rumbles finds that amusing, which says a great deal about his approach.

The second reason relates to the policy issues that the amendment raises and that Mr Hume addressed in his speech. Every one of those issues was addressed by the Cabinet Secretary for Rural Affairs and the Environment in his contribution.

**Mike Rumbles:** Will the minister give way?

**Michael Russell:** No, I will not.

Thirdly, Mr Rumbles's amendment fails to recognise the new thinking that will be required to fund flood prevention and flood risk in Scotland. As Mr McNulty indicated, a number of funding streams must come together. The briefing from WWF makes the same point, so there is external verification of the need for new thinking.

Fourthly, the amendment ignores completely the clear commitment that the First Minister made last week. That is ungracious, at the very least.

Fifthly, the amendment takes no account of the work that the present ministerial team will do and is doing to ensure that a key part of its policy portfolio is adequately delivered for Scotland.

Sixthly, the amendment is incompetent. It expresses regret

"that no commitments have been made",

but Mr Rumbles cannot know that that is the case, as the spending review process is not yet complete. For six strong reasons it is impossible for members to support the amendment. I am sure that I could think of another six reasons, were I to be given an additional five minutes.

**Mike Rumbles:** Will the minister give way?

**Michael Russell:** No, I will not. We have heard quite enough of Mr Rumbles's nonsensical arguments.

I turn to the substantive contributions to the debate that were made by everyone but the Liberal Democrat team.

**Robin Harper:** Will the minister give way?

**Michael Russell:** No, I want to make some progress.

Sarah Boyack made an important point about flooding guidance and planning. Over the past five years, planning authorities have approved only 12

applications contrary to SEPA's advice. On a number of those occasions, the applications were called in, and one of them was refused. However, there is a case for our continuing to examine the issue, and we will do so.

Sarah Boyack raised a number of other important issues, including that of coastal inundation. Dr Alasdair Allan spoke about the moving meeting that he and I had with the victims of the tragedy in Uist. Next month I will return to Uist to continue discussions on the matter, but the chamber should have no doubt that promises that were made previously must be honoured, especially in fragile rural communities. *[Interruption.]* I put it on record that I am immensely surprised that Mr Rumbles appeared to make some sort of interjection at that point. I hope that he will honour the commitment that was made by the Government that he supported.

Roseanna Cunningham mentioned the Rural Affairs and Environment Committee's inquiry into flooding and flood management, which the Government welcomes. We will work closely with the committee. She was right to say that this is a fast-changing situation. Our understanding of the problem changes almost month to month. The work that SEPA is doing on it through its flood control centre at the Heriot-Watt business park is fascinating and needs to be seen. If any member who is concerned about flooding wishes to visit the centre, I would be happy to arrange that.

Keith Brown mentioned the Milnathort scheme. Both he and Elizabeth Smith raised the issue of local satisfaction. It is clear from the independent report that Perth and Kinross Council commissioned that advantage was not taken of local knowledge of the situation in Milnathort—it should have been.

Peter Peacock and Robin Harper raised the issue of habitats. A number of members spoke of the need for urgency—not just in planning for flood prevention and speeding up construction of flood defences, but in dealing with people who have been badly affected by flooding. Those who were present at the flooding summit will know that one of the worst consequences of a flood is the growing sense of alienation of people who have been through that traumatic experience—the feeling that no one really cares. It is important for the chamber to show when debating flooding over the next year that members from all parties recognise the real needs of flooding victims.

We must also recognise the need to join up the work that we do. A number of members, including Elaine Murray, said that at local level we often fail to join up activity. She and I saw the results of that failure in the community of Eaglesfield, and we are both active on the issue. It is extremely important that, at the level where individuals are suffering,

those acting on the ground should recognise what has happened and work with one another, rather than handing the problem on to other people.

Robin Harper and many other members raised the issue of sustainable flood management, which is crucial and must be at the centre of what we are trying to achieve. The Forestry Commission is looking at how it can work with SEPA and others to identify for the first time a catchment in which large-scale trials can be carried out to evaluate the contribution that woodlands can make to sustainable flood management. We believe that they can make a difference, but their contribution is only one part of a complex set of measures.

I point out to Mr Hume that FIAC was a two-year, short-term initiative by the previous Government that was always intended to end now—it has not been cut off suddenly. The success of the flooding summit and FIAC's work demonstrated clearly the value of involving stakeholders at an early stage in developing new policy. We must define stakeholders very widely. They include all members who represent people who have suffered flooding or who work in communities that have been affected by it.

Of course, there is a wider issue in which we are all stakeholders. We live in a country that will suffer more flooding. I have already invited people to visit SEPA; if they look at the river charts, they will see that almost without exception the mean and high water levels of rivers in Scotland have been rising exponentially over the past 40 years. There is no doubt that the problem of flooding will get worse, which is why we must all recognise that the current legislation is not fit for purpose and why we must find the best legislation with which to move forward.

That said, one important caveat must be borne in mind. As Roseanna Cunningham said, the situation is flexible and fast-changing, and it is quite clear from the flooding summit and this debate that it will continue to change very speedily. As a result, the considerable challenge facing the committees and, indeed, the whole chamber is to devise legislation that is neither rigid nor prescriptive but is flexible enough to allow us to take different steps to protect the people of Scotland. We need a legislative approach that does not seek to lay things down in very straight lines but, instead, recognises that we do not know—and will not know next year or even two years from now—everything that we need to know about what will happen in Scotland.

**Robin Harper:** I make no apology for pursuing this subject. For centuries, people have known that, if we strip hills of their trees, more water will flood into rivers and that, if we plant trees, less water will go into rivers. Surely we do not need another pilot project—we just need to get on with it.

**Michael Russell:** Mr Harper is, as ever, both right and wrong. He is absolutely right to point out the effects of planting trees. However, the fact is that we have been replanting very vigorously over the past two or three generations; the level of afforestation in Scotland has risen considerably and will, I hope, continue to rise. The equation is not as simple as Mr Harper makes out.

Moreover, we cannot seek afforestation solutions in every possible situation; after all, we cannot plant forests in the middle of cities. We and the experts in this area need to know exactly how this kind of flood plain management will work. I would have thought that Mr Harper would have welcomed my desire for more trees to be planted to prove that such an approach can work. That is definitely what we are going to do.

We are going to work with every possible agency, all members and the committees of the Parliament to ensure that we honour our basic commitment to protect the people, the land and everything in Scotland, including its biodiversity, from the degradations of flooding. We will do our very best in that respect, but perhaps the last word should go to Mary Scanlon, who highlighted SEPA's line on this matter. Although we cannot actually stop flooding in every place, we can certainly take every possible action to diminish its effects and ensure that the people of Scotland do not suffer in future as they might otherwise have done.

**The Deputy Presiding Officer (Trish Godman):** As we have finished the debate early, I suspend the meeting until 11:40.

11:38

*Meeting suspended.*

11:40

*On resuming—*

## Question Time

### SCOTTISH EXECUTIVE

#### General Questions

##### Post Office Network Change Programme

##### 1. Margaret Mitchell (Central Scotland) (Con):

To ask the Scottish Executive whether it will give an update on its response to the post office network change programme. (S3O-636)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** The Scottish Government continues to work to ensure that the post office network change programme results in the maintenance of an effective post office network in Scotland. Our aim is to ensure that Scottish interests are well understood and that there are robust and transparent consultation processes that allow communities to play a full part in safeguarding local services. On 22 June, I met Alan Cook, managing director of Post Office Ltd; on 18 September, I met the Postal Services Commission; and, this evening, I will meet the National Federation of SubPostmasters in Scotland.

**Margaret Mitchell:** The minister will be aware that, under the network change programme, Falkirk and parts of east Dunbartonshire, which fall within the region that I represent, will be among the first to be affected by closures. What progress has been made on the commitment that he made on 23 May to take forward discussions about co-locating post offices with, for example, police stations or other public services?

**John Swinney:** As the Government has made clear on a number of occasions, we are encouraging people to view the network change programme as an opportunity to protect postal services by co-locating them with other public services, not just in police stations. Indeed, in my visits around the country, I have seen a number of very good examples of how public organisations are trying to co-locate services.

Officials are discussing ways of encouraging such moves, and I have encouraged local authorities and community planning partnerships, which, of course, involve the police service, to use those partnerships as a forum for deciding on such issues. The location of police stations is an operational matter for chief constables, but we would encourage dialogue to take place within the spirit of the direction that ministers have set out.

**Tricia Marwick (Central Fife) (SNP):** Is the minister aware that Post Office Ltd has decided to close the Crown post office in Glenrothes and relocate services to W H Smith in the Kingdom centre? I have been in constant communication with Post Office Ltd and have been told that, although some changes might be made at the edges, it is absolutely determined that its decision will not be changed as a result of the consultation. Does the minister share my concern that a town the size of Glenrothes will be landed with a less efficient postal service and will he join me in putting pressure on Post Office Ltd to think again on this matter? Perhaps he might be able to do so at his next meeting with the organisation.

**John Swinney:** I acknowledge the concerns that members across the chamber have expressed on the proposals for the Crown post office network and the significant issues that they raise. The criteria in the network change programme have been designed to ensure that individuals in urban and rural situations have appropriate and ready access to post office services, and I want to ensure that such a service is delivered in Glenrothes and other parts of the community. I will, of course, take up with Post Office Ltd the issues that were raised by Tricia Marwick on behalf of her constituents in Glenrothes.

### **Aberdeen Western Peripheral Route**

**2. Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** To ask the Scottish Executive why it will not make a statement on its intended method of financing the Aberdeen western peripheral route until any public inquiry on objections to the road has been completed. (S30-656)

**The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson):** We will examine the funding of the Aberdeen western peripheral route for its suitability for taking forward under our proposed Scottish futures trust. The procurement of the scheme will proceed as the statutory process takes its course.

**Mike Rumbles:** I have a letter from Alex Salmond dated 15 June 2007 in which he says that he will ensure that the road

"is not financed by ... PPP/PFI".

Does not the minister accept that by dropping the commitment to a public-private partnership programme, he risks, at least, further delay on top of the one-year delay that he has already announced, and that he might jeopardise the entire project?

**Stewart Stevenson:** No.

**Richard Baker (North East Scotland) (Lab):** What is the current estimate of the increase in cost of financing the western peripheral route that will result from the minister's decision to delay its construction by a year? What share of that cost will be borne by council tax payers in Aberdeen and Aberdeenshire?

**Stewart Stevenson:** The scheme cost remains £295 million to £395 million. The member refers to my announcement of a new date for the completion of the Aberdeen western peripheral route, but I draw to his attention the fact that I inherited every single day of delay, which I reflected in the announcement of a 2012 completion date.

**Alex Johnstone (North East Scotland) (Con):** I ask the minister to give an assurance that, whatever he decides about the future funding of the project, he will not let his ideological aims and objectives get in the way of its progress and that not a single penny will be added to the local taxpayers bill as a result.

**Stewart Stevenson:** I am sure that the member knows that, as a north-east member, I share other members' belief in the urgent need to address the issue of traffic in Aberdeen. I will work night and day to ensure not only that we deliver the project that Aberdeen needs, but that we do so at a cost that is affordable and through the use of a funding mechanism that is more effective in cost terms than the discredited PPP system.

**Brian Adam (Aberdeen North) (SNP):** What further progress has been made on starting the northern leg of the AWPR?

**Stewart Stevenson:** I am pleased to say that this week detailed ground investigations have commenced on the northern leg. The work will involve the drilling of approximately 100 boreholes and 183 trial pits and the deployment of 30 geotechnical engineers, geologists, drillers, ecologists and archaeologists. That work is firm and real evidence of our determination to make early progress when we can.

**Lewis Macdonald (Aberdeen Central) (Lab):** Further to Richard Baker's question, I give the minister a third opportunity to say to what extent the additional costs of the project will be borne by local council tax payers. What part of the envelope of £295 million to £395 million will now be paid by council tax payers in Aberdeen and Aberdeenshire?

**Stewart Stevenson:** I am sure that the member knows that the price range that I quoted, which remains the same, is based on 81 per cent of the costs being met by the Scottish Government, 9.5 per cent of them being met by Aberdeen City Council and 9.5 per cent of them being met by Aberdeenshire Council. There is no change.



### **Court Services (North-east)**

#### **3. Alison McInnes (North East Scotland) (LD):**

To ask the Scottish Executive how it will ensure that excellent court services are available across the north-east of Scotland. (S3O-653)

**The Cabinet Secretary for Justice (Kenny MacAskill):** The delivery of excellent court services across the north-east and, indeed, all of Scotland will be achieved through the Scottish Government's summary justice reform programme, which includes steps to get cases to and through court more quickly, the use of effective direct measures—non-court disposals—investment in lay justice and the unification of the administration of all Scotland's summary criminal courts.

**Alison McInnes:** Does the minister agree that people in rural areas should have access to local courts and that the centralisation of court services in Aberdeen would be a short-sighted move, whereas the provision of a sheriff court building in Inverurie, along with the retention of the lay court, would be a welcome investment in that rural area? If so, will he intervene to halt the proposal to close Inverurie district court, which would involve all business being moved to Aberdeen? That move is opposed by local people, Aberdeenshire Council and local justices of the peace.

**Kenny MacAskill:** The consultation on courts in the Grampian Highland and Islands sheriffdom is on-going and will not end until 30 September 2007. Accordingly, it would be entirely inappropriate for me to make any comment or commitment until all have had an opportunity to contribute to that consultation. I understand that the member who has an interest in the matter has a meeting organised with Scottish Court Service officials, which I am sure she will attend.

We are dealing with the rolling-out of a system that was started by our predecessors and which we have inherited. Specific matters relating to individual courts will have to be adjudicated on and decided. At present, until such time as the consultation programme has ceased, it would be inappropriate for me to comment one way or the other.

### **Strategic Spending Review (Efficiency Savings)**

#### **4. James Kelly (Glasgow Rutherglen) (Lab):**

To ask the Scottish Executive what progress has been made in identifying efficiency savings to be included as part of the strategic spending review. (S3O-680)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** As we have said before, we plan to deliver efficiency savings of at least 1.5 per cent each year in the

period 2008-11. The detail is being informed by work on the strategic spending review 2007, which will focus on achieving the Government's purpose and strategic objectives. Spending plans to deliver our purpose, objectives and commitments will be announced in the autumn.

**James Kelly:** Will the cabinet secretary specifically rule out the suggestion in the Howat report that the bus route development grant be cancelled? That would cut bus services in my constituency and throughout Scotland. Furthermore, will he confirm whether the commitment in the Scottish National Party manifesto for a £4 million investment in modern buses is still under consideration or whether that is another SNP promise that is here today and gone tomorrow?

**John Swinney:** I say to Mr Kelly what I have said to Parliament many times: the contents of the Howat report—I gently remind members that it was commissioned by the previous Administration—are to inform the spending review. We inherited the Howat report and were the first to publish it, despite my efforts to get hold of it before the election. I specifically ruled out one of the report's provisions but said that I was not prepared to rule out any of the others, as the report had to be considered.

As an Administration, we are determined to ensure that we have adequate and appropriate investment in Scotland's public transport networks. Those issues will feature prominently in the spending review that we announce later in the autumn.

#### **Derek Brownlee (South of Scotland) (Con):**

The cabinet secretary might be aware that, as well as being asked by some people to rule out all the recommendations in the Howat report, he is being challenged by the same people to double the rate of efficiency savings to 3 per cent per annum. How could he achieve efficiency savings of 3 per cent per annum if he were to rule out every recommendation in the Howat report?

**John Swinney:** Mr Brownlee rather effectively points out the hypocrisy that I hear from Labour members and the inherent contradiction in their arguments when they criticise me one minute for taking forward measures to deliver efficiency and the next for not taking forward enough of them. Mr Brownlee's point is well made, if I may say so, and I look forward to members of other parties being infected by the constructive spirit that he has brought to our proceedings.

**Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab):** Is the cabinet secretary aware that the Howat review recommended merging the antisocial behaviour and community safety budgets? Will he give my constituents

greater reassurance than I received from the Minister for Community Safety in his reply to my recent letter on future funding to tackle antisocial behaviour? He said that no guarantees could be given that such funding would continue and that community partnerships would just have to plan

“as best they can—on that basis.”

Is planning as best one can now official Government policy?

**John Swinney:** It would be a step forward on the approach of our predecessors.

To be serious, we are in a unique position. We await the outcome of the comprehensive spending review, which will dictate our spending plans for the next three years. In the past, we would have had about 18 months' notice of the contents of the spending review, so there was adequate time for planning to be done over a longer timescale.

As I have told Parliament many times, we will get notice of the contents of the spending review around the middle of October. I have given the convener and members of the Finance Committee a commitment that I will bring the Scottish Government's budget to Parliament as soon thereafter as I can and certainly no later than late November. We have expedited the timescale for that process. Like all members, I am concerned about the uncertainty that exists over public expenditure while we wait for that information, but the Government will expedite matters as quickly as we can.

### Energy Policy

**5. John Farquhar Munro (Ross, Skye and Inverness West) (LD):** To ask the Scottish Executive when it plans to bring forward a distinct energy policy and from what sources it expects to replace current installed nuclear capacity with non-nuclear alternatives. (S3O-658)

**The Minister for Enterprise, Energy and Tourism (Jim Mather):** Ministers are currently meeting a broad range of stakeholders to discuss energy policy. Arising from that work, the Scottish Government will produce a statement setting out a strategic overview for energy policy in Scotland by the end of the year. That will set out key objectives and priorities for Scotland and provide the context for the Government, industry and other stakeholders to take forward a range of specific initiatives. We expect Scotland's future electricity needs to be fully met from renewable energy and clean fossil fuel technologies.

**John Farquhar Munro:** The minister is aware of the many wind farm developments that are being constructed onshore and offshore. They are limited in their constant power production. When can we expect to see more support for wave and

tidal power projects, which would seem to be the obvious solution?

**Jim Mather:** We are seeing that already. We have approved such a project in Orkney, and I expect to see more in the future. However, I am sure that John Farquhar Munro will agree that we should not provide support at any price or anywhere. It will be done in a seemly manner, consistent with the interests of Scotland and its regions.

**Shirley-Anne Somerville (Lothians) (SNP):** Does the minister agree that it is important not only to increase the supply of energy from renewable energy resources, but to decrease overall energy demand? I draw to his attention the fact that more than 160,000 homes were built in Scotland under the previous Administration, the vast majority of them meeting only minimum building standards—standards comparable to those in Scandinavian countries some 30 years ago. What steps has the Government taken and what steps will it take to improve energy efficiency in our homes and public buildings? What impact can such initiatives have on Scotland's energy policy?

**Jim Mather:** That will be covered in our energy strategy, and we will take specific steps to encourage different behaviour, more awareness, different levels of consumption and energy efficiency. At a recent event in Cowal in my constituency, GTi, a local energy efficiency provider, came together with builders, the local enterprise company—Argyll and the Islands Enterprise—and Argyll College to discuss what they could do for new builds in the area, to learn from the Scandinavian lessons, and to ensure that there are youngsters able to do energy efficiency work in existing homes.

### Disability Discrimination Act 2005 (Guidance)

**6. Christine Grahame (South of Scotland) (SNP):** To ask the Scottish Executive what plans it has to issue fresh guidance to schools and colleges to ensure that they meet their obligations under the Disability Discrimination Act 2005. (S3O-632)

**The Minister for Children and Early Years (Adam Ingram):** The Disability Rights Commission has published guidance on the Disability Discrimination Act 2005 for education authorities and grant-aided schools. In addition, the Scottish Government is revising its guidance to education authorities on improving access to education for disabled pupils in schools. That will include reference to education authorities' new disability equality duties and requirements under the DDA. The Scottish Further and Higher Education Funding Council issued advice about the act to Scotland's colleges on 16 December

2005, which included a self-evaluation toolkit to help prepare them for the introduction of the act. The council has no plans to issue fresh guidance.

**Christine Grahame:** I am pleased to hear the minister's answer, but how concerned is he to note that the Disability Rights Commission is considering a potential breach of the act by schools in Scotland that have acquiesced with selection criteria applied by the British Army during its school visits programme that specifically prohibit children with learning difficulties from taking part in activities with the armed forces?

Does the minister agree that schools and colleges should remain places of learning for all, regardless of disability, and that, although the armed forces rightly are legally permitted to discriminate in recruitment activity, that does not absolve schools of their statutory requirements under the Disability Discrimination Act 2005? Does he agree that schools and colleges should not be involved in any capacity in a selection process that discriminates against those with a disability?

**Adam Ingram:** I certainly agree with the sentiments that Christine Grahame has expressed. Schools should not be involved in any activity that discriminates against disabled pupils under the Disability Discrimination Act 2005. We would need further details about the circumstances of the particular case before reaching a view on it. However, it is helpful that the Disability Rights Commission is involved.

**The Presiding Officer (Alex Fergusson):** Before we come to First Minister's question time, I am sure that members will join me in warmly welcoming the Lord Speaker, the right hon Baroness Hayman, who is in the gallery. [Applause.]

## First Minister's Question Time

12:00

### Engagements

**1. Ms Wendy Alexander (Paisley North) (Lab):** To ask the First Minister what meetings he will have today. (S3F-149)

**The First Minister (Alex Salmond):** Later today, among other engagements, I will meet the chairman of the Office of Gas and Electricity Markets to discuss charges for electricity transmission that discriminate against generators in Scotland.

I warmly welcome Wendy Alexander to her place. Let me also now welcome all 27 appointments that she has made as it would take too long to welcome them individually.

**Ms Alexander:** I thank the First Minister for his warm words of welcome.

On the subject of warmth, yesterday was the seventh anniversary of Labour announcing our scheme to give free central heating systems to pensioners. More than 80,000 Scottish pensioners have already benefited. Why, then, did the Minister for Communities and Sport admit yesterday that the Scottish National Party Government is now reviewing the scheme, with targeting or means testing the likely outcome? Can the First Minister assure Scotland's pensioners that the scheme will not be cut back and that all Scottish pensioners without central heating will still qualify?

**The First Minister:** We are entirely committed to the statutory target to eradicate fuel poverty. That point was made by the minister yesterday. I am afraid that Wendy Alexander's description of what he said at yesterday's committee meeting is not accurate. Nonetheless, the important point for people around Scotland is that we are reviewing the scheme as a means to improving it. As I am sure she will know from her knowledge of housing, the scheme and many other aspects of housing in Scotland are badly in need of improvement.

**Ms Alexander:** Yesterday, the Minister for Communities and Sport told the Local Government and Communities Committee that free central heating for pensioners was now under review and that targeting was planned. The truth is that we extended the scheme whereas he has spoken about restricting it. Is that review under way, or has it simply been ditched because, once again, a minister has been rumbled? Winter deaths shamed Scotland; the central heating scheme cut those deaths by a massive 70 per cent in just five

years. Why is the Minister for Communities and Sport now proposing to cut that lifeline?

**The First Minister:** Perhaps Wendy Alexander should have adjusted her second question after she heard the first answer. The Minister for Communities and Sport said clearly yesterday that we are reviewing the scheme with the purpose of improving it. Clearly, we could not improve the scheme unless we reviewed it. Given that I have now said that twice, Wendy Alexander should accept the fact that there are deficiencies in the scheme and that we are hoping to improve on them. I think that that will be widely welcomed by people in Scotland who suffer from poor heating in their houses and who are looking forward to improvements under an SNP Government.

**Ms Alexander:** The First Minister is ducking the question. His minister yesterday talked of targeting. At the moment, every single pensioner in Scotland who is without a central heating system qualifies for the scheme. Where does targeting fit if every single pensioner in Scotland currently qualifies? This week, pensioners all over Scotland are turning on their heating. Under Labour, the scheme was available to every pensioner, whether they had money or not. Why is the First Minister now targeting it?

**The First Minister:** I am answering Wendy Alexander's questions very precisely. It is not my fault that she cannot think of the right questions.

The minister said that we were targeting improvements in the scheme. For the third time, I say that the Government's purpose is an enhanced and improved scheme. Wendy Alexander should reflect on the fact that there are substantial waiting lists in the scheme, as in so many areas of Labour policy. Our purpose is to target improvements, which will be widely welcomed by the people of Scotland.

**Ms Alexander:** We made it clear that the scheme was available to all pensioners. The First Minister has refused to repeat that commitment today. Last week, the First Minister ditched a review because what one of his ministers said was brought to light. It speaks volumes about the SNP's priorities that some pensioners will be targeted and left out in the cold, when cash is being made available for new signs and new embassies, and when £500,000 is being made available for a broadcasting commission. We would like a First Minister who stops using Scotland and starts serving Scotland.

**The First Minister:** Wendy Alexander should have adjusted her fourth question after the first three answers. Can we focus on the fact that we have made it clear that we are reviewing the scheme to enhance and improve it? Since this is her first outing, I gently remind her that the number

of people in fuel poverty rose under the previous Administration.

Wendy Alexander has made 27 appointments, involving more than half the Labour group in the Parliament. A number of people are beginning to wonder whether she appointed the wrong half.

### Prime Minister (Meetings)

**2. Annabel Goldie (West of Scotland) (Con):** I, too, welcome Wendy Alexander to her place for First Minister's questions. The First Minister will be fearful of a petticoat strangle every Thursday. I am sure that we will do our best to oblige.

To ask the First Minister when he will next meet the Prime Minister. (S3F-150)

**The First Minister (Alex Salmond):** I will try very hard not to be the meat in the sandwich—let me put it that way.

I have no plans to meet the Prime Minister at present. However, I have written to him this morning and I hope to speak to him in early course about the critical situation affecting animal welfare as a result of the foot-and-mouth restrictions affecting the sheep flock on hill farms in Scotland. I will arrange for that correspondence to be placed in the Scottish Parliament information centre.

**Annabel Goldie:** The First Minister is enthusiastic about introducing a local income tax. Indeed, he has said that it would be a "fair" local income tax

"based on ability to pay."—[*Official Report*, 5 September 2007; c 1366.]

I want to ask him about that fairness and that ability to pay.

Am I right that, under the SNP proposals, a hard-working nurse would pay the tax, but that, for example, a comfortably off man with a nice little portfolio of shares who received a dividend income of, say, £20,000 a year—

**Members:** Oh!

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

**Annabel Goldie:** He would not pay a penny of the SNP's income tax on that dividend income. Is that fair?

**The First Minister:** We can safely conclude that all ministers in the Government would gladly pay local income tax because it would be based on people's ability to pay. There is a huge difficulty in trying to charge investment income because of the costs of administration, which would be enormous. What we can say is that because a local income tax would be based on people's household income, it would be based on the ability to pay. That must be inherently fairer than a council tax

that for many people, including the vast majority of Scotland's pensioners, bears no relationship whatsoever to their income. It is therefore an inherently unfair tax, which, I remind Annabel Goldie, the Conservative party introduced.

**Annabel Goldie:** Is the First Minister aware that within this Parliament—indeed, within his party and even his Government—there is a self-proclaimed expert on tax avoidance? During a debate on Tommy Sheridan's plans for local taxation, no less a person than Mr Stewart Stevenson said:

"Here is how I would avoid the tax in total and pay not a penny."—[*Official Report*, 1 February 2006; c 22919.]

Indeed, Mr Stevenson's speech in that debate was a master-class on tax avoidance. It is compelling reading for accountants.

The truth is that wealthy individuals such as Mr Stevenson, who have substantial dividend income, will, as he said, "pay not a penny" of the SNP's income tax on any of that dividend income. The First Minister says that that is fair; I think it stinks. There is hypocrisy at the heart of Government. Does the First Minister still adhere to his proposals?

**The First Minister:** Regardless of whether people are for or against local income tax, every study of local income tax acknowledges that a tax based on income levels is inherently fairer than a tax based on property, which might bear no relationship to income.

The circumstances for investment income would be no different from the current circumstances. I do not know whether Annabel Goldie realises that people do not pay council tax on investment income; they pay council tax on the value of their property, which in some cases bears no relationship to their income. Whatever else we say about local income tax, can we at least agree that a tax based on income is inherently fairer than a tax that might bear no relationship whatever to people's income or earning potential?

### Cabinet (Meetings)

**3. Nicol Stephen (Aberdeen South) (LD):** I, too, welcome Wendy Alexander.

To ask the First Minister what issues will be discussed at the next meeting of the Cabinet. (S3F-151)

**The First Minister:** The Cabinet will discuss a wide range of issues of importance to the Scottish people.

I congratulate Nicol Stephen on being elected unopposed to the Liberal leadership for the next four years and I welcome him back from the fringe of Brighton to the centre of Edinburgh.

**Nicol Stephen:** In his manifesto for the first 100 days of an SNP Government, the First Minister said that he would access money from the fossil fuel levy and use it for renewable energy projects in Scotland. Has he kept that promise?

**The First Minister:** We are in negotiation on that very matter at the moment.

When I last met the board of the Office of Gas and Electricity Markets—I will meet leading Ofgem officials again this afternoon—I was surprised to find out that during the entire period of the imposition of the fossil fuel levy, no approach seemed to have been made by the previous Scottish Executive for the more than £50 million of Scotland's money that was lying in that fund. The Scottish Government has rectified that position by opening negotiations to have that money returned to Scotland.

**Nicol Stephen:** Unlike that reply, the 100-day programme was perfectly clear. It promised the money within 100 days. It said that not getting the money was "a sign of" the "Executive's failings" and went on to say:

"An SNP government would not make the same mistake".

Before the election, the First Minister personally promised the *Buchan Observer* that he would access the money. However, last Sunday, John Swinney wrote in a different newspaper that he had not got the money, which is now £80 million—he had made the same mistake. Indeed, he said that to access the money now "does not make sense". What has changed between the promise being made by the First Minister and the promise being broken?

**The First Minister:** We are in negotiations to access the funds, which makes perfect sense. What does not make as much sense is that Nicol Stephen, during a long period in Government, including a long period as an energy minister, seems to have failed over eight years to have the money returned to Scotland.

I am delighted to have Nicol Stephen's support for the Government's negotiations to ensure that the fossil fuel levy, which has accumulated in Ofgem's bank account and, I am informed, currently amounts to almost £80 million, is returned to Scotland, so that it can be invested in Scotland's energy and renewables future.

**Johann Lamont (Glasgow Pollok) (Lab):** The First Minister will be aware of the widely acclaimed work of the domestic abuse court and the assist project, which operates in my constituency and across south Glasgow. I welcome his executive decision in recognising the benefit of rolling out the pilot across Glasgow. Will he confirm the timescale for acting on that decision? Will he give

a commitment that any Glasgow-wide project will include a key role for assist, which supports vulnerable women and children and provides critical information to the court on risk? Will he ensure that his Cabinet Secretary for Justice does not press on with his dangerous blanket opposition to custodial sentences of less than six months, given the widespread recognition of the benefit of such disposals in providing real respite to some of our most vulnerable women and children and providing a real punishment for, and sending a real message to, those who perpetrate violence within their own homes and families?

**The First Minister:** I will take the positive aspect of Johann Lamont's question—the fact that she welcomed our approach to the matter. I am informed by the Cabinet Secretary for Justice that an answer to her parliamentary question has been prepared and that an announcement will be made within the next few days that, certainly on the first part of her question, will not disappoint her in terms of this Government's commitment.

**Murdo Fraser (Mid Scotland and Fife) (Con):** I read this morning in that fine and always accurate publication, *The Daily Telegraph*, that the First Minister is due to meet the Secretary of State for Defence, Des Browne, to raise with him concerns that the golden thread that links different parts of Scotland with their historic regiments is being broken. When the First Minister speaks to Des Browne, will he tell him that the Scottish Conservatives—and, I am sure, many others in the Parliament—are appalled at that breach of promise from the Ministry of Defence and the Army, which goes against all the pledges that were made at the time of the mergers? Does the First Minister agree that it is a real irony that, in the week when the National Theatre of Scotland's production of the play "Black Watch" is opening to great acclaim in Los Angeles, back home, the proud institution that it celebrates is being weakened still further?

**The First Minister:** "Black Watch" is a wonderful and challenging play. It makes a huge number of important observations on the Scottish regimental tradition and the current conflict in Iraq.

On Murdo Fraser's question, I basically agree. I had a meeting with the save the Scottish regiments campaign and other interests last month. They not only pointed to the essence of the campaign—their opposition to the regimental merger—but argued strongly that the Ministry of Defence had not kept a number of commitments that had previously been made on the golden thread. I raised the matter within days at a meeting with Des Browne and promised to write to him with full details provided by the campaign. That will be done within the next few days.

It should be said that the defence secretary's initial response at the meeting was that the Government would be prepared to discharge the obligations and commitments that it had made. That was quite a hopeful response, which is why I am sending such a detailed letter to him. I appreciate that we will have the support of many members—I hope that we will have their support—in putting forward that argument.

### Scottish Assigned Budget

**4. Keith Brown (Ochil) (SNP):** To ask the First Minister what steps the Scottish Government intends to take in relation to the United Kingdom's chancellor's reported intention to increase the Scottish block grant by 1 per cent above inflation in this spending round. (S3F-167)

**The First Minister (Alex Salmond):** The strategic spending review 2007 will focus on achieving the Government's purpose and five strategic objectives. The level of increase in the Scottish budget will not be known until the announcement of the United Kingdom comprehensive spending review in October. The Scottish Government will exercise financial discipline and deliver a programme of efficiency and reform to address any effects of lower budgetary growth.

**Keith Brown:** Does the First Minister agree that there is real irony in the situation, given that although oil prices are currently touching around \$80 a barrel, Scotland faces the prospect of the worst financial settlement from the United Kingdom Treasury since devolution?

**The First Minister:** Keith Brown makes an excellent point. It puts into stark contrast an expected tight spending round when we look across the North Sea to Norway and see a country that enjoys the full benefits of its own natural resources.

I was told last year by Wendy Alexander that the Scottish National Party should be anticipating \$30 to \$40 as an oil price. As Keith Brown rightly says, the price is currently touching \$80. That was not one of Wendy Alexander's better forecasts.

**Andy Kerr (East Kilbride) (Lab):** Will the First Minister acknowledge that under Labour, the budget of the Scottish Executive—now the Government—has doubled since devolution, and that it is his problem if he goes around the country promising everything to everybody, as he will have to sort out that mess?

**The First Minister:** I agree with Andy Kerr that there is a lot of mess to be sorted out, but that is another question.

As Andy Kerr well knows, the previous real-terms increases in budgetary growth have been 5

per cent, 5 per cent, 5.7 per cent and almost 3 per cent. It is against that trend that the current position will be judged. I was told last week by a Conservative member that the Centre for Public Policy for Regions at the Universities of Glasgow and Strathclyde had identified 35 uncosted SNP commitments in our manifesto. I looked closely at that research, because I was interested. The same research identified 77 uncosted commitments from the Scottish Labour Party, which was exceeded only by 89 from the Scottish Liberal Democrats. Yes, indeed—there is a lot of mess to be sorted out.

**Robert Brown (Glasgow) (LD):** It is the actions of the current Government that we are interested in. [*Interruption.*]

**The Presiding Officer:** Order.

**Robert Brown:** Before the election, John Swinney said that he had been

“in extensive and detailed discussions with the civil service”,

and that the SNP was

“prepared and ready to become Scotland’s next Government.”

Does the First Minister agree with me that the tightness of the financial settlement can come as no surprise to him? Why, therefore, did the SNP make so many uncosted and unaffordable promises—on class sizes, on nursery schools and on students in particular—that it is now having to ditch?

**The First Minister:** I understand why Robert Brown does not want to dwell on the past. However, it would be best if he listened to the previous answer before repeating a question that walks right into the figures: 35 uncosted SNP commitments—according to the Centre for Public Policy for Regions—77 from the Scottish Labour Party and 89 from the Scottish Liberal Democrats. I would have expected Robert Brown to have exercised a little bit more prudence and discipline when Nicol Stephen was preparing that manifesto.

**Kenneth Gibson (Cunninghame North) (SNP):** The First Minister will be aware of the moveable feast that passes for Lib Dem constitutional policy these days. The Lib Dems now want Scotland to have a share of the oil revenues that they and the other unionist parties have denied the people of Scotland for years. Great—welcome aboard. However, does the First Minister agree that Nicol Stephen and his party are tying themselves in knots by arguing against the right of the Scottish people to a first-ever referendum on Scottish independence, because they want Scotland to remain in the United Kingdom, while calling for a referendum on remaining in Europe, because they want the UK to remain in the European Union?

Does the First Minister agree that that is neither logical nor sensible, let alone liberal or democratic?

**The First Minister:** I took great encouragement from Ming Campbell’s policy announcement this week—he is moving in favour of a referendum and I think that Nicol Stephen might follow shortly. I take this opportunity to welcome warmly Nicol Stephen’s conversion this week to the idea of Scotland getting access to our oil and gas resources. We are having a national conversation that might prove very fruitful.

## Renewable Energy

**5. Iain Gray (East Lothian) (Lab):** To ask the First Minister what action the Scottish Government is taking to increase renewables generating capacity. (S3F-161)

**The First Minister (Alex Salmond):** The Scottish Government is engaged in a range of activities to increase renewables generation capacity. We are dealing efficiently with applications for consent to build generating capacity; we have asked local authorities urgently to prepare supplementary planning guidance to implement Scottish planning policy 6, and we will support the authorities with expert advice; and, crucially, we are making the case for transmission charging that is more favourable to renewables in Scotland. As I said, I will meet the Office of Gas and Electricity Markets this afternoon to discuss the matter and to press that case. Those are just a few of the actions that the Scottish Government is taking to support a rapid increase in Scotland’s renewables capacity.

**Iain Gray:** In nearly five months, ministers have managed to process only four wind farm projects—that is the efficiency that the First Minister refers to. The Government has consented to one of those projects and it has rejected three, including one that, as the First Minister knows, is in his own area.

On 21 January, Mr Salmond told the *Sunday Herald* that

“There should be a cap on future developments. We should concentrate the development of onshore wind into suitable areas.”

The industry is puzzled. Is there a cap on wind power developments? Should the industry restrict its proposals to certain areas, and, if so, which ones? If there is no cap, when will the 4GW of renewables projects sitting in the First Minister’s in-tray finally emerge?

**The First Minister:** Iain Gray is correct: we have processed four wind farm applications in our four months of Government. That compares with two applications processed in 2006, and three

processed in 2005. I would have thought that Iain Gray would welcome the rapid pick-up of pace under this Government.

Iain Gray must be well aware—although he has repeated today an attack that he made on us before—that we have since granted consent to Harestanes. That is 282MW of renewables capacity and a very substantial addition to Scotland's array of renewable energy projects. Further announcements will be made within the next few days.

**Rob Gibson (Highlands and Islands) (SNP):** Is the First Minister aware of the study published by Highlands and Islands Enterprise that shows that it is 30 times more expensive for electricity producers in the north of Scotland to connect to the grid than it is for electricity producers in Denmark? Will he confirm that a U-turn by Ofgem is overdue? I hope that he will be able to confirm that tonight when he meets Ofgem. Ofgem charges a tax on our geography, and we need to be freed from it so that we can develop marine renewables.

**The First Minister:** Rob Gibson is perfectly correct in his assessment. There are two substantial areas of discrimination against Scottish generators, and against generators in the north of Scotland in particular. The first is the existing one of access to the grid. Rob Gibson is right when he says that there is a huge impost on areas of Scotland, compared with a subsidy that is paid elsewhere in the United Kingdom. Our access compares incredibly unfavourably with the access of renewables generation elsewhere in Europe.

The second area of discrimination is, of course, Ofgem's contemplation of imposing a further discriminatory tariff in terms of transmission losses. The good news is that Ofgem is thinking again about that. The study that Rob Gibson mentioned, and the unanswerable case that is being prepared by this Government on a range of interests, including renewables, as we try to prevail on Ofgem, will, I hope, give Scotland a fair opportunity to develop our massive potential in renewable and other green energy resources.

### **Agenda for Change**

**6. John Scott (Ayr) (Con):** To ask the First Minister what plans the Scottish Government has to review agenda for change in Scotland, in light of the questions raised by the King's Fund report, "Realising the Benefits? Assessing the Implementation of Agenda for Change", on issues associated with agenda for change in England. (S3F-155)

**The First Minister (Alex Salmond):** The introduction of agenda for change in NHS Scotland has been carried out in full partnership

between the health directorates, NHS Scotland employers and the health trade unions. The process is on-going, and in light of that the Scottish Government has no current plans for review.

**John Scott:** The First Minister will be aware of the dissatisfaction and low morale in the national health service caused by the perception that agenda for change is improving neither patient care nor staff conditions. In particular, job evaluation appears not to be working, with many staff salaries still not agreed since 2004. Recruitment is becoming more difficult, and career structure and advancement are being jeopardised. Will the First Minister tell Parliament what will be done to address those and other issues immediately?

**The First Minister:** The issues are being addressed at the moment. However, as John Scott knows, the King's Fund report does not necessitate a different response in Scotland. Agenda for change was implemented in a different manner in Scotland, and over a different timescale, from what happened in England. As implementation has not been completed, it is too early to carry out an evaluation. However, the process of implementation is on-going. It is happening right now.

**Sandra White (Glasgow) (SNP):** I raise an anomaly faced by clinical psychologists in health boards throughout Scotland. The problem has been going on much longer down south. Clinical psychologists with three to five years' experience are still on a low grade and have not been regraded, yet new starts in October 2007 are automatically being put on a new grade. Will the First Minister look at the issue and perhaps write to health boards regarding that anomaly?

**The First Minister:** There is a process of review that allows such concerns to be addressed. For completeness, I will write to Sandra White and give her all the details I can about progress in that area.

12:30

*Meeting suspended until 14:15.*



14:15

*On resuming—*

## Question Time

### SCOTTISH EXECUTIVE

#### Health and Well-being

##### Primary Health Care (Lanarkshire)

**1. Karen Whitefield (Airdrie and Shotts) (Lab):** To ask the Scottish Executive what investment is planned to enhance primary health care services in Lanarkshire. (S3O-701)

**The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon):** The planning and provision of primary and community-based health care services in Lanarkshire is a matter for North Lanarkshire community health partnership, South Lanarkshire community health partnership and the board of Lanarkshire NHS Board.

**Karen Whitefield:** I accept the minister's answer, but does she agree that it is vital that the new health centre in Airdrie go ahead as planned? Will she use the powers that she utilised to instruct NHS Lanarkshire on Monklands hospital accident and emergency services to instruct NHS Lanarkshire to proceed with Airdrie health centre? If she will not use her ministerial powers of intervention, why not? She was happy to use them previously, and I agreed that she should use them then.

**Nicola Sturgeon:** NHS Lanarkshire has given no indication that Airdrie health centre will not go ahead. As members know, in the light of the statement that I made to Parliament that NHS Lanarkshire should retain accident and emergency services at Monklands hospital—I am glad that Karen Whitefield still agrees with that position—NHS Lanarkshire must accompany that retention with significant investment in primary and community care. It is now for NHS Lanarkshire, in reviewing its original proposals, to come forward with specific proposals, which I expect it to do. I am pleased to say that I expect there to be significant investment in primary and community services in Lanarkshire in the future. I hope that the member will welcome that investment at that time.

**The Presiding Officer (Alex Fergusson):** A number of members have requested to ask supplementary questions, which should be exactly that—not supplementary speeches. I am keen for members to ask supplementaries, but such questions must be short and succinct.

**Alex Neil (Central Scotland) (SNP):** I support the call to build Airdrie health centre. The proposal has been around for 10 years but nothing has happened so far. If the project is not high on the priority list that NHS Lanarkshire publishes in October, will the cabinet secretary consider that when the list reaches her desk?

**Nicola Sturgeon:** Alex Neil is right to point out the previous Labour and Liberal Democrat Executive's lack of action in that regard. I pay tribute to him for being a staunch supporter of his constituents in Airdrie—it will not go unnoticed. I understand acutely the strength of feeling on Airdrie health centre and do not doubt that NHS Lanarkshire understands it too.

**Cathie Craigie (Cumbernauld and Kilsyth) (Lab):** I say to the minister that Alex Neil was such a staunch supporter of the health of the people of Lanarkshire that he did not even take the trouble to respond to "A Picture of Health: A Framework for Health Service Improvement in Lanarkshire". I say to the minister—

**Alex Neil:** On a point of order, Presiding Officer. I state categorically that the statement that the member has made is not true.

**Karen Whitefield:** It is true.

**Alex Neil:** It is not.

**The Presiding Officer:** I am not prepared to let members have a sedentary argument across the chamber. I apologise for interrupting Cathie Craigie's question.

**Cathie Craigie:** On the point that Mr Neil made, I refer the Presiding Officer to comments that were made in the chamber in the previous session.

**The Presiding Officer:** The member should ask a question, please.

**Cathie Craigie:** My question is about facilities in the primary care service that were proposed for the Cumbernauld and Kilsyth area, which were linked to the "Picture of Health" document. As the minister knows, people in my constituency expected a community casualty unit to be opened in Cumbernauld early in 2008. People in Kilsyth expected progress with primary care facilities in Kilsyth. How should I respond to people in my constituency who are keen for those facilities to be provided and who see her action in relation to Monklands as holding them up?

**Nicola Sturgeon:** Cathie Craigie should say to her constituents that I am as keen as they are to see significant investment in primary and community care services. I said that in my statement in June. I remind her that my "action in relation to Monklands", as she called it, was not only widely supported by the public in Lanarkshire and throughout Scotland—it was supported by a

great many of her colleagues, one of whom had within days of the election lodged a parliamentary motion demanding that I take that action. Labour should decide what side of the debate it is on.

**Margaret Mitchell (Central Scotland) (Con):** Is the cabinet secretary aware of the success of the minor ailments service that was introduced by Boots pharmacy in Lanarkshire and other parts of Scotland, which complements primary health care by taking some of the pressure from general practitioner services and providing an enhanced local community pharmacy? If so, will she confirm that that and similar initiatives will be encouraged by the new Government?

**Nicola Sturgeon:** Absolutely. I am also keen to see primary care developed on a team basis. GPs perform a vital role in the primary care team, but other professionals perform equally vital roles. If we are to make a significant difference to improving people's health, we must not just add investment in community and primary care—we must also take a whole new approach to working. Everybody who currently makes a contribution in that regard has a big contribution to make in the future.

**Karen Gillon (Clydesdale) (Lab):** Does the cabinet secretary accept that a minor injuries unit should currently be under construction in Lanark in my constituency and, that as a direct result of her ministerial intervention in Monklands accident and emergency unit, the minor injuries service is now on hold?

Having visited Clydesdale recently, the minister will appreciate the rurality of the constituency. Does she agree that the minor injuries unit would be invaluable to the people of Clydesdale and will she therefore use her powers of ministerial direction to direct NHS Lanarkshire to ensure that the rural voices of the people of Clydesdale are not drowned out by those of their urban counterparts?

**Nicola Sturgeon:** I gently and firmly remind Karen Gillon—as I reminded Cathie Craigie—that my ministerial intervention was not only supported strongly by her colleagues, it was demanded by them. The reason was that it was right to say that the closure of the A and E unit at Monklands was wrong. I am proud to say that the new SNP Government has ensured the continuation of the accident and emergency unit at Monklands.

NHS Lanarkshire is now rightly reviewing its original proposals, as I asked it to do. I made it clear to NHS Lanarkshire, as I have in the chamber, that I expect it not only to continue A and E services at Monklands, but to ensure considerable investment in primary and community care. I hope that that package of

proposals, which will be developed, will have the support of the entire chamber.

### Midlothian Community Hospital

**2. Rhona Brankin (Midlothian) (Lab):** To ask the Scottish Executive whether it continues to support the construction of the new Midlothian community hospital at Hardengreen. (S3O-665)

**The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon):** The Scottish Government continues to support the development of the project. Final approval for the project to proceed will be based on the satisfactory review of a full business case, due to be submitted prior to financial close.

**Rhona Brankin:** I am grateful to the minister for that response, which I hope will reassure my constituents, some of whom are concerned that progress on the hospital has ground to a halt since the election. The minister will know that, as well as replacing extremely outdated hospitals, both at Rosslynlea and Loanhead, the plan has always been to provide additional outpatient services in the new hospital in order to reduce the need for people to travel outside Midlothian for routine treatment. Will the minister advise me, either here or in writing, what additional outpatient services will be provided and when the community hospital will open?

**Nicola Sturgeon:** I presume that as the local member, Rhona Brankin is aware of the fact that the proposed new hospital was first discussed in 2000. In the seven years following that, her party was in government, so if there has been any delay, the blame lies at the door of not this Administration, but the previous one.

Rhona Brankin is also aware that there were objections to the outline planning application that required that an alternative site be identified. The project was then considered as part of the review of Lothian NHS Board's mental health strategy. The revised outline business case was approved in October last year and procurement then recommenced. Financial close is expected by September next year, with work on site commencing soon thereafter. The range of services that are to be provided in that hospital is a matter for NHS Lothian, but I can ensure that the member gets written details of its plans.

### Old Age (Dignity and Well-being)

**3. Irene Oldfather (Cunninghame South) (Lab):** To ask the Scottish Executive what importance it places on ensuring dignity and well-being in old age. (S3O-694)

**The Minister for Public Health (Shona Robison):** The Scottish Government attaches the very highest importance to ensuring the dignity

and well-being of Scotland's older people. We have confirmed our commitment to the vision and actions for Scotland's ageing population set out in the "All Our Futures" document, published earlier this year. For older people with long-term care needs, we have undertaken to increase free personal and nursing care support in line with inflation from next April. We are continuing to support the vital work of bodies, such as the Scottish Commission for the Regulation of Care, in ensuring and improving standards of care, in particular through the national care standards. We have also identified as a priority the needs of people affected by dementia.

**Irene Oldfather:** Is the minister aware of the report in the *Irvine Herald* two weeks ago of the care worker who has been charged with the assault of an elderly resident at Cumbrae Lodge nursing home, a national health service nursing home in my constituency? I understand that the matter is sub judice, but does she acknowledge the concerns of residents and their relatives? What action will she take to ensure that adequate safeguards are put in place for this very vulnerable group?

**Shona Robison:** I am aware of the case and I am very concerned about the facts that surround it. Of course, the care commission exists to ensure the highest standards and it will take the appropriate action. As Irene Oldfather said, at the moment, the case is sub judice. I am prepared to hold further discussions with the member on the matter at a future date.

#### **Community First Responders (Borders)**

**4. John Lamont (Roxburgh and Berwickshire) (Con):** To ask the Scottish Executive whether it is aware of the role of community first responders in the Scottish Borders. (S3O-621)

**The Minister for Public Health (Shona Robison):** Community first responder schemes are operated by volunteers who are trained by the Scottish Ambulance Service in first aid skills. They respond to emergencies while an ambulance is en route. Those schemes are an essential part of patient care, particularly in remote and rural areas. There are currently around 39 schemes across Scotland, two of which are in the Borders. I know that work is currently under way to try to develop more schemes not only in the Borders, but elsewhere in the country. I encourage more people to become involved in such a worthwhile cause.

**John Lamont:** Given that the nearest ambulance service is many miles away, people in the village of Newcastleton in my constituency often have to rely on community first responders to provide emergency ambulance service cover. The group, which is entirely voluntary and self-funded,

is in desperate need of financial support to ensure continuation of the vital service that it provides. Will the minister confirm that funding will be made available?

**The Presiding Officer:** Too many conversations are going on in the chamber.

**Shona Robison:** I am aware that the British Heart Foundation is funding one of the current posts until June 2008. The post is currently filled by a paramedic who is on secondment. If the Scottish Ambulance Service believes that the post to which the member referred should be retained—as I hope it does—I would expect it to subsume the cost of the post into its budget for 2008-09.

#### **Cardiac Rehabilitation Centres**

**5. Hugh O'Donnell (Central Scotland) (LD):** To ask the Scottish Executive how it intends to take forward an increase in the number of cardiac rehabilitation centres. (S3O-650)

**The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon):** I recognise the importance and effectiveness of cardiac rehabilitation programmes. We expect NHS boards, through their cardiac managed clinical networks, to make sure that everyone who would benefit has access to a cardiac rehabilitation programme that meets their needs.

**Hugh O'Donnell:** Under the picture of health programme, NHS Lanarkshire planned to provide improved primary care facilities in both Cumbernauld and Kilsyth, as the constituency member, Cathie Craigie, said. Does the cabinet secretary agree that Cumbernauld and Kilsyth are the ideal locations in the northern corridor for such rehabilitation centres? As a result of the cabinet secretary's decision on Monklands, the health board has been obliged to shelve its proposals. Is that a negative step in the development of delivery mechanisms for primary care services in Lanarkshire?

**Nicola Sturgeon:** I hesitate to point this out to Hugh O'Donnell, but he signed the parliamentary motion that demanded that I reverse the previous Government's decision on accident and emergency at Monklands. There is a need for greater consistency on the matter. In recognition of the seriousness of the issue, I repeat my appreciation of the importance of cardiac rehabilitation. Two weeks ago, I was pleased to attend the cardiac rehabilitation festival in Glasgow, where I saw at first hand the real benefits that cardiac rehabilitation can bring to individual patients.

As Hugh O'Donnell knows, I have told NHS Lanarkshire that, in addition to retaining A and E

services, I expect it to proceed with significant investment in primary and community care. I fully expect that the investment that takes place in NHS Lanarkshire will enable further expansion of cardiac rehabilitation programmes for the benefit of patients.

### **Housing Stock Transfer (Glasgow)**

**6. Patrick Harvie (Glasgow) (Green):** To ask the Scottish Executive what action it is taking to ensure the transfer of Glasgow housing stock into community ownership. (S3O-635)

**The Minister for Communities and Sport (Stewart Maxwell):** We are considering the way forward in the light of the findings in the inspection report on the Glasgow Housing Association, which has just been published. We will continue to support progress towards second-stage transfer where that can be sensibly achieved, but it is clear from the inspection report that a more fundamental rethink and debate about GHA's future is needed, so that the wider regeneration and housing needs of the city can be addressed. Above all, it is important that any solution safeguards the interests of existing and future tenants.

**Patrick Harvie:** Members of all parties will acknowledge the statements of support for progress towards second-stage transfer that have been made for a long time. Those statements have been well meant and sincere, yet despite that consistent political support across the parties, progress has not been made. We all hope that progress will be made on pilot transfers over the next few months. If that does not happen, is the Government willing to legislate to make it happen?

**Stewart Maxwell:** In the light of the inspection report, which came out just this week, there is clearly a possibility that there could be some small-scale transfers, I hope in the not-too-distant future. We will certainly engage with GHA to ensure that it pays attention to that process and that it proceeds as speedily as possible. Beyond that, we must carefully consider the report and where the future of housing and regeneration in Glasgow lies. It would be inappropriate for me to predetermine at this stage the outcome of the discussions and debate on that. We should first pay attention to the detail of the inspection report and listen to all the stakeholders with regard to the future of housing in Glasgow.

**Bob Doris (Glasgow) (SNP):** Will the minister reflect on the Communities Scotland report on the Glasgow Housing Association, which includes the comment that GHA had

"no clear operational policy or timescale for delivering SST at the time of the transfer"?

Does the minister agree with me that the new Labour leader in the Scottish Parliament, Wendy

Alexander, as Minister for Communities at the time, was one of the architects of such incompetence? Will he reassure Parliament that Scottish National Party ministers will provide a more strategic approach on social rented housing in Glasgow?

**Stewart Maxwell:** The member is absolutely correct. It is fair to point out, however, that it was not just Wendy Alexander—Jackie Baillie, Margaret Curran and other Labour members are responsible for the situation that the tenants of Glasgow now find themselves in. The Government is committed to delivering for the tenants of Glasgow. Under this Government, the tenants will not be considered last, as has been the case during the past few years. We are determined to make progress for the tenants of Glasgow on second-stage transfer and on repairs to, and renewal of, housing in Glasgow.

**Robert Brown (Glasgow) (LD):** Will the minister clarify his somewhat disappointing approach? In particular, does he whole-heartedly accept Communities Scotland's perspective on the long-term future of GHA? Does he agree that part of the problem is that GHA seems to regard itself as having a long-term future? Is he in a position to instruct GHA to incorporate arrangements for second-stage transfer into its business plan? Does he agree that its wilful failure to do that forms a large part of the current problem?

**Stewart Maxwell:** The inspection report is very welcome. It is detailed and thorough, and provides a clear examination of GHA's performance since the stock transfer. I welcome it in that context.

The problem is encapsulated in the quotation that Bob Doris cited earlier, which showed that no strategy or long-term plan was put in place by the previous Administration. A huge amount of effort was expended to create the transfer at the first stage, but there was no real plan of attack for how to move on from that point in the future—that is where the problem lies. The inspection report is clear about where the blame lies for the situation in which the people of Glasgow now find themselves. It is a bit rich for a member of the previous Government to ask us what we are going to do about the situation, given the situation that it has left the people of Glasgow in after eight years in power.

**Johann Lamont (Glasgow Pollok) (Lab):** Given that the minister's party advised tenants in Renfrewshire, Highland and Edinburgh, among other areas, to vote against their own interests and against stock transfer, and that tenants who are asking for help now are being told, "It's nothing to do with us," it is a bit rich for the minister to talk to us about taking responsibility like that.

Will the minister confirm that he understands the importance of community ownership in Glasgow,

which will break the cycle of investment and failure to invest, which Glasgow has experienced historically? Does he acknowledge the importance of that? Will he outline what he intends to do to take forward the drive towards community ownership? Will he reconvene the ministerial group—which I previously chaired—which brought together the experience and expertise of people who work in housing throughout Glasgow to address the challenge of housing in the city? Will he encourage that group to work with him in considering how we can put the interests of the tenants of Glasgow first? Their interests should come before party political interests—however indulgent the minister wants to be. The critical point in the report is that GHA needs to address the interests of tenants.

**The Presiding Officer:** You should stop now, please.

**Johann Lamont:** Will the minister please comment on the ministerial group?

**Stewart Maxwell:** I apologise to Johann Lamont for leaving her name off the list of shame of ministers who were involved in the process of GHA.

The SNP is absolutely committed to community ownership. The reason why we do not have a lot of community ownership in Glasgow—in terms of where GHA is now and where it should have been at this time—is that people such as Johann Lamont and her party utterly failed to plan and put in place a proper strategy for the future benefit of the tenants of Glasgow. The responsibility lies absolutely at their door and with nobody else.

## Rural Affairs and the Environment

### Flood Prevention

**1. Dr Richard Simpson (Mid Scotland and Fife) (Lab):** To ask the Scottish Executive, in light of a doubling in funding for flood prevention in the last session of the Parliament, what level of funding will be provided for prevention measures in 2007-08 and 2008-09. (S3O-698)

**The Minister for Environment (Michael Russell):** As members know, the Cabinet Secretary for Rural Affairs and the Environment has had to be at a foot-and-mouth disease summit in London and is unable to answer questions today. I am happy to be here to answer questions.

The Scottish Government is committed to helping local authorities increase protection for vulnerable communities that are affected by flooding through investment in flood alleviation measures and defences. A total of £42 million has been made available to local authorities for the period 2007-08 to support their flood prevention

and coast protection programmes. The Scottish Government is of course examining all funding for future years as part of the spending review process. That includes support for local authorities' flood prevention and coast protection programmes.

**Dr Simpson:** I am sure that all members will join me in wishing Richard Lochhead good luck in his work in London, which is important to our farmers and rural communities.

Regarding the floods in Milnathort, the report from Atkins for Perth and Kinross Council indicated that there were problems with Ove Arup and Partners Scotland's construction of the flood prevention measures. Part of the height of the construction was below that which was specified, which resulted in the floods being considerably more serious than might otherwise have been the case. Will the minister consider providing additional compensation for the households affected, particularly those who are not insured or whose insurance companies are not helping? Will he ensure that the necessary funds are made available to the council to rectify fully the faults in the original construction if Arup is not prepared to do so?

**Michael Russell:** The issue of liability in this matter has not been fully resolved and it would be wrong of me to make assumptions about liability while speaking here. However, what took place in Milnathort is important to our understanding of where we might go in legislation on flood management, which was referred to in this morning's debate.

There are two key issues: one is uncertainty regarding what lies ahead, in terms of the level and height of flooding; the second is that we must rely to a great extent on the knowledge of local people. One of the strongest points in the report that was produced for Perth and Kinross Council is that a large number of local people were dissatisfied with the solution found and yet it still went ahead. That is uncannily reminiscent of some of the complaints that are being made with regard to coastal flood prevention in the Western Isles, where it was felt 20 years ago that the presence of a new causeway would be a likely contributor to coastal flooding. It is important that we listen to local people and take advantage of their knowledge as we plan flood defences.

**Alex Neil (Central Scotland) (SNP):** Will the minister consider the operation of the presumption against building on flood plains? South Lanarkshire Council, supported by the previous Executive, gave the go-ahead for the construction of a new school on a functioning flood plain. That will give rise to major problems once the school is constructed.

**Michael Russell:** As Alex Neil knows from this morning's debate, there have been only 12 cases in the past five years in which a local authority's decision to go ahead and give planning permission has run contrary to Scottish Environment Protection Agency advice. In all those cases, matters have been re-examined closely, and two cases were called in by the Scottish Executive.

It is important to recognise that there are still some local authorities that seem unsure about the issue. I repeat the answer that I gave a moment or two ago: one of the strongest determinants in such matters is local knowledge and knowing what local conditions are. If local people view a place as being unsuitable for building, it is important that local authorities listen to them. We heard this morning about a school that is being built in a constituency in Scotland and which is likely to be Scotland's first underwater school. I hope the one that Alex Neil referred to is not the second underwater school.

### **Royal Society for the Protection of Birds (Meetings)**

**2. Peter Peacock (Highlands and Islands) (Lab):** To ask the Scottish Executive when it last met the Royal Society for the Protection of Birds and what issues were discussed. (S3O-696)

Perhaps, as a Peacock, I am obliged to declare an interest in this.

**The Minister for Environment (Michael Russell):** There have been a number of meetings between the Scottish Government and the Royal Society for the Protection of Birds. This lunch time, I had the honour of launching the second Langholm project—the director of the Royal Society for the Protection of Birds in Scotland was present, and the organisation is a partner in that programme.

**Peter Peacock:** The minister will be aware of the concerns of the RSPB and others about the declining health of our marine environment. The minority Government has announced that it will not proceed with creating marine national parks, despite enthusiasm for the idea in at least some parts of Scotland. The Government has also delayed the introduction of the marine bill, and it has responded neither to the Advisory Group on Marine and Coastal Strategy recommendations nor to the Parliament's inquiry into the marine environment. Does the minister appreciate the need for urgency in taking forward all those issues? Is he working with ministers in the United Kingdom Government on marine legislation? When can we expect responses to the key reports that I mentioned and when will a marine bill be introduced—will he give us those dates?

**Michael Russell:** I utterly reject the view that the marine bill has been delayed. In reality, the

marine bill was planned in a number of manifestos. This Government gave a commitment to it and substantial work is being done on it. The issue of damage to marine habitats, in particular to seabirds—of which Mr Peacock is well aware—worries many of us. There are a variety of reasons for it, but he can rest assured that the legislation that this Government is bringing forward will be adequate for the task of protecting habitats and environments. We will take seriously our duty to collaborate with all those who share borders with us at sea or on land.

It is unfortunate that Mr Peacock wishes to criticise so quickly, when he should be working with the Government to ensure that the interests of the RSPB and other organisations are well met.

**John Scott (Ayr) (Con):** I am sure that the minister, in his discussions with the RSPB, will have discussed the issue of set-aside, in light of the impending zero rate for that. Although a move away from set-aside will allow us to examine new and more effective means of farming in ways that benefit the environment, will the minister outline the immediate measures that he will take to mitigate any short-term environmental damage that follows the implementation of a zero rate?

**Michael Russell:** We want to encourage the most responsible use of the countryside by all those who work and make their living there. We are conscious that, as we work towards the Scotland rural development programme, which is going through its approval mechanism in Europe, there will at certain stages be problems with matching exact dates. We encourage all farmers, land managers and land users to operate responsibly in an environmental sense—and, of course, in every other sense. If difficulties are experienced, for example as a result of the developments on set-aside—which lie alongside other developments that are taking place—we will work closely with farmers, land managers and land users and do our best to ensure that, together, we find solutions for them and the countryside.

**The Presiding Officer:** Question 3 is withdrawn.

### **Rural Development**

**4. George Foulkes (Lothians) (Lab):** To ask the Scottish Executive what action it is taking to aid rural development, given the impact of a lack of affordable housing in rural areas. (S3O-672)

**The Minister for Environment (Michael Russell):** As I have just said, the Scottish Government has submitted the Scotland rural development programme to the European Commission for approval. We await a response, which we hope to have by the end of the year. The programme will inject £1.6 billion into rural areas

over the next seven years to support a wide range of rural development options. The Scottish Government recognises that a sufficient supply of housing is vital for economic growth and sustainability of rural communities. We have set up a housing supply task force to identify and tackle the obstacles that inhibit the delivery of more housing. Housing supply issues in rural areas are an early priority and I know that the housing supply task force has already discussed the issue.

**George Foulkes:** It does not answer the question to talk of submissions to the European Union or of task forces being set up. The minister is surely aware that, in the south-east of Scotland, average house prices are the highest in the whole of the country and are still rising. In Lothians, we have a chronic shortage of affordable housing—in East Lothian, Midlothian and West Lothian. It is vital that the chronic problem be tackled.

Will the minister—unlike his predecessors during question time this afternoon and this morning—stop going on and on about the previous Administration?

**The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson):** Ah!

**George Foulkes:** Well, old millionaire there can wave his finger at me and go “Ah”, but these question times, Presiding Officer—

**The Presiding Officer:** Are meant for questions, Lord Foulkes.

**George Foulkes:** They are meant for questions, and to hold the Scottish Executive accountable. For once can we have a straight answer? Will Michael Russell say what the Executive will do to deal with the problem of affordable housing?

**Andy Kerr (East Kilbride) (Lab):** Resist the temptation, Mike.

**Michael Russell:** I never resist a temptation, as Mr Kerr knows. The answer was contained in my answer; it is a great pity that the noble lord does not listen.

The member is absolutely right to be ashamed of the record of the Government of which he was not a part. He does not therefore have to take the shame personally. However, he has been absent from this country for a considerable period and he probably does not know, for example, that the Scotland rural development programme is not just a name, as he implies, but is worth £1.6 billion. That may be small change to a member of the House of Lords, but it will be very significant in rural Scotland.

**George Foulkes:** On a point of order, Presiding Officer. That answer has to be corrected. Michael Russell is an old friend of mine but he cannot get

away with that. What nonsense to say that I have been absent from this country. I have been constantly resident in this country year after year after year. If you do not know that, Presiding Officer—and you used to be a constituent of mine in my old constituency—no one knows it. Will you please confirm what I say, and put Michael Russell right?

**The Presiding Officer:** I am happy to confirm that we have bumped into each other on the odd occasion, Lord Foulkes. However, your point was not a point of order.

### Recycling Targets

**5. Andy Kerr (East Kilbride) (Lab):** To ask the Scottish Executive what contribution local authorities have made to exceeding recycling targets. (S3O-681)

**The Minister for Environment (Michael Russell):** As Mr Kerr knows as a resident of Scotland, local authorities have made a significant contribution to exceeding recycling targets.

**Andy Kerr:** Mr Russell is on dangerous ground when he talks about the income of members. The income of the member sitting next to him has been all over the papers today.

My local council in South Lanarkshire has contributed to the targets being achieved. The Audit Scotland report, which was timely issued today, makes a number of key recommendations. Number 33 is that:

“The Scottish Government and councils should work together to reach a decision on the facilities required for treating waste that is not recycled to achieve the 2010, 2013 and 2020 Landfill Directive targets. An action plan showing the milestones in this process should be published as a matter of urgency.”

When will that plan be made available to Parliament?

**Michael Russell:** The report is interesting, as Mr Kerr suggests. However, its criticism lies not in four months of the Scottish Government but in eight years of the Scottish Executive. It is a very good thing that I am able to tell the chamber that the next stage in the discussions will be the waste summit, which will take place on 3 October 2007 at Easter Road, a venue that will be known to residents and non-residents alike. Easter Road, in Edinburgh, will be where the summit will take place. At the summit, a range of issues will be discussed, including the issue that Mr Kerr raises.

### Recycling Targets (Glasgow City Council)

**6. Paul Martin (Glasgow Springburn) (Lab):** To ask the Scottish Executive when it last met representatives of Glasgow City Council to discuss recycling targets. (S3O-684)

**The Minister for Environment (Michael Russell):** Representatives of all local authorities were invited to attend a recycling workshop on 13 August 2007. We are holding a waste summit with local authorities and others on 3 October 2007, as I have said. I hope that Glasgow City Council will be represented. There will be an opportunity to discuss constructively the matters that Mr Martin raises.

**Paul Martin:** I thank the minister for his constructive reply. I remind him of today's BBC report, which mentions the interest of a number of social groups in being involved in recycling throughout Scotland. One group in my constituency, the primary and secondary school sector, wishes to be involved in recycling but requires the funding to be able to take that up. Will there be additional funding to allow that sector to be involved in recycling?

**Michael Russell:** Mr Martin raises an important point. The involvement of young people in such issues is crucial. The eco-schools project brings into schools many environmental concerns, including waste management and recycling. We are always willing to consider ways in which we can enhance that programme. Keep Scotland Beautiful, which administers the eco-schools project, is introducing a major campaign on food waste, in which schools will be actively involved. If the member would like to discuss with myself and the Cabinet other things that we could do to help schools to participate—indeed, to help Glasgow to participate, because recycling rates in Glasgow are lower than we would like, partly because of the difficulties of recycling from tenements—we would welcome a conversation with him.

### Farm Produce (Prices)

**7. Murdo Fraser (Mid Scotland and Fife) (Con):** To ask the Scottish Executive what steps it is taking to ensure that farmers receive a fair price for their produce. (S3O-628)

**The Minister for Environment (Michael Russell):** The Scottish Government fully appreciates the difficulties currently facing farmers. A fair price for farmers is essential to ensure a profitable and sustainable agriculture sector. Although Government cannot intervene in the market, we are encouraging the different parts of the food chain to engage effectively in order to secure the future for all parts of the chain. The First Minister and I met the industry—including farmers, processors and retailers—on 13 September. That was a first step. We agreed to establish a food forum to ensure on-going positive engagement. We have also begun to hold meetings with all the major supermarkets; that has allowed us to hear more about their policies, in particular their sourcing policies and relationships with their Scottish suppliers.

**Murdo Fraser:** I thank the minister for the content of his reply, as I am aware that John Scott also has an interest in the subject. The minister is clearly aware of the widespread concern among the farming community about the level of farm-gate prices and in particular the current concern about prices of red meat and lamb. I have listened with interest to everything that the minister has said, but does he agree that it is time for a robust code of practice—legally enforceable if necessary—to be put into place with the supermarkets to ensure that they treat their suppliers more fairly than has been the case in the past?

**Michael Russell:** We have never made a secret of the fact that should such robust action be required, we will not be afraid to take it. The Cabinet Secretary for Rural Affairs and the Environment and the First Minister have found a strong and growing realisation, particularly among the supermarkets, that something must change. We are looking for that change in the short term, rather than the medium or long term.

### Water and Sewerage Infrastructure (Glasgow)

**8. Bill Butler (Glasgow Anniesland) (Lab):** To ask the Scottish Government what steps it is taking to ensure that the required capital investment is available to modernise Glasgow's water and sewerage infrastructure. (S3O-666)

**The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson):** Scottish Water has been set a number of objectives to ensure that water and sewerage infrastructure continues to be modernised across Scotland. Those objectives are available on the Government's website. In the period 2006-10, £2.45 billion of investment will be made across Scotland, with significant commitments in Glasgow. In partnership with Glasgow City Council and others, Scottish Water is participating in the metropolitan Glasgow strategic drainage partnership to ensure that a co-ordinated approach is being taken to the improvement of drainage throughout the metropolitan Glasgow area.

**Bill Butler:** I draw the attention of the minister and members to recent articles in the *Evening Times* and *The Herald* highlighting a catalogue of major leaks, faults and subsidence over the past few months, which have brought chaos to parts of Glasgow. Those incidents include a major burst in Crow Road and Whittinghame Drive in my Anniesland constituency.

Is the minister aware of the inquiry that has been set up by Glasgow City Council's land and environment committee into the on-going problems that have been caused in the city, which are the responsibility of Scottish Water? Further,



can the minister assure my constituents that he will act to ensure that Scottish Water implements a step change in the investment that it makes in respect of the city's water and sewerage infrastructure to put an end to this continuing and unnecessary disruption?

**Stewart Stevenson:** There is engagement between Scottish Water and the council. Scottish Water will shortly appear in front of the council's land services committee to explain its investment plans. I share some of Bill Butler's concerns in relation to leaks and the standard of some of the things that have been happening. Those are the sort of aspects about which I am fully engaged in discussions with Scottish Water.

However, a £600 million-a-year investment programme is under way and the member can be absolutely sure that Glasgow will get an extremely fair share of that investment.

## Penal Policy

**The Deputy Presiding Officer (Alasdair Morgan):** The next item of business is a debate on motion S3M-498, in the name of Kenny MacAskill, on penal policy.

14:56

**The Cabinet Secretary for Justice (Kenny MacAskill):** I welcome this opportunity to engage with Parliament on the Government's vision for a modern and coherent penal policy. Our aim is to work with Parliament and all those involved in the criminal justice system to create a safer and stronger Scotland for everyone. We will make every effort to reduce crime, but, sadly, we will never eliminate it, so we must create a system that deals effectively with all offenders. Today's debate is an opportunity to reflect on the challenges that we all face and to discuss the progress that has already been made over the summer towards achieving a progressive and coherent penal policy.

The Government refuses to believe that the Scottish people are inherently bad or that there is any genetic reason why we should be locking up twice as many offenders as Ireland or Norway. Why are the people who we lock up more likely to display certain attributes than the general population and why do they tend to suffer from problems associated with drink, drugs and deprivation?

A third of those who enter prison are assessed as having an alcohol problem on admission, more than half are assessed as having a drugs problem and a worrying 70 per cent have some form of mental health problem. One study indicated that half of our prison population comes from 15 per cent of Scotland's poorest council wards.

We need to face up to some tough questions. Who are we sending to prison and why? Is prison the most effective option in all cases? What do we do with offenders to stop them reoffending?

There are also some contradictions and tensions. The public feel that crime is rising and that prison is not used enough, but in the past 10 years recorded crime has fallen by 5 per cent and the prison population has risen by 15 per cent—there are now more than 1,000 more prisoners at any one time than there were 10 years ago.

Prison is considered effective and tough and community penalties are seen as soft, but three quarters of those who are sent to prison for under six months reoffend within two years whereas only 42 per cent of those who are given community service reoffend within two years. Statistics alone cannot tell the story, but that figure clearly demonstrates that prison is not the right place for

many people, despite the efforts of our prison officers.

**Bill Aitken (Glasgow) (Con):** I hear what the cabinet secretary says, but I am concerned about the way in which this debate is already going.

Does the cabinet secretary accept that it would be unacceptable to the vast majority of people in this chamber if the discretion of sheriffs and magistrates to impose sentences of six months and less were interfered with? That would be an attack on the freedom of the judiciary.

**Kenny MacAskill:** Absolutely. I can give Bill Aitken and the rest of the chamber, including Pauline McNeill, who raises that issue in her amendment, an assurance that we do not and will not seek to interfere with the discretion of the judiciary in relation to sentencing. It is for the judiciary to decide whether someone should be given a sentence and what that sentence should be. If the judiciary feels that the sentence should be one of six months or less, they will have the right to impose that sentence. However, we can say that there are good reasons in relation to punishment, cost and safety why they might care to reflect on the possibility that that would not be appropriate.

It is not necessarily tough to make somebody lie in bed all day watching TV rather than repay the community for the damage they have caused, and it is more costly to have them locked up than to have them repay the community. If it is statistically more likely that they will reoffend if they go to prison, it may be better in safety terms to seek to address the problem. I assure the member that we will not interfere with the rights of the judiciary—if they feel that a custodial sentence is appropriate, that will remain their decision.

**Bill Butler (Glasgow Anniesland) (Lab):** Perhaps the cabinet secretary could clarify an issue for me and for the chamber. I am a wee bit puzzled, as the SNP manifesto said that there would be a presumption against sentences of six months or less, except in exceptional circumstances. Can he comment on that? There seems to be a bit of a contradiction.

**Kenny MacAskill:** I do not believe that there is. We are giving a categoric assurance that sentencing remains with the judiciary. That is part of the separation of powers that operates in our democracy and in democracies elsewhere.

When alternative sentences are available and when it is clear that they have merit in terms of public safety, cost to the community and the opportunity to try to stop the person reoffending—the rate of recidivism is the matter of most concern—I think that they are an option that our judiciary, who I think are eminently sensible, will take cognisance of before they impose a

sentence. I make it clear that sentencing in individual cases is a matter for the courts. Some offenders must be punished: if they are serious or dangerous offenders, that should mean prison, and for a long time. The protection of the community is paramount. When knives are being used, for example, we need to demonstrate that such behaviour will not be tolerated.

The Scottish Prison Service's ability to work with serious offenders to reduce their risk is being compromised by having to deal with the churn created by a large number of short sentences.

Prison staff, who are extremely professional and dedicated, work with offenders to tackle drug use, to address health needs, to provide education, to address offending behaviour through programmes and to assist in throughcare to the community. However, those things cannot all be done at once, especially if staff are just trying to keep a lid on a difficult situation.

Prisoners serving short sentences can be assessed for their immediate needs, but education modules or offending work lasting several months cannot be done with a prisoner who is in custody for only a short period of time. At present, more than three out of every five offenders who leave jail in Scotland reoffend, so something is not working.

There are no easy answers, but it is clear that we cannot keep perpetuating the same tired debate that labels sentences as "tough" or "soft". We must focus on what works. For a minor offence, a short custodial sentence that gives the offender no opportunity to pay something back for the wrong they have done does not in our view constitute a smart sentence.

Minor offenders should have the opportunity to right their wrongs by doing something for the community. Those who need help to turn away from a life of crime should receive that help alongside an appropriate punishment. We need to use our prisons effectively, so that they can do their work appropriately.

The Scottish Government is committed to delivering a world-leading prison service run by dedicated public servants. We believe that that model will best protect the public and reduce reoffending most effectively. I take the opportunity to commend the commitment and professionalism of the Scottish Prison Service.

In August, we announced the suspension of the procurement process for the new prison on the site of HMP Low Moss. The private sector will still be invited to bid for the design and construction of the prison, but it will be operated by public sector professionals.

**David Whitton (Strathkelvin and Bearsden) (Lab):** Will the cabinet secretary give way?

**Kenny MacAskill:** Not at the moment.

We also announced that a new publicly run prison for the north-east will be built in the Peterhead area, to replace the out-of-date prisons at Peterhead and Aberdeen.

If Bishopbriggs had remained in the private sector with Kilmarnock and Addiewell, just more than a quarter of Scotland's design capacity places for prisoners would have been operated by the private sector. That would have been the highest proportion in the developed world—greater than in the USA or in any other nation that pursues private prisons.

There is more to the issue than buildings and staff. We need to take a fresh and impartial look at the challenges presented by the use of prison in Scotland today. We do not believe that the previous Administration's policies intended to break all records on the prison population in the face of falling crime figures, but that is what is happening.

We support the principle of ending automatic and unconditional early release and remain committed to delivering that in our offender management strategy, but we must ensure that any change does not compound current problems and put intolerable pressures on prisons and justice services in the community.

We have therefore decided to establish an independent commission to consider the purpose and use of imprisonment in contemporary Scotland. It will report by next June.

**Patrick Harvie (Glasgow) (Green):** I welcome much of what Kenny MacAskill says about the need for an independent and impartial look at the purpose of prison, but something can be said for Margaret Smith's amendment, because we need also to consider the delivery agency's remit. If that is not appropriate for the commission—if the commission is to consider other matters—will Kenny MacAskill reassure the Parliament that the Government will consider under other aspects of justice policy whether the delivery agency's remit can be expanded to cover non-custodial sentences?

**Kenny MacAskill:** Absolutely—I am happy to do that. The SPS and the community justice authorities that have been created must be given an opportunity to bed in. The worst thing that we could do would be to embark on further structural change when they need an opportunity to deliver what is necessary. It is clear that change is needed to the method of delivery. I have discussed with Patrick Harvie and Margaret Smith

such aspects, which the Government is happy to consider.

I am happy to tell Parliament that one of its former First Ministers—Henry McLeish—has agreed to chair the commission. That shows our view of how important the issue is. He has the blend of skills and experience that that testing role will require.

The commission's remit will be to discuss the purpose and impact of imprisonment in contemporary Scotland and to make a report. I have set the commission the following objectives. It is to consider how imprisonment is used in Scotland and how that use fits with the Scottish Government's wider strategic objectives. It is to raise the issue's public profile and provide better information to allow a deeper understanding of the options, outcomes and costs. It is to compare the underpinning rationale with current law and practice, including the impact on courts, prisons and community justice services of the early-release provisions of the Custodial Sentences and Weapons (Scotland) Act 2007. It will report and make recommendations by 30 June 2008.

The full membership of the commission is being finalised and will be announced soon. The commission will comprise a wide range of interests that go well beyond the criminal justice arena. In the review of community penalties that is under way and in the commission, we see all the strands that are contributing to our development of a coherent penal policy.

The subject is complex. Dostoevsky said that the degree of civilization in a society can be judged by entering its prisons. Scotland is undoubtedly a civilised society, but perhaps it relies on prison to do too much with too many. It is simple to say that we will build more prisons, but resources are not infinite and each new prison means one fewer new hospital, school or community investment that would benefit the people of Scotland.

**The Deputy Presiding Officer:** You must wind up now, minister.

**Kenny MacAskill:** That is why we need a coherent penal policy and why I have pleasure in moving the motion.

I move,

That the Parliament believes that Scotland should develop a progressive penal policy which improves public safety, delivers appropriate and proportionate punishment, ensures that the interests of victims and communities are given proper consideration, contributes to reducing reoffending and encourages rehabilitation in order to build a safer and stronger Scotland; recognises that, in the case of some offenders, custody is the only appropriate disposal, and welcomes the proposal to establish an independent commission to consider the purpose and use of prison.

15:08

**Pauline McNeill (Glasgow Kelvin) (Lab):** I welcome the debate. Penal reform is a serious issue for the country and a central concern for communities. The fact that our prison population increases daily makes penal reform a necessary focus for the Government.

I have no doubt that reducing the prison population is a feature of the Cabinet Secretary for Justice's day-to-day work. The motion in Kenny MacAskill's name is good for debate, but it does not reflect the SNP's policy position on sentencing, which I read as being to expose communities by moving away from short-term spells of custody to wholesale community sentencing. That was the SNP's manifesto pledge. It is simplistic and it fails to address the public's concerns. That policy would tie the judiciary's hands and could become a charter for people who know their way around the system. Kenny MacAskill referred to tired labels, but those are the issues that concern the public.

The amendment in my name notes the establishment of the independent commission to examine the purpose and use of prison—we await the detail with interest—but that seemingly inoffensive statement must be cross-referenced with what the SNP has said about justice. The SNP has proposed to move away from short-term sentences in favour of tough community-based punishments and the presumption that anyone who is given a sentence of six months or less will not go to jail in the first instance. That is a serious mistake, and Labour cannot support that approach.

Cost is not the central issue. We will not support a policy that we believe will seriously undermine public confidence in the judicial system. We know from previous debates that most offenders serve a sentence of six months or less. Sending this signal will empty our prisons. This administrative fix to justice will set back public confidence for centuries.

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** Will the member take an intervention?

**Pauline McNeill:** No, thank you.

Six-month sentences are not for fine defaulters; they are for housebreakers, repeat bail jumpers, firearms offenders and many other persistent offenders. Abolishing short-term sentences would do away with the courts' ability to send a message to offenders. What about a second-time drunk driver who is not a career criminal but who has ignored previous warnings? Removing a judge's ability to give a short custodial sentence if they feel that that is appropriate would take away an essential and effective tool whereby our courts can

send the message to society at large that certain behaviour will not be tolerated.

**Kenny MacAskill:** In response to Bill Aitken's question, I gave the assurance that that option is not being taken away from the judiciary. My colleagues and I give the assurance that we are not taking that right away. The member suggests that our prisons will be emptied by a reduction in the number of sentences of less than six months, but the statistical information that has been given to me is that, in any snapshot on any day, 70 per cent of prisoners in Scotland are likely to be serving a sentence of more than six months.

**Pauline McNeill:** I will come to that point.

The problem with the cabinet secretary's assurance today is that it completely contradicts what the SNP said in its policy manifesto. I will listen with interest to the minister's reversal on that position, but he will have to admit that it is a reversal of policy.

What message does the Government's approach send to those who would carry weapons—an issue on which we have just passed legislation? Any signal that we would adopt such a policy would severely damage the purpose of sentencing. There are too many cases in which the offender is already out in the community when we sentence them to a community sentence. The Government must realise that there are problems in the community sentencing system. The best chance of making an impact on an individual who is to be sentenced is when they feel the impact of the court sentence without delay. At the moment, there are too many delays in the issuing of community service orders, which makes them not look like a tough sentence.

Let me be clear. I will work constructively with the Cabinet Secretary for Justice on the issue, but I will not let the SNP Administration undermine Labour's record on standing up for victims. We need to learn the lessons of other jurisdictions that have similar problems.

The cabinet secretary is right to caution us about what would happen in our prisons if we abolished short-term sentences. For example, in Western Australia, the removal of sentences of three months or less led to longer sentences being given. Labour wants more offenders to serve their sentences in the community, but we believe that there should be robust, credible alternatives to custody in which everyone has confidence. We do not believe that it should be the other way round. Sending the signal to offenders that they will not go to jail in the first instance would be a serious mistake.

I call on the cabinet secretary to recognise that Labour's programme for government in every year since 1999 put justice at the heart of our policy. I

ask him to build on our reforms, and I urge him to continue the work that we did in bringing honesty to sentencing. The provision that requires judges to explain in court why they made their decisions will remove some of the cynicism that exists among the public. The establishment of drug treatment and testing orders and specialised drug courts, the establishment of the 218 centre for women offenders and the establishment of domestic abuse courts are just some of the things that have helped to reform our criminal justice system for the better. Also, the youth court pilot schemes have shown that quicker justice impacts on youth offending. There is a strong case for rolling out that initiative to other parts of the country.

Labour today calls for the rolling out of another centre for women offenders on the same model. I am sure that the cabinet secretary agrees that too many women are jailed and that there are too few alternatives to custody. Furthermore, Paul Martin and I would like to ask the minister for a meeting to discuss the possibility of a similar centre for young men with addiction problems.

Rehabilitation and the desire to set policies that might reduce offending will be mentioned by many members this afternoon; I want to talk about the Justice 1 Committee's report on rehabilitation in prisons. Long-term sentences present a challenge to prisoners, but some constructive things can be done in the medium and short term. Rehabilitation can play an important role in turning around a pattern of behaviour before offending becomes serious. Dr Nancy Loucks, an independent criminologist, gave evidence to the Justice 1 Committee that the Prison Service should have a policy of integrating even offenders on short-term sentences. We know that there is no magic fix. The Justice 1 Committee report also points out that whatever sentence an offender is serving, the system must give that person their best chance to reform their life and deal with their problems.

The creation of the criminal justice authorities under the Labour-Liberal Democrat Administration was a serious measure to bring joined-up thinking into the system and force the various services involved into working together for the benefit of the offender. There is no doubt that prison is a brutal and isolating experience for those who come into contact with it. It is simplistic to suggest, as the SNP manifesto does, that prison is just a place for offenders who present a serious danger and for serious offenders. It is extremely dangerous to found the proposed commission on that point. The public expect prisons to be a deterrent, however short the sentence might be. I hope that the proposed commission will consider that.

During question time, Johann Lamont reminded us of the need to roll out domestic abuse courts.

We are all concerned about conditions in prison and we will work with the cabinet secretary on such important issues. The plan for two new prisons is a huge step forward. The cabinet secretary must be clear in his thinking about the funding mechanism he will use to fund the new prisons at Low Moss and Peterhead. I call on the cabinet secretary to record his position on that.

As HM chief inspector of prisons for Scotland has pointed out,

"Prisoners are overwhelmingly young, overwhelmingly male and overwhelmingly poor ... Compared with the population as a whole".

Unfortunately, prisons reflect many of our social challenges.

Labour's message this afternoon is that there are limits to what we will support, but I assure the cabinet secretary that I will work with him constructively on those things that we agree with.

I move amendment S3M-498.1, to leave out from "and welcomes" to end and insert:

"notes the proposal to establish an independent commission to consider the purpose and the use of prison; opposes any proposal to remove the availability to sheriffs and judges of short-term sentences, including sentences of six months or less, but supports the continuation of community sentences and other alternatives to custody."

15:18

**Mike Pringle (Edinburgh South) (LD):** I welcome this further chance to debate justice issues, which comes so soon after the debate on reoffending. The future direction of the Prison Service is vital to the reduction of crime because it is one of the places where rehabilitation work is done to stop people reoffending.

Sadly, as the minister said, at the moment, 60 per cent of those who enter prison will reoffend within two years. However, of those who do community service, only 42 per cent will reoffend within two years. As Pauline McNeill has just said, prison is a dreadful place to be; it was the most awful place I visited when I was a justice of the peace. It is clearly not a place where most people want to be. Making more use of tough and better-resourced community sentences would bring down the figures for reoffending. Although prison might work in some way as a punishment, it certainly does not work when it comes to ensuring that criminals do not reoffend.

It is accepted that short prison sentences do little to reduce reoffending. Many prisoners are fine defaulters who have no place in prison. Many of the women who are in Cornton Vale are there for defaulting on fines; I argue that that is no place for them. Short sentences mean that prisoners have no opportunity to enter rehabilitation programmes.

**Bill Aitken:** Does the member know how many women are in Cornton Vale for fine default, as of Tuesday this week?

**Mike Pringle:** I do not have that figure, but I suspect that it is not huge. However, if one woman is in prison for fine default, that is one too many.

We have lodged our amendment because the Liberal Democrats want a prison and rehabilitation service that deals with serious offenders in prison and with less serious offenders through tough community sentences. The SNP motion does not give us any specifics.

The Administration has been in office for four months. There have been some announcements, but we do not know all the SNP's policies on the issue. I welcome the minister's announcement of an independent commission. The SNP seems determined to give Mr McLeish a number of jobs.

Will the SNP give a commitment to implement the Custodial Sentences and Weapons (Scotland) Act 2007, which it supported? I know how fond the SNP is of doing things without primary legislation—this is a perfect opportunity for it to replace the discredited system of automatic early release with a custodial and community element in all sentences of 15 days or more. Will it also increase prison sentences for knife crimes—a measure that all members want to be implemented?

Will the SNP tackle the size of the prison population, as it promised? It committed £35 million in savings from the prison estate to rehabilitation and community justice. We support that measure, but what sort of reduction in prison numbers will it yield? Does the SNP have any targets? If so, are those targets aspirational? Why has the SNP not mentioned in its motion reducing prison numbers?

What about Labour? How things have changed. Duncan McNeil claims that our policies for rehabilitation and reducing offending are “right-on nonsense”, but Cathy Jamieson states that

“prison is not the best option for less serious offenders who stand a better chance of getting their lives back on track through community sentences.”

What is it to be? I encourage all Labour members to side with Cathy Jamieson and to vote for our amendment, which is the natural outworking of that view.

What can we say about the Conservatives? Today they have not even lodged an amendment, but what they really want is to build another prison. Their manifesto tells us that we do not imprison enough people. Their three-strikes-and-you're-out approach would do nothing to improve prison rehabilitation and to reduce reoffending.

What strategies to reduce reoffending do we want to be implemented? We want to replace very short-term prison sentences of under three months with tough community sentences.

**Paul Martin (Glasgow Springburn) (Lab):** The member has referred twice to tough community sentences. Can he give me an example of tough community sentencing in his region?

**Mike Pringle:** Drug treatment and testing orders, supervised attendance orders and restriction of liberty orders are three examples of such sentences. They could be toughened up, as they are not used as often or as strongly as they should be. Clearly, there should be tough penalties for people who breach such orders.

We want dual sentencing to be implemented. Offenders should serve the community part of their sentence after completing the custodial part. Just before this session, I spoke to Andrew McLellan, who suggested weekend prisons. I suggest to Pauline McNeill that the Parliament and the SNP may want to consider removing at the weekend the rights of those who commit driving or similar offences.

We should support schemes that work, such as the community justice authorities. All agencies must work with CJAs to tackle reoffending and to ensure that prison numbers are reduced. Many people will not see that as tough enough, but I urge the Government to focus on schemes that reduce reoffending and punish criminals proportionately. Let our prisons carry on their work of punishing serious offenders and ensuring that they do not reoffend. Our communities will be safer, crime rates will fall and prisons will have fewer people in them. I am delighted that the SNP has gone some way along that path and encourage all members to support our amendment.

I move amendment S3M-498.2, to insert at end:

“believes that any commission should consider as a matter of urgency replacing the Scottish Prison Service with a dedicated Custody and Rehabilitation Service, introducing dual sentencing, rolling out community link centres on a statutory basis to co-ordinate rehabilitation and exploring new strategies to give offenders skills for work, backed by challenging targets for the number of new prisoners leaving custody with nationally accredited qualifications.”

15:24

**Bill Aitken (Glasgow) (Con):** All of us are unhappy about the level of our prison population. Anyone who thinks that there is an easy solution to the problem is being at best naive and, more likely, dishonest. There are no easy answers, but there must be a clear understanding that penal and sentencing policy must be governed by only one thing: public safety. Any review that is carried out must not be an excuse to empty the prisons.

I am encouraged by the cabinet secretary's comments on short-term prison sentences, because I believe that the majority of members will find any interference with judicial discretion unacceptable.

I wish to suggest some constructive solutions to this problem. The fact is that many people are sent to prison simply because sentencers do not have any confidence in the available community disposals. Fines are not paid; community service is not carried out; and home detention orders and tagging are treated with contempt. That is no longer unacceptable. If we add to that the extent to which probation orders are being breached, we face a very real problem.

Indeed, worrying statistics illustrate the complete and blatant disregard shown by those who have been given community sentences. For example, in 36 per cent of community service orders, the work was not completed. This might be apocryphal, but social work departments regard 50 per cent compliance as acceptable. If that is the case, it is clear that community service orders are not biting.

**Alex Neil (Central Scotland) (SNP):** Does the member agree that the outcome is what is important? Surely what really matters is the fact that the reoffending rate for those in prison is 75 per cent, while the rate for those who have done community service is 42 per cent.

**Bill Aitken:** Mr Neil can bandy statistics about, but the reoffending rate for those who have been given community service as a direct alternative to custody is terrifyingly high. Moreover, that figure does not take into account the number of offences that many commit while serving community service orders. Another genuinely worrying statistic is that 3,375 breach applications have been made to the court on the 8,402 probation orders that have been served this year.

I have been raising the issue of fines in this chamber for what seems like a long and weary time. I agree with the Liberal Democrats that if one person has been put in prison for non-payment of a fine, it is one too many. However, the obvious answer is not to set up an agency to collect money, as was provided for under the Criminal Proceedings etc (Reform) (Scotland) Act 2007, but to deduct fines at source from salaries and benefits. By cutting out the middleman, we can ensure that no one will go to jail over an unpaid fine. If a person's offence merited prison, such a sentence should have been imposed at the time; if the court did not do so then, that person should not be jailed now.

**Bill Butler:** Is the member saying that the Conservatives are against all community disposals?

**Bill Aitken:** Absolutely not. All I am saying is that any community disposal that is imposed by

the courts must be realistic and tough. Members will have heard me say this before, but I believe that we should follow the practice of the community courts in New York, where community service is instant, visible and, to some extent, physically arduous if the person is fit to carry out such work. Our communities and sentencers would have much more confidence in the system than they do at the moment. They say that it is soft—and it is.

The previous Administration was right to introduce drug treatment and testing orders and there has been some progress in that respect. I realise that, yet again, I am preaching to the converted, but the intensive nature of the drugs court system has been of some benefit. Perhaps we need to roll out that system more comprehensively.

As for the question of the number of women in prison, when Cathie Craigie, Margaret Smith, Nigel Don and I visited Cornton Vale prison the other day, we were impressed with what we saw. There was a view that a number of the women whom we saw should not be in prison, but it is not easy to think of an alternative solution that would ensure their safety, apart from anything else. They could self-harm or harm the rest of society.

**Margaret Smith (Edinburgh West) (LD):** Will the member take an intervention?

**Bill Aitken:** I am sorry, but I am in my final minute.

The answer is to toughen up community disposals and to make them visible and realistic. That way, the confidence of sentencers will be gained and there will be a reduction in prison sentences. Until the Government does that in a determined and focused manner, it will be wasting its time and in the years ahead we will face the same situation and have the same sterile debates that we have had in the past.

**The Deputy Presiding Officer:** We move to the open debate. Speeches should be of six minutes.

15:30

**Nigel Don (North East Scotland) (SNP):** I echo Bill Aitken's comments about our visit to Cornton Vale. I put on record the appreciation of all the members who went on the visit for the time and effort that the staff put in to show us round and to educate us considerably.

As a regional MSP for North East Scotland, I welcome the investment in a new Peterhead prison, which not only reflects the good work that is done by the staff in Peterhead and Aberdeen but has been widely welcomed by folk in the Scottish Prison Service. That is an extremely important point.

Before I get on to the substance of my speech, which is the Antisocial Behaviour etc (Scotland) Act 2004, I will pick up on an aspect of Pauline McNeill's speech, in which she seemed to talk about knife crime and six-month sentences at the same time. I hope that those two do not go together because, in my view, the only people who are qualified to use a knife are surgeons and that is not what we are talking about. I would like those people who carry knives and, in particular, those who use them not to be looking at anything resembling a six-month sentence.

I turn to the Antisocial Behaviour etc (Scotland) Act 2004, which was introduced by the previous Executive. Over the summer, I took the opportunity to do some qualitative research on the issue. I am grateful to those local authority officers who responded to my inquiries. I will pass on to members some of their general observations about how the act has been working, many of which were highly encouraging.

I must be specific because time is against me. We need to encourage sheriffs, in particular, to make use of exclusion orders. Under the act, an antisocial behaviour order can, in effect, be a prohibition of almost anything. Local authorities and police warmly welcomed sheriffs preventing people from going to particular places in their communities where they would cause trouble. The fact that they could not go to those places meant that trouble did not happen.

Another issue that I want to raise is the youth justice system. I will quote from the Audit Scotland report "Dealing with offending by young people", which came out in August, because it deals with a matter of wide concern. It says:

"We found that the introduction of ASBOs for 12 to 15-year-olds has created tensions with approaches to dealing with offending by young people through the children's hearings system. Most councils have found it difficult, both strategically and operationally, to overcome the differences between the child-centred focus of youth justice under the children's hearings system and the community-focused design of the antisocial behaviour legislation. In essence, there is a tension between the approach which underpins the children's hearings system (and places the young person who has offended at the centre of the decision-making process) and the ASBO/community safety approach (which may place greater emphasis on the needs of the community within which the offending behaviour has taken place)."

There is a widespread feeling that that tension, which some have described as a philosophical problem, is a significant issue. It needs to be addressed because I am not convinced that social work departments know how to handle it.

I rush on to what are known in the trade as CRASBOs, which are ASBOs that are imposed—under section 120, I think, of the 2004 act—after someone has been found guilty of an offence.

When they have been used, they have been widely welcomed across the judicial process, but I note that only 40 criminal ASBOs were issued in 2005-06—the only period for which we have figures—and that 24 of those were issued in the Scottish Borders. That suggests that in one or two places sheriffs have got their minds around CRASBOs but—more important for this debate—in most places, they have not. I think that CRASBOs have been well received where they have been made to work, but we must encourage sheriffs elsewhere to use them and the Government to use its good offices to make that happen.

I have two other thoughts to share. First, I understand that there was a lot of discussion about whether the proposals on graffiti in the Antisocial Behaviour etc (Scotland) Bill should cover flyposting. Obviously, I was not a member at the time, but I understand that, after debate, flyposting was removed. However, local authority officers think that that was a mistake. I appreciate that there are legal issues relating to who is responsible for flyposting, but the outside world would be grateful if we got the legislation to cover it.

My final thought is on funding, on which the process depends. A great deal of local authority staff who work on antisocial behaviour receive short-term funding. In such circumstances, those who can see the end of the line coming and are capable of getting out are the first to do so. It is important to maintain rolling funding and to ensure as soon as possible that it is seen that funding will continue.

15:36

**Rhoda Grant (Highlands and Islands) (Lab):** I want to concentrate on Inverness prison, which was last inspected in October 2004. The inspection report clearly described the strengths and weaknesses of the conditions there. I should say first that my colleague Maureen Macmillan was one of the leading voices in the previous session in support of better facilities at Inverness prison and it would be wrong of me to speak without paying tribute to her work.

The inspection report highlighted the problem of overcrowding in Inverness prison. A written answer from the chief executive of the Scottish Prison Service made it clear that the prison was designed to have a capacity of 104 people, but it is contracted to provide 150 prisoner places. Of course, that does not represent the full story. The other week, the *Inverness Courier*, which is to be congratulated on highlighting the problems that are caused by overcrowding, reported that the prison is operating at more than 50 per cent over capacity. It reported that three inmates were



sharing a cell that was designed for one person and that, during one week in August, 170 prisoners were held at the prison. Will the minister say how many prisoners are being held there now? There is no doubt that such overcrowding puts serious pressure on prison officers, who are trying to manage prisoners in a building that is not fit for purpose.

The follow-up report in 2005 showed that some progress had been made. Toilets in segregation cells and recreational facilities had been provided, and there was better support for people with drug addictions and better access to work and gym facilities for vulnerable prisoners. However, the issue of overcrowding still needs to be addressed.

The previous Government sought to do several things. It planned to build new prisons and brought forward new systems of community justice for those who did not pose a risk to the public. What has the new Government done? One day, it announced the retendering of the new prison at Bishopbriggs; the next, it announced replacement prisons for Aberdeen and Peterhead. However, it ignored the problems at Inverness. I am disappointed that it has not included Inverness prison as a priority, particularly in the light of what the SNP said in opposition. After the initial inspection report back in 2004, the SNP's then justice spokesman, Stewart Stevenson, demanded that the previous Government

"bring forward ... capital spending plans for the next round of prison upgrades as soon as possible."

Do the Government's announcements on Bishopbriggs, Aberdeen and Peterhead represent its strategy on prisons, or does it propose to continue with its piecemeal approach? I urge it to bring forward a considered strategy for the whole prisons estate. I had hoped that the debate would have provided an opportunity for it to do that but, unfortunately, it has left us wondering how we will tackle the problems at Inverness and elsewhere.

In the *Inverness Courier* article that I mentioned, the Minister for Community Safety, Fergus Ewing, highlighted what he described as a "conveyor belt"—he spoke of spending vast sums of taxpayers' money on offenders while reoffending rates for those who had been released from prison are getting worse. I am all for improving rehabilitation and community sentences, but sentencing is not in the gift of politicians, nor should it be. The judiciary has to be convinced of the benefit of community sentences; it is the Government's duty to ensure that robust community sentences are available. I urge the Government to take seriously some of the points that Pauline McNeill made and to meet her to discuss how we roll those out.

Instead, the Government proposes an across-the-board solution that means that anyone with a

six-month sentence will not go to prison. There is no mention of rehabilitation or a robust community sentence to follow. The Government will have no credibility if its only response is to blame the previous Government for the problems at Inverness prison. The SNP made statements when it was in opposition—

**Kenny MacAskill:** Will the member take an intervention?

**Rhoda Grant:** No, I will not. The SNP led voters to believe that it would take action when action was required, but nothing is forthcoming from that party in government. It has missed the opportunity to publish its strategies on Inverness and nothing is being done to address the problem.

I suggest that the Government looks at the situation as a matter of urgency. We need a new prison in Inverness; we also need a new courthouse. A new build for both the prison and courthouse could ensure that they were situated close together, which would cut down problems of prisoner transportation. It would also free up the Inverness courthouse, which is in the castle, to become a visitor attraction.

I ask the minister to make a clear statement about how he will address those concerns in an overall review of the prisons estate. Will the Government fund improvements at Inverness prison on the existing site, or will it build a new facility incorporating a court? When will the Government put its proposals out to consultation to allow the local community in Inverness to play its part in influencing those decisions? How will the Government improve community sentencing to ensure that it is robust and provide rehabilitation? I look forward to the minister's response.

15:42

**Alex Neil (Central Scotland) (SNP):** I congratulate the cabinet secretary on the way in which he has rolled out his strategy for dealing with such a serious policy area over the past two or three months. I welcome in particular the announcement that the replacement for Low Moss prison will not be a privatised prison like Kilmarnock, but will be run as part of the public sector prison system. My experience of Kilmarnock is that we cannot reconcile profiteering with community safety. I also welcome the establishment of the independent commission on the penal system and the role of prisons, and I welcome the appointment of the former First Minister, Henry McLeish, who is ideally placed to lead the review.

In the five minutes available to me this afternoon, I will concentrate on two areas that it would benefit the commission to research and consider in great detail, building on the excellent

report of the Justice 1 Committee in the previous parliamentary session.

As a non-expert in the policy area, I am struck that the people who go through the penal system consistently share three major characteristics. As Pauline McNeill mentioned, the vast bulk of the people in the system tend to be young males between 16 and 30. The second major characteristic is that a drink or drugs problem is involved. The third is that such people come, as the cabinet secretary mentioned, from one of the small number of postcode areas that have the worst poverty and deprivation in Scotland.

**Elaine Smith (Coatbridge and Chryston) (Lab):** Does the member recognise that some of those people might also have an undiagnosed learning disability?

**Alex Neil:** I accept that mental health problems are also involved. They are often related to the drink and drugs problems.

I hope that the commission's remit will be wide enough to consider what can be done in the communities in those postcode areas to help, in particular, young men with drink, drugs or other problems that might lead them naturally into a life of crime. We can also build on a number of current initiatives that are being undertaken in a way that is spasmodic, unfocused and lacking in strategic direction.

I draw the chamber's attention to research that the Justice 1 Committee undertook into the social crime prevention strategy model that is followed in the Nordic countries. Under that model, resources for education, drug treatment and rehabilitation services are concentrated on areas with a heavy concentration of budding criminals in order to tackle deep-rooted problems such as the consequences of learning difficulties.

I commend the work of organisations such as the Prince's Trust Scotland in that regard. I also draw attention to Working Rite, an organisation that has been going for only three or four years, but which now plays a major role in stopping young men in particular from getting into trouble by placing them with a tradesman on a one-to-one basis. Working Rite has an 80 per cent success rate in Leith, Govan and Perth, where it operates at present. Rolling out that kind of programme into areas of greatest need would pay enormous dividends.

**Paul Martin:** Will the member give way?

**Alex Neil:** Unfortunately, I do not have time to do so.

We must never forget that a place in a young offenders institution costs £30,000 a year. Under the Working Rite programme, young men get £100 a week for six months. On completion of the

programme, 80 per cent end up in a full-time job or training and go on to have a normal non-criminal life. The Working Rite programme is not only a much cheaper option but a more humane one. Instead of dealing with the symptoms of the problem, the programme gets to the root causes. I hope that the commission will consider what can be done for such young people before they get into trouble.

At present, the return to the community of long-term prisoners is not planned until a few months before they are due to leave prison. We need to start planning for return almost from the first month of sentence. From day one, services such as education, mental health support and drug treatment could be brought together to prepare the prisoner for the day that they leave prison, get a house, find a job and all the rest of it. If we were to put resources into that area, it would pay back and bring enormous benefits by further reducing reoffending rates among those who have served time in prison.

I hope that the new commission will examine all those issues in detail.

15:48

**David Whitton (Strathkelvin and Bearsden) (Lab):** I speak in support of the Labour amendment, but I will contain my remarks to trying to persuade the justice minister to think again about extending specialist domestic violence courts to the whole of Scotland.

My colleague Johann Lamont raised the matter at First Minister's question time today. The First Minister said that the justice minister would make an announcement in "the next few days" and that Johann Lamont would not be disappointed by what he would have to say.

Indeed, an answer that Mr MacAskill gave yesterday to parliamentary questions—again, from Johann Lamont—gave us a flavour of his announcement. In the answer, he set out how the minority Scottish Government intends to deal with domestic abuse. Clearly, there is consensus on the issue: I believe that no member of the Scottish Parliament thinks that domestic abuse is not a serious crime and that it should not be treated as such.

I commend Mr MacAskill for repeating that the Scottish Government's attitude to domestic abuse is one of zero tolerance, but let me put things in context. The previous Labour-led Executive introduced the specialist domestic abuse court that covers Strathclyde Police's G division area. The court sits daily from 10 am to 2 pm and deals only with domestic abuse cases that are perpetrated by men or women against men or women. It covers all stages of the court process from first

appearance to trial and disposal. Other services are involved in the pilot to provide assistance to victims. In addition, there is a dedicated procurator fiscal, with four dedicated sheriffs—so that they can acquire greater knowledge of what is involved. The social work service plays a role, and the excellent new assist service provides support to the victims of domestic violence after the event.

The aims of the pilot domestic abuse court were set out in an evaluation that was published earlier this year. They included:

“Increase effectiveness and efficiency in dealing with cases of domestic abuse.

Increase victims’ and witnesses’ participation in cases.

Increase victims’ and witnesses’ satisfaction with the criminal justice system.”

The evaluation says:

“Overall, it was clear that the pilot made a number of improvements to the process / practice for dealing with domestic abuse and there was a high level of satisfaction with the criminal justice response ... The criminal justice response was seen to have been effective, and had many benefits compared to traditional courts”.

The evaluation continues in detail, mentioning

“a higher proportion of cases in which there was a guilty plea ... a higher proportion of guilty pleas at the first appearance ... a higher proportion of pleas changed to guilty at or before the intermediate diet”.

Overall, the pilot was viewed as a great success.

The benefits of the pilot were also recognised by the minister in yesterday’s written answer to Johann Lamont’s questions. He stated:

“The court has clearly brought benefits to victims and families.”

However, his answer went on to say:

“Yet the research does not recommend replication of the pilot model across Scotland: it proposes that local solutions should be developed to meet local needs ... I do not expect to see specialist domestic abuse courts in all parts of the country.”—[*Official Report*, Written Answers, 19 September 2007; S3W-3782-84.]

That is a pity. I ask Mr MacAskill to reconsider. Page 5 of the evaluation clearly states:

“Overall, there was overwhelming support for a specialist court approach to domestic abuse amongst participants of all types, a high level of support for the pilot project to be rolled out across Glasgow and for the roll-out of a specialist court approach to tackling domestic abuse in the rest of Scotland.”

The justice secretary has commendably extended the financial backing to enable the Glasgow pilot to continue until March next year. He has also set up a working group—I am not sure whether Henry McLeish is chairing it—to tell him, by January, how the minority Scottish Government can best support a domestic abuse court that serves the whole of Glasgow. Domestic

abuse does not just happen in Glasgow, however. Sadly, it occurs all over Scotland.

**Kenny MacAskill:** As the member correctly says, we are seeking to extend the pilot to the whole of Glasgow. Glasgow sheriff court is the busiest criminal court in western Europe. Does the member realistically believe that what is suitable and necessary in Glasgow would work in Lochmaddy? I have had the privilege of attending Lochmaddy sheriff court, and I must say that what works in Glasgow will not necessarily work in Lochmaddy, just as what is needed in Lochmaddy will not necessarily be appropriate for Glasgow. Surely what we need is an approach that works on the ground, not a court that, given the size and specific problems of Glasgow, might not be capable of replication in jurisdictions such as Lochmaddy.

**David Whitton:** I hope that the minister is not suggesting that there is no domestic abuse in Lochmaddy. I know that he does not like comparisons with the rest of the United Kingdom, but there are, I think, 64 domestic abuse courts in England and Wales, and some of them are in rural areas—like Lochmaddy.

As I said, the minister has set up a working group to tell him, by January, how the Government can best support a domestic abuse court that serves the whole of Glasgow. I want the successful lessons that have been learned in Glasgow to help roll out domestic abuse courts across the country. How will the minister enforce his zero-tolerance approach—even in Lochmaddy—if it is left to sheriffs principal or criminal justice boards in different parts of the country to set their own standards? The standard has been set—the pilot project is a success, as the minister himself acknowledges. I urge him to get his working group not just to consider broadening the domestic abuse court to cover the whole of Glasgow but to report on how such courts might be rolled out across Scotland. In particular, the Government should consider how to extend the assist service to all victims of domestic violence throughout Scotland.

I understand why the minister says that he wants to develop a cost-effective, sustainable model. That is a worthy aim, and I am sure that our party would support it. However, I take it from his comment that he is worried about cost and that he wants to find out whether it is true that domestic abuse courts, with their specialist support staff, are more expensive.

The minister said in his speech that we should focus on what works. Domestic abuse courts work, and I urge him to extend them across Scotland.

15:54

**Jackson Carlaw (West of Scotland) (Con):**

There is an adage in business that perception is the truth, even if it is not the reality. The Labour Party will probably embrace that as a way of rationalising its defeat in May. It is certainly true of the events of the past week during which we have seen the first run on a UK bank in 140 years. The perception that savings were at risk was what mattered, not the reality that they were secure.

However, with penal policy in Scotland we have a rare beast, where the perception is both the truth and the reality. There is a complete loss of confidence in the integrity of sentencing and the use and effectiveness of community service orders, and a prevailing sense of chaos surrounds the implementation and management of almost all other supervised sentences.

I have said before that the new Administration is in an enviable position, because it has no record to defend. What it does now in Government will create the record on which it will be judged. However, that is not the case in relation to penal policy, because although the SNP was not in power over the past eight years, it certainly offered little opposition; rather, it marched to the same failed, prison-release drum beat. That impression is reinforced by the announcement that the man who was presider-in-chief over that failed policy is to chair the prisons commission.

In this chamber there is an arc of responsibility for the collapse of public confidence; it starts opposite me on the Labour seats, sweeps right round and, naturally, stops right here, at the Conservative seats. Time and again, the Scottish Conservatives have brought key issues before the Parliament only to find that, despite all the heartfelt expressions of concern for victims, the votes stacked up against victims and in favour of those who committed the crimes.

Although I understand the sentiments behind the motion, the fact is that the situation is being considered not from a position of strength but from a position of weakness. The Scottish Conservatives do not oppose community sentences, but we oppose sentences whose principal motivation is to avoid the need to build a new prison, to reduce the prison population per se or to reduce the cost. The public's perception is that the system is designed to disguise the extent of the problem. We have a state driven to devalue the tariff because of the scale of the problem underpinning it.

**Bill Butler:** It is a case of apocalypse now with Jackson Carlaw. Does he think that rehabilitation is at all possible? He seems to be arguing the contrary.

**Jackson Carlaw:** I was making the point that the Labour Party and others have been in denial

about the need to have tough, effective prison sentences.

I want principally to discuss rehabilitation. What do we do to address that issue? As an employer for more than 25 years in the motor industry, which involves many disciplines and employs people with all levels of skills and ability, I believe that it was part of our duty to offer employment, when appropriate, to those who had served their sentence. That typically included young males aged 16 to 30, to whom Alex Neil referred, many of whom had demonstrated a fascination with cars. Crucial to our approach was our belief that those whom we were considering had paid their penalty and were willing themselves to seize a better future. It was not always easy and we did not always pick winners. At one time, we employed the late Arthur Thompson Jr; there are some tales about that that I have yet to read in any book and would still be reluctant to discuss. Generally, there were issues of anonymity, and colleagues had some legitimate concerns, but we had our successes too.

If our system is to work, employers throughout Scotland must accept their responsibility to bring those who have served their sentence back into the workforce. However, that is barely mentioned as a priority in our penal policy. How many proactive initiatives have there been to reassure, encourage or incentivise employers? I did not see one in 25 years as an employer in a business that operated throughout central Scotland and employed several hundred people.

I acknowledge the role of the Prince's Trust and the other organisations that Alex Neil identified, but we need a bolder vision of working with employers to reduce reoffending. But—here is the but—for rehabilitation to work, everyone must have confidence in what has gone before, not just the public and potential future employers but those caught and sentenced. If they believe that for most crimes they will be out and about within a football season, they will think, "Why bother?" The reoffending rates prove that point.

If we are to make our penal policy progressive, we must act from a position of strength. That is why early release and the new early-release-by-another-name scheme are wrong. We must be prepared to build an additional prison. If the public and the criminal have confidence about the certainty of the outcome, and the sentence is custodial, yet measured, and served, the public need for protection and justice will be met. If we act from that position of strength, the prospect of genuine, employed rehabilitation will be more credible in the minds of those seeking their release.

There is one other link in the chain. We now know that the previous Administration starved

Scottish police of funding on any comparable basis with England. Some advantage has been made of a moment of candour in my maiden speech, when I queried why the Conservatives had arrived at a figure of 1,500 for the number of extra police officers needed, while the SNP had promised 1,000. I went on to answer my question, citing consultation, but I said that, with such common ground between the two parties, the key was that we needed to get on with it. Since then, the Cabinet Secretary for Justice has referred to strategies being worked up. In my day, we put an advertisement in the paper. How difficult is it? I tell the cabinet secretary to get on with it.

16:00

**Cathie Craigie (Cumbernauld and Kilsyth) (Lab):** I believe that everyone in the chamber knows of people who are in prison but should not be there. If the SNP is allowed to implement its penal policy, it will let dangerous criminals off too lightly—more lightly than communities expect. Ending six-month sentences will tie the hands of our judiciary and give government direction to our courts. Ultimately, that will let dangerous criminals walk from court. Pauline McNeill and Bill Aitken have already highlighted the importance of people leaving court having seen justice done and knowing that justice was done.

The figures that I obtained from the Cabinet Secretary for Justice this week show that 623 fine defaulters are imprisoned in Scotland—623 people in 623 cases in which a court found that a custodial sentence was not necessary. Are those people, for whatever reason, thumbing their nose at the justice system, or have they ended up in prison because of their inability to pay? I do not know the answer, but although I believe that fine defaulters should be compelled to pay their fines and given community sentences rather than prison sentences, we should be aware that the six-month sentences that the SNP proposes to cut are not just for those who do not pay their fines. They are also for class A drug pushers. The SNP will let those who blight communities in my constituency of Cumbernauld and Kilsyth, and who destroy young lives, walk from court. The cut will also affect those imprisoned for firearms offences. In truth, they could be given six-month sentences, and in truth the SNP is a soft touch for the perpetrators of the violence that scars too many areas in Scotland.

**Kenny MacAskill:** I appreciate the point about firearms that the member is genuflecting towards. On that basis, perhaps she will support the Government's desire to take measures against the use of firearms, particularly air weapons, and our call for the powers on that matter to be repatriated, as it is clear that nothing adequate is being done

south of the border and it is about time that we took powers and took action in the Parliament.

**Cathie Craigie:** I get the minister's point but, unfortunately, people who use firearms do not recognise borders. The issue is rightly one on which we should work with the UK Government.

In my opinion, the SNP is most certainly a soft touch for people who are violent in our community. The SNP manifesto states that one of its prime objectives is to reduce the size of the prison population. However, penal policy should not be about massaging prison numbers by ending six-month sentences; it should be about ensuring that sentences fit the crime and that people who are a danger to our community and to society are removed.

I draw the Cabinet Secretary for Justice's attention to those who find themselves in the criminal justice system and in prison not because they are criminals, but because they have serious mental health problems—I am sorry that he spent so little of his time speaking about that. From my experience and from information that has been provided by people who work in the Prison Service and for mental health organisations, I know that too many people are in prison who should not be there, but who should be supported in the community or in a national health service facility. People with serious mental health problems are living in conditions that are not conducive to addressing or treating their problems and people with learning difficulties are living in an environment that they do not understand and where they receive little support to improve their life chances. Bill Aitken, the convener of the Justice Committee, mentioned a visit that the committee made earlier this week. I am sorry to say that, on that visit, we met many people with those conditions.

I want to quote from Sacro's manifesto, which says that prison is damaging for people with such conditions, and that we need new approaches. The quote is from a woman called Sarah.

"The courts should not send people like me to prison. I see the same faces coming and going here all the time. Prison is not the right place for people with mental health problems."

Sarah has found herself going in and out of Cornton Vale since she was 17. If people saw what I saw on Monday and knew what that young woman was going through, they would agree with her.

Some people are remanded in custody not because they have committed a serious crime but because they have mental health problems. They are usually arrested for a minor crime under the heading of breach of the peace, and are picked up by the police for their own protection or for the

protection of a family member. Those people should be receiving medical help and most likely should be sectioned for their own good. However, such people are regularly being dealt with by the court system. Fiscals do not want them to go to prison, but when the courts look for support from the national health service, it seems to turn its back. That leads me to believe that psychiatrists might be making assessments based on their resources rather than on the needs of individuals. Prison is a very poor substitute when social service provision is inadequate.

Links must be made between the NHS, the courts and the Prison Service. I urge the minister to make those links and to address those points in his summing up.

16:07

**John Wilson (Central Scotland) (SNP):** I welcome the timing of this debate. Other members of the Justice Committee have spoken about our visit to Barlinnie prison on Tuesday. I, too, went on that visit, along with Stuart McMillan. Tuesday was the day on which we were informed that, once again, prison numbers were at a record level.

I would like to put on record my appreciation for the informative tour of the prison and the services that it delivers from David Abernethy, the deputy governor, and Gordon Pike, from the Prison Officers Association. The tour included a visit to the prison block cells and an opportunity to talk to staff who operate the link service in the prison. The link service introduces newly admitted prisoners to the prison regime and offers those prisoners counselling and other support services. The link centre also works towards preparing prisoners for their release by linking with Jobcentre Plus and other agencies—including organisations in the voluntary sector—and by bringing together a number of support services in preparation for prisoners' release.

We also visited the workshop where prisoners are introduced to construction skills and can achieve a nationally recognised certification level. That increases the opportunities for released prisoners to find employment in the building trade, although in many respects, the construction industry has failed to engage with the project. We have to address that failing.

Two of the main issues that staff identified in relation to prisoners' release were housing and employment. In Glasgow, prisoners are put in direct contact with housing providers, and they mainly find accommodation in city centre hostels; but prisoners returning to other local authority areas are issued only with a telephone contact number for a housing provider. That is a disgrace in this day and age. We are releasing prisoners

straight into the community without any roof over their head.

Over lunch during the visit, we were able to discuss frankly with staff some of the issues that they identified, such as the high number of prisoners who come from deprived areas. That issue has been raised time and time again in this chamber. The staff highlighted the fact that poverty plays a part in some people finding themselves involved in activities that lead them to become involved in the criminal justice system.

We also discussed with staff some of the alternatives to custody, such as home detention curfews. Such schemes could be extended, in particular for those who have been put on remand. It was felt that, for some individuals, that would be a better option than prison and would allow them to carry on with work and to remain with their family. Many people on remand lose a lot more than their liberty. They can lose their job, income, home and family. However, I accept that, in the interests of community safety and where relevant, certain individuals should be remanded.

Although concern about crime is nothing new, the concept that prison works is also nothing new, which is why I welcome the proposal to establish an independent commission to consider the use and purpose of prison. I am hopeful that such an independent commission will be as successful as the Kilbrandon committee, which was established in 1961 to examine issues of juvenile justice and children's welfare. The Kilbrandon recommendations gave a radical edge to policy development in the area of justice and built the foundations for the children's hearings and panel system. By putting lay members at the heart of the process, the Kilbrandon report still has lessons for today's justice agenda. To date, 10,000 lay members of children's panels have been appointed. Putting the public at the centre of such penal policy initiatives means that people take ownership of their communities.

**Pauline McNeill:** I find it difficult to disagree with Mr Wilson's analysis that there should be robust alternatives to custody. However, he mentioned the commission that we have still to hear more about. Is it his view that we should ask the commission to consider the abolition of short-term sentences, or is it the view of the SNP, as stated in its manifesto, that we should do away with such sentences?

**John Wilson:** I would hope that the commission would take an holistic view of our present penal system.

**David Whitton:** Was that a yes?

**John Wilson:** I said that I hope that the commission will take an holistic view of the current position.

Scotland needs to take measures to reduce offending and, more important, reoffending. Overcrowding in the prison system is putting the public at risk and does not help to reduce reoffending. The links between poverty and crime are well established, and anyone with even a brief knowledge of prisons will be aware that a significant percentage of the prison population come from deprived areas. As a matter of course, the independent commission that is being set up by the cabinet secretary needs to consider the links between poverty and crime. The Howard League for Penal Reform has launched a commission in England, chaired by former prison governor Professor David Wilson, to chart a course for the penal system for the 21<sup>st</sup> century.

The approach taken by the Scottish Government should be contrasted with that taken by the United Kingdom authorities. I would welcome a penal policy that considers the principles and limits of penal policy. Alternatives to prison custody should not be viewed, in some sort of media shorthand, as the soft option. It would be remiss of any Administration to ignore the fact that prison capacity continues to hit record levels. The average daily population of Scottish prisons for 2006-07 totalled just over 7,000—that is clearly unsustainable. In its research, the Howard League for Penal Reform has consistently highlighted the fact that community sentences that engage victims and their communities have achieved quality outcomes.

I welcome the motion. I look forward to the findings of the commission and to a justice policy that is fit for the 21<sup>st</sup> century and which does not rely on incarceration as the only way to deal with the problems faced by many individuals and communities in Scotland.

16:13

**Elaine Smith (Coatbridge and Chryston) (Lab):** I commend the previous Executive and the former Justice 1 Committee for their work on penal policy in the last session, and I urge the Scottish Government to build on that work. I also welcome Pauline McNeill to her new role as Labour spokesperson on justice.

Many areas of penal policy have been covered, but I want to concentrate on the specific issue of women offenders. I trust that the proposed commission will pay particular attention to that aspect of penal policy—indeed, I hope that the commission's make-up will be gender balanced.

A number of reports over the past few years have strongly linked women's offending with the three As—addiction, anxiety and abuse—all of which, in turn, are rooted in women's experience of poverty. Although women account for only a

small percentage of the prison population in Scotland, as Cathie Craigie said, the number who find themselves in and out of Scotland's only women's prison, Cornton Vale, is concerning. Too often for those women, breaking the law seems not so much a choice as a necessity for survival. Most have not committed serious or violent offences, and therefore pose little threat to the public. Further, many of them are mothers. Not only is the impact on children a personal tragedy, it affects society as a whole. When women are imprisoned, their children might be placed in care, which increases their chances of becoming offenders.

In 1998, the Government set a target of limiting the inmate population of Cornton Vale to 100 or fewer by the end of 2000. However, today, there are around 300 female prisoners in Cornton Vale, many of them repeat offenders. Too many of those women are victims rather than criminals. Dr Andrew McLellan, the chief inspector of prisons, concluded in a recent report that, of the inmates, 98 per cent had drug addiction problems, 80 per cent had mental health problems and 75 per cent had a history of abuse and very poor physical health.

Undoubtedly, policy on women in the justice system needs to be more focused on addressing the problems that lead to offending. It is inefficient and counterproductive to continue to focus heavily on jailing women who are guilty of minor and non-violent crimes. No one benefits from that approach and too many people, including children, suffer.

What do we do, then, with persistent offenders? What happens when all of the alternatives to custody have been exhausted? I agree that there are cases in which custody is the only option. In those instances, attention must be focused on providing support services that offer sufficient help to ensure that, following release, the women are not trapped in a situation in which criminality seems to be their only choice. Women who leave custody desperately need help to reintegrate into the outside world and break the cycle of offending that they are caught up in.

Studies show that the period following a woman's release from prison is vital in determining whether she will reoffend.

**Margaret Smith:** I was at Cornton Vale the other day with colleagues, and we heard positive news about the work that is being done there with local employers. In fact, local employers want to employ more women than are able to access work placements. However, Cornton Vale's role as a national prison poses a difficulty in that regard. The scheme has worked well for women who are local to Cornton Vale, but it has not worked well for women who have travelled hundreds of miles from the north or wherever. I echo what Elaine

Smith is saying, and I hope that the minister will take on board my point.

**Elaine Smith:** It is worrying that some women emerge from jail with only the price of a bus ticket and a few pounds to help with resettling. Many of them are not familiar with a settled existence as they are used to living chaotic lives. Intervention is desperately needed in those cases in order to divert them from prison and provide them with the tools that they need to cope with a normal life.

The needs of those vulnerable and damaged women are complex. The best chance of tackling persistent reoffending is afforded by adopting an holistic approach that addresses the difficulties that women face and investing sufficient resources in support services that allow community-based alternatives to custody. Many of those women need long-term professional help for everything from coping with mental illness and addiction problems to acquiring parenting and vocational skills. I was interested to hear the cabinet secretary say that people should receive help to turn away from a life of crime. I am interested to know exactly what kind of help is being proposed.

A new study by the charity Circle, entitled "What Life After Prison: Voices of Women in Cornton Vale", reinforces the idea that women are leaving prison with insufficient help to prevent them from reoffending, despite the efforts that Margaret Smith outlined earlier. The 107 inmates who were involved in the study were all mothers, but many had lost custody of their children, and most of them had mental health and addiction problems. One in three had already been inside more than three times, and only four said that their experience of support following release was good. To quote one of the pleas for help in the study, one woman said:

"I'll need help managing money, I won't manage on benefits and will go back to prostitution and then I can't get my son back."

The study indicates that the current system is not working. Of course, there are successful projects, such as 218 in Glasgow, which is supported by Glasgow City Council and was supported by the previous Scottish Executive. The purpose of that project is to address the root causes of women's offending and take an holistic approach to changing offending behaviour. It is important that such services are extended. Pauline McNeill asked the cabinet secretary to comment on that. I hope that he does so when he sums up.

Innovative projects for women in custody, such as the storybook mums project at Cornton Vale, should be supported and encouraged. I would like to go into that a bit more, but I do not have time. However, I ask the Scottish Government to take an interest in that project. It is primarily self-funding, but it could benefit from financial support.

In conclusion, many people regard alternatives to custody as soft options. They dismiss women in prison—a lot of whom are addicts and prostitutes—as failures, criminals and a waste of space. The reality is that those women make up one of the most marginalised and vulnerable groups. They have been used, abused and abandoned, and it is likely that their children could meet the same fate. Punishment is not what they need; they need help, support, an opportunity to participate in society and a chance to provide a better life for their families.

16:20

**Dave Thompson (Highlands and Islands (SNP):** We are all too aware of the overcrowded, overstretched and underresourced state of our Scottish prisons, which are kept afloat only by the sterling work of their staff. As Rhoda Grant said, in the most recent HM inspectorate of prisons report, from 2004, the staff at Porterfield prison in Inverness were highly praised. Considering the outdated infrastructure and high levels of overcrowding, that is true testament to Scottish Prison Service staff. Of course, Inverness is not alone. Prisons throughout Scotland have had excellent reports on their staff but lacklustre evaluations of facilities and infrastructure.

Porterfield prison is a good example of the problem that we face after years of neglect by the Executive of Rhoda Grant's party. Labour, along with the Liberals, had almost 3,000 days to solve the problem, compared with our SNP Government's 100-odd days so far, yet this Government has already announced £120 million a year for prison improvements, which will include a new prison at Peterhead—the current prison would have been closed if nothing had been done.

The long-standing problem at Porterfield was highlighted recently by Alastair MacDonald, a former governor of the prison, who stated:

"Recently, Porterfield Prison has been bursting at the seams and something may give soon. Despite the ongoing forced transportation of Highland prisoners of all ages and genders to overcrowded prisons in the central belt numbers have frequently exceeded 170."

On his retirement, which was not that long ago, he said:

"The prison population has gone up by 40% in 30 years and it is accelerating. How soon are we going to see 10,000 people locked up in Scotland? What is driving us as a nation to lock up so many people?"

He also said:

"When I started in the prison service, 96 in every 100,000 of the population in Scotland were in prison. It is now 135 per 100,000. Overcrowding is getting worse and nothing has been put in place to help the situation."

Finally, he said:



"There has been practically no investment in Inverness Prison since the early 90s."

Labour and the Libs have a lot to answer for.

The answer is not simply to build new prisons; we must also strive to reduce the prison population. It is important that jail is reserved for dangerous offenders and for the punishment of serious offences. A clear line must be drawn between serious criminals and minor offenders. We must realise that prison is not necessarily the best solution for all offenders. Lesser wrongdoings should merit tougher community penalties rather than short stints in prison, which achieve little and can exacerbate existing problems. In many cases, community punishments are far more effective and help offenders to re-engage with their communities.

Notwithstanding that, I am pleased that the Government has announced a new prison at Peterhead to replace the prisons at Peterhead and Aberdeen. I am also pleased by the announcement that the replacement prison at Bishopbriggs will now be publicly run. There is no doubt that public money is better spent on public projects. If we are to deal with the overcrowding in and poor infrastructure of our prisons, it is important that we ensure that public money is spent in the most effective way. We do not need new buildings that create an environment of resentment; we must create an environment of rehabilitation. Why should taxpayers' money go towards keeping criminals under lock and key when they will reoffend the second that they get out?

Year after year, the Scottish Prison Service sees the same faces, with a reoffending rate of epidemic proportions. Too little has been done in the past to address that revolving-door effect. Latest Government figures show that about 60 per cent of the current inmate population are reoffenders. That is neither acceptable nor sensible. Given the strain caused by overcrowding in prisons such as Porterfield in Inverness, there needs to be a focus on ensuring the success of rehabilitation, to ease the problem. As has been said, many prisoners have poor literacy skills, which holds them back from gaining useful employment and reintegrating into society. Alastair MacDonald said that in Porterfield

"a third of inmates ... could not read or write their own name, with 50% not even at the academic level of a primary 6 child."

That is shocking. If those offenders are given the ability to contribute to society through better education while in prison, we will all gain.

We need to maintain strong relationships between local police officers and residents in our communities. Local bobbies should be trusted and

well-known figures. Their role is not only to fight crime but to build a relationship that breeds confidence in and co-operation and comradeship with their communities.

Despite a rise in crime in the past year, Inverness remains one of the safest cities in Scotland, because Northern Constabulary has a positive bond with its community. Officers in the Highlands and Islands are a visible, trusted and dependable force. Residents feel that they can talk to the police about their concerns—whether vandalism, knife crime or drug abuse—and the police are perceived positively, in the main. Of course, all is not perfect. More needs to be done to allow police officers to stay in their communities for longer, to help them to build local bonds.

Our culture of drink, drugs and deprivation needs to be replaced by a culture of hope, responsibility and respect. Offenders should come out of prison positively changed by the experience. We need to give prisoners the ability to go on and make something out of their lives. Prison needs to become constructive and to have a more practical purpose than just keeping criminals off the streets. I hope that the cabinet secretary and the Government will continue the good progress that has been made, and that they will take into account some of the more practical solutions that have been offered today.

16:26

**Bill Butler (Glasgow Anniesland) (Lab):** I speak in support of the amendment in the name of my colleague Pauline McNeill, whom I welcome to her new position.

In his speech to Parliament on 6 June, in the debate on creating a safer and stronger Scotland, the cabinet secretary said:

"We need a coherent penal policy. Prisons should be for serious and dangerous offenders ... we need to shift the balance, with the less serious offenders who currently clutter our prisons being sentenced to community punishments."—[*Official Report*, 6 June 2007; c 408.]

There is little disagreement with his support for a coherent penal policy. Indeed, much of the Government's motion, which talks of

"a progressive penal policy which improves public safety, delivers"

condign punishment, protects

"the interests of victims and communities"

and "contributes to reducing reoffending" and promoting rehabilitation, is common ground. How we achieve all or any of those desirable outcomes is where the challenge lies and where the debate should be focused.

We all need to acknowledge the previous Labour-led Executive's work in laying the foundations for a stronger and more resilient justice system and a safer Scotland. To be fair to Mr MacAskill, he accepted that in his speech on 6 June, when he said:

"Tougher laws on prosecution and weapons, much-needed reforms of the courts and enhanced support for victims and witnesses were all brought in by the previous Administration ... and we acknowledge its efforts."—*[Official Report, 6 June 2007; c 406.]*

For completeness, I readily recognise that those reforms had most of the Parliament's support. Of course, members will accept that more work must be done, and that the problems that confront all of us as legislators are complicated. As Bill Aitken and the cabinet secretary said, there are no easy answers.

One of the more difficult questions is how we strike a rational balance between custodial and community sentences, and there is the related problem of how to develop a consensus on the symmetry between punishment and rehabilitation that can be accepted by the people whom we all seek to represent. That is no easy task.

The SNP's stated policy of ending six-month sentences other than in exceptional circumstances is superficially attractive, but I still worry that it will not improve matters for Scotland's communities. I accept that the cabinet secretary said that sentencing is absolutely a matter for the courts—we all agree with that—but that does not mean that the SNP will not implement such a policy. If implemented, the policy would not forbid sheriffs from imposing such a sentence, but it would restrict their scope to act.

If the cabinet secretary wishes to intervene to clarify the position, I will give way. If he does not clarify it, my view is that such a policy would be unnecessarily prescriptive and would bind the judiciary's hands a little more than at present. Equally worrying, it would send out entirely the wrong signal to the public. Sentences of less than six months are imposed not only on fine defaulters: they cover those who push class A drugs in our most vulnerable neighbourhoods; housebreakers who leave behind a trail of damage and heartache; common fraudsters who prey on the old and the weak; and thugs who employ physical violence that can leave innocent passers-by hospitalised and permanently disfigured. In my view, the policy would be a serious misjudgment. Sheriffs must retain the ability, having weighed up the circumstances of cases, to impose custodial sentences if appropriate.

**Patrick Harvie:** I accept Bill Butler's suggestion that an oversimplistic approach to the issue might be inadvisable, but is there not a clear reason for considering the policy? If we all agree that prison

should be used to confine those who are a genuine threat to the community, surely we are left with a problem, because a sentence of a few weeks or a couple of months gives no long-term protection to anyone. Surely we should design sentences to change behaviour and reduce the long-term threat, instead of merely giving people a couple of weeks' breather.

**Bill Butler:** I agree that sentences should change behaviour and reduce the long-term threat, but what the SNP seems to propose in its manifesto would, as I have just outlined, lead to people who had committed serious offences roaming the streets. The public should be protected from such people.

We all recognise that the cabinet secretary is as sincere as his predecessor in his desire to build a safer Scotland. We are all committed to that goal. However, I ask him and Mr Ewing to reflect on the efficacy of a measure that would produce the opposite effect to what is intended and, in reality, diminish the public's confidence in the rule of law. Let us, instead, work together where we can in developing sustainable measures, such as the innovative work of domestic abuse and drugs courts, which take action to address the underlying causes of reoffending and ensure that cases are dealt with expeditiously and appropriately.

I support the amendment in the name of my colleague, Pauline McNeill.

16:32

**Margaret Smith (Edinburgh West) (LD):** This has been an interesting debate. The only point that we are all agreed on is the fact that there is no easy option in considering penal policy. I agree with a great deal of what the cabinet secretary said. Rather more worryingly, I agree with a great deal of what Bill Aitken said as well. Pauline McNeill might not be the only person to see a change in her portfolio as a result of today's debate.

I agree with Bill Aitken that it is crucial that, in making progress, we toughen up community sentences. Some big questions must be considered in doing that. Scotland's prison population is at a record level despite a fall in the level of crime, and we know that we have not cracked the key issue of reoffending. More than 60 per cent of those who enter prison reoffend within two years, and 42 per cent of those who serve community sentences reoffend in the same period. That is worth looking at.

There is an obvious need for us to examine the use of prison and other disposals and to ask the questions that the cabinet secretary asked in his opening speech: who is going to prison and why? The challenge is to deliver a system that punishes,

protects and—crucially—tackles reoffending and rehabilitation.

We would be happy for the proposed commission to investigate short-term sentences, but I make it clear from the outset that public safety should be paramount. As the motion acknowledges, there are times when custody is the only appropriate disposal, but there are many other occasions on which individuals currently are not disposed of appropriately. For example, individuals are sometimes sent to prison for their own safety. Members of the Justice Committee have mentioned our visit to Cornton Vale prison this week. There, we met women with severe mental health problems, some of whom were on suicide watch, living in very stark conditions for their own safety. Those women should not be in prison; they should be in medium-secure units and mental health facilities. It is a disgrace that prison is being used as a place of safety for such women. We should all be determined in our efforts to address that situation.

We must tackle addiction issues, and the need for appropriate mental health services for the 70 per cent of prisoners who require them. I asked one prison officer with 20 years' experience whether things were better in the prison service now than they had been when she entered it. She said that facilities for staff and inmates were better, but that the people with whom the staff have to deal have much more serious mental health and addiction problems than they had 20 years ago. We have to face those big challenges.

Like the SNP, our manifesto presented plans to review the use of short-term sentences, and although we agree on the need for a review, the difference is that our proposals were about replacing sentences of less than three months with appropriate community punishments. In setting a lower limit, we were mindful of the sorts of offences involved. The SNP Government's proposals set a six-month limit, which obviously covers more serious offences. We are keen that the proposed commission should consider such limits and their possible impacts and, for example, the situation in Western Australia, which Pauline McNeill mentioned. However, it should be made clear that any decision will remain with the judiciary, because its members take on board all the evidence and reports on offenders, and the need to bear public safety in mind.

Is the Government still committed to doing away with short-term sentences of less than six months and replacing them with alternatives to custody? Will the Government rely on the proposed commission to suggest a limit? Understandably, Pauline McNeill said that we do not want to expose communities; we want to protect them from those who offend and reoffend. That is why

we need to ensure that when we are dealing with the problem we have properly resourced community sentences without the delays in the system that happen at the moment. We also want sentences to be carried out within communities, so that people can see that offenders are being held to account for their actions that blight the lives of their neighbours.

I welcome the minister's comments about our amendment, which tries to put some flesh on the bones. He might not want to make any structural changes, but the rebadging of the Scottish Prison Service into a custody and rehabilitation service is already happening inside and outside our prisons.

We must tackle reoffending. We all know that those who enter our prisons for short terms of incarceration are not given the chance to tackle their reoffending behaviour in the same way as those who serve longer sentences. Our amendment acknowledges the good work that is being done in prisons by link centres and it encourages the setting up of community equivalents, such as the pilot that is being undertaken by Sacro. The centres are one-stop shops that help those who are leaving prison to access education, work, housing, benefits and national health services.

Alex Neil made a thoughtful contribution about the importance of learning skills and of working with employers to ensure that people come out of prison with the right skills to give them a future in work.

A great deal of progress was made during the past eight years, as the minister acknowledged previously. We cannot get away from the issue of value for money. It costs more than £30,000 a year to keep someone in prison. Community alternatives can be much cheaper, and they can be effective, but we have to be sure to ask the kinds of question that Bill Aitken and others have raised today. We are not talking about an easy option; we need alternatives, whether they be addiction services, medium-secure units or tougher community sentences in which communities and offenders can have faith and confidence.

16:39

**John Lamont (Roxburgh and Berwickshire) (Con):** The debate has made for some interesting listening as members have addressed the issue that penal policy needs to move forward to ensure that it fulfils its duties to society.

Prison has four functions: to protect the public and to deter, punish and reform criminals. The removal of dangerous and violent people into a prison for the purpose of public safety is the most important function of prison. Public safety is

paramount. If our prisons are full, the Administration should not contemplate the early release of prisoners who have served only part of their custodial sentence, but should pursue even more vigorously the building of another prison.

Those with a custodial sentence should serve the full term: the public want those who have been convicted of a crime to spend their whole sentence in prison. I echo Jackson Carlaw's comments that the proper use of prison will eventually lead to a reduction in prisoner numbers, but that will happen only when more police are in our communities. We should properly end the scandal of early release, adopt a zero-tolerance approach to drugs and put in place effective services to ensure that criminals do not reoffend.

There has been a dramatic and worrying rise in the number of prisoners recalled from licence or supervision, proving that early release has been an unmitigated disaster, that too many prisoners do not leave prison seeing the error of their ways and that they remain on the conveyor belt of crime. Until those dangerous individuals have been removed from contact with the public and have been punished for their crimes, prison will not have served its fourth purpose—to act as a deterrent—and there will be no dramatic decrease in crime figures.

Although it is necessary to send to prison those who pose a risk to the public, options for those who commit other crimes exist. As Bill Aitken suggested, those who default on paying fines should not face imprisonment at the taxpayer's expense. Instead, the fine should be deducted directly from their wages or benefits.

**Patrick Harvie:** I put the same question to John Lamont that I put to Bill Butler. The member recognises that prison should be used for those who pose a genuine threat to the public and that other sentences are appropriate for those who do not. If someone poses a genuine threat to the public, what is the point of relieving that threat for a month?

**John Lamont:** The member is making a point about community service orders, of which we should make better use. If we need to put someone in prison to remove them from the public, we should not be afraid of doing that. At present, community service orders are seen as a soft option. The fact that in 2005-06 a quarter of such orders were breached and many were not completed is evidence that the system needs serious review and toughening up. Those subject to community service orders must be visible—the public must be able to see that they are facing punishment—and complete compliance must be enforced. Until non-custodial sentences are no longer seen as an easy option, short jail sentences remain inevitable.

The Scottish Conservatives are not against reducing the number of people in prison, but we are not prepared to do that if it means not protecting the public. First and foremost, we must fulfil our duty to protect the public and to ensure that all those who pose a threat are in our prisons. The proper use of prison is fundamental to ensuring that we put an end to the growth in crime figures.

**Pauline McNeill:** Given that the Conservative position is that judges' discretion in sentencing should not be removed, will the member support the Labour amendment to ensure that taking away that jurisdiction is not included in the proposed commission's remit?

**John Lamont:** No. Early release must become a thing of the past. Tougher non-custodial sentences must be introduced and more must be done to reform criminals, to enable punishment to be effective and to deter offenders from reoffending.

We must also ensure that more police are available to patrol our streets and to keep our communities safe. Only then will the Scottish penal system offer the correct punishments and act as a deterrent to those who have previously led a life of crime. It is interesting that the motion mentions reducing reoffending, but that will not be possible until the Administration realises that early release continues to pose the threat of reoffending; for that reason, it should be abolished.

The motion also mentions improving public safety. If we are to do that, more criminals must be taken off the streets and put into our prisons, which means building another prison to accommodate those offenders and the introduction of more police on our streets.

Although we welcome this debate, the current Administration must acknowledge that developing a progressive penal policy alone will not cut crime. We must also examine existing legislation to ensure that we give our penal and prison systems the best chance of reforming and deterring criminals whenever possible.

We will support the Government's motion tonight.

16:45

**Paul Martin (Glasgow Springburn) (Lab):** I thank the cabinet secretary for mentioning that, as a result of eight years of a Labour and Liberal Democrat coalition, there has been a reduction in crime. When Labour members made that very point, he did not support it.

Alex Neil made the case against the proposed commission when he referred to the Justice 1

Committee's comprehensive and significant work on this issue. The fact is that Scotland's elected representatives have already collated statistics, and I am concerned that the Government finds itself unable to move forward on that basis.

Moreover, the proposal for the independent commission lacks detail. I cannot imagine that, in their previous life as members of the Opposition, Fergus Ewing and Kenny MacAskill would have accepted such an announcement without any detail. I wonder whether Fergus Ewing can confirm the timescale for the commission's report.

We support the principle of rehabilitation and having alternatives to custody; indeed, members on these benches have said as much a number of times. However, we also realise that our communities need to be protected from some very dangerous individuals. I will be more specific about certain statistics that Cathie Craigie and others referred to. Under the proposals about six-month sentences, 600 housebreakers, 1,600 individuals convicted of common assault and 60 people convicted of serious assault and robbery will be set free. I do not know whether the minister wishes to intervene to tell me that those statistics are incorrect, but—

**Kenny MacAskill:** The only thing I would say is that I do not know where the member gets the phrase "set free". I have told Mr Aitken and, indeed, have reassured Mr Martin's executive colleague sitting next to him that we have not said that. That matter is, and remains, one for the courts. Any suggestion that those people will be set free is factually wrong.

**Paul Martin:** I thank Mr MacAskill for clarifying that point, to which I will return in a moment. He has also made it very clear that he is unable to deliver the prison places to deal with those individuals, which gives them a passport to freedom.

The SNP manifesto says:

"The presumption will be that an offender given a custodial sentence of less than 6 months will have that sentence turned into an equivalent punishment in the community."

As I said, that is not from one of my press releases or from any other Scottish Labour Party website. The SNP's manifesto makes it very clear that the individuals to whom I referred will be set free.

I realise that we face challenges in respect of the prison population. After all, 50 to 80 per cent of prisoners have difficulty with writing and numeracy skills and they are 13 times more likely to be unemployed than the general population. We also know that they face drug misuse and rehabilitation issues. However, the cabinet secretary's proposals are heavily dependent on the participation of offenders, and he must recognise

that, despite record investment in rehabilitation, the offender has to take part in these programmes in the first place.

As Mike Pringle mentioned, the SNP's manifesto says that it will provide £35 million of additional funding through changes to the Scottish Prison Service. When will that funding be provided? It is not good enough for the cabinet secretary simply to advise the chamber that he will provide additional funding; he has to tell us when it will become available.

I again refer to the SNP's manifesto, which outlines the early actions of an SNP Government. We know that one of those actions has been to change the name of the Scottish Executive to the Scottish Government. I appreciate that commitment, but we must question how serious the SNP is, given that, in the section of its manifesto on its early actions in government, it said:

"We will introduce a Criminal Justice Bill, which will include new arrangements for tough community sentences and steps to increase transparency, consistency and fairness in sentencing."

I ask the minister to clarify what is meant by early action. Does that mean next autumn, 18 months after the election?

A wide range of views were expressed on automatic early release, but the will of the Parliament was to scrap it. However, this Government is dragging its heels in ensuring that the will of the Parliament is delivered. During the stage 3 debate on the Custodial Sentences and Weapons (Scotland) Bill, Kenny MacAskill accepted the principles of the bill, which had been subject to a number of amendments, but said:

"We must ensure that the resources are in place before the bill is implemented."—[*Official Report*, 15 March 2007; c 33325.]

The bill was passed on 15 March 2007. It is now—unfortunately, from our point of view—the cabinet secretary's job to ensure that the necessary resources are provided. When will he do that?

When Fergus Ewing makes his closing speech, I urge him to give us no more preamble. I want to hear from the Fergus Ewing we saw in opposition—the straight-talking Fergus Ewing who accused many Executive ministers of being the toothless tigers of Government and who, on a number of occasions, referred to himself as the Celtic tiger. I ask the Minister for Community Safety to answer the questions for once. Will he provide the £35 million that the SNP committed to rehabilitation in its manifesto—yes or no? Will he apologise for the way in which the proposal for a commission has been introduced? Will he deliver the funding for the Custodial Sentences and Weapons (Scotland) Act 2007—yes or no? On a

more constructive note, will he meet me and Pauline McNeill to discuss issues relating to the success of the 218 programme in Pauline McNeill's constituency—yes or no?

I close on a consensual note by asking members to support the amendment in the name of Pauline McNeill.

16:53

**The Minister for Community Safety (Fergus Ewing):** I warmly welcome Paul Martin to the Opposition benches. His desire to see the return of the Fergus Ewing of yesteryear did not seem to be shared by all members. This wide-ranging debate has been full of heat and light and darkness and shade. Thoughtful speeches have been made by members of all parties.

There is a growing recognition inside and, in particular, outside the Parliament that we simply cannot continue with the existing system. Over the past 10 years, the level of crime in Scotland has remained largely static, but there has been a substantial rise in the daily average number of people in our prisons. If the rise in prisoner numbers that we have seen over the past few years were to continue, the main element of our penal policy would have to comprise the building of more and more prisons.

There is agreement that it is clear that there are some people for whom prison is absolutely the right place. Despite the controversial tone of some speeches that have been made, it seems clear to me that there is little substantial disagreement between the parties about the types of crime for which a custodial sentence is appropriate. As Margaret Smith and Bill Aitken wisely said, it is clear that there are no easy answers. If there were, they would have been found long ago. The job of members of all parties is to try to find a better and more effective policy.

The Labour Opposition has based its arguments on a false premise, or a false interpretation of what has been said. Its starting point is that our approach is simply to scrap all sentences of under six months, but that is simply not true. Parliaments legislate; the courts sentence. It is not for legislators to interfere with judicial discretion and the work of the courts. We do not do so. The Cabinet Secretary for Justice gave that assurance during the opening speeches, and I see no reason to repeat what he said. It is unfortunate that the Labour contribution to the debate has proceeded on the basis of dancing across a pin on a false premise.

**Pauline McNeill:** I am not dancing on the head of a pin. You must come to the chamber and be clear with us. Your policy position was a presumption against six-month sentences and

thus interference with judicial discretion. Are you saying that you have reversed that position? Please tell us, because we want to know.

**The Presiding Officer (Alex Fergusson):** I remind all members to speak through the chair, please.

**Fergus Ewing:** The facts are clear. At the moment, three out of four of those who are sentenced to six months or less in prison will reoffend within two years. The Labour Party may not like that, but that is the reality. If the current penal policy is so effective, why is there a failure rate of 75 per cent for those people? That fact alone has led most commentators inside and outside the chamber to believe that the right way forward is to have a fundamental look at the purpose of prisons and their effectiveness.

Many members—notably Bill Aitken, Margaret Smith and Mike Pringle—underlined the fact that we need to come up with more effective and workable community options. That those options are not currently effective in the way that they should be is common ground. The question is how we can make them more effective. By working with politicians in other parties and with those who belong to no party, the Government has already agreed that we will develop drug treatment and testing orders, which are highly effective. From memory, where such orders are undertaken—voluntarily, as they must be—by drug addicts, nearly half of those addicts become clean of drugs. The Government believes that if something works, we should try to replicate its success. The Conservatives have campaigned for a long time to extend the use of DTTOs so that they can be used by other courts beyond the High Court and the sheriff courts, and they have said that more women drug addicts should have access to them and that drug addicts who have committed fewer offences should not be prevented from having access to them. It has been suggested that they should be used by the district courts. We have said that we will develop a version of the orders. To be fair, I think that the Liberal Democrats agree with us, so there seems to be a majority. I hope that the Labour Party agrees that that would be one effective way in which we could tackle the real problems.

Many thoughtful speeches have been made. In particular, I refer to what Elaine Smith, Bill Aitken, Nigel Don and Margaret Smith said about women offenders. We accept that extremely difficult cases are involved and that it is extremely difficult to provide effective help. Speeches touched on the difficulty of the issues, but also on some solutions. We recognise that the 218 time-out centre, which opened in 2003, works. We welcome that centre's existence and congratulate all who were involved in setting it up. Replication of that project

throughout the country is plainly not in itself the answer, but we nonetheless want to develop and build on it.

I thought that, when we announced that the commission on prisons would be chaired by Henry McLeish, there would be an unchurlish and unqualified welcome from the Labour Party for the fact that its former leader would lead that vital task. I say to Pauline McNeill that we have confidence in Henry McLeish's ability to undertake the task with which he is entrusted. The fact that he has agreed to undertake it without remuneration shows his continuing commitment to public life in Scotland. He will bring his experience and expertise to bear on the task. We are delighted that Henry McLeish will chair the commission and we hope that the Labour Party will support him when it comes to voting on the commission at decision time.

## Parliamentary Bureau Motions

17:01

**The Presiding Officer (Alex Fergusson):** The next item of business is consideration of a Parliamentary Bureau motion. I ask Bruce Crawford to move motion S3M-500, on approval of a statutory instrument.

*Motion moved,*

That the Parliament agrees that the draft Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2007 be approved.—[*Bruce Crawford.*]

**The Presiding Officer:** The next item of business is consideration of 23 Parliamentary Bureau motions. I ask Bruce Crawford to move motions S3M-502 to S3M-515 inclusive, and motion S3M-525, on membership of committees; and to move motions S3M-516 to S3M-523 inclusive on substitution on committees.

*Motions moved,*

That the Parliament agrees that Hugh Henry be appointed to replace Charlie Gordon on the Audit Committee.

That the Parliament agrees that Trish Godman be appointed to replace Dr Richard Simpson on the Audit Committee.

That the Parliament agrees that Claire Baker be appointed to replace Mary Mulligan on the Audit Committee.

That the Parliament agrees that Lewis Macdonald be appointed to replace Iain Gray on the Economy, Energy and Tourism Committee.

That the Parliament agrees that Mary Mulligan be appointed to replace Pauline McNeill on the Education, Lifelong Learning and Culture Committee.

That the Parliament agrees that Michael McMahon be appointed as a member of the Equal Opportunities Committee.

That the Parliament agrees that Malcolm Chisholm be appointed to replace Jackie Baillie on the European and External Relations Committee.

That the Parliament agrees that Dr Richard Simpson be appointed to replace Lewis Macdonald on the Health and Sport Committee.

That the Parliament agrees that Helen Eadie be appointed to replace Karen Gillon on the Health and Sport Committee.

That the Parliament agrees that Rhoda Grant be appointed to replace Malcolm Chisholm on the Health and Sport Committee.

That the Parliament agrees that Patricia Ferguson be appointed to replace Michael McMahon on the Local Government and Communities Committee.

That the Parliament agrees that Des McNulty be appointed to replace Sarah Boyack on the Rural Affairs and Environment Committee.

That the Parliament agrees that Karen Gillon be appointed to replace Richard Baker on the Rural Affairs and Environment Committee.

That the Parliament agrees that Charlie Gordon be appointed to replace Des McNulty on the Transport, Infrastructure and Climate Change Committee.

That the Parliament agrees that Richard Baker be appointed to replace Dr Richard Simpson on the Subordinate Legislation Committee.

That the Parliament agrees that George Foulkes be appointed to replace Irene Oldfather as the Scottish Labour Party substitute on the Economy, Energy and Tourism Committee.

That the Parliament agrees that Richard Baker be appointed to replace George Foulkes as the Scottish Labour Party substitute on the Education, Lifelong Learning and Culture Committee.

That the Parliament agrees that Jackie Baillie be appointed to replace Karen Gillon as the Scottish Labour Party substitute on the European and External Relations Committee.

That the Parliament agrees that Irene Oldfather be appointed to replace Helen Eadie as the Scottish Labour Party substitute on the Health and Sport Committee.

That the Parliament agrees that Marlyn Glen be appointed to replace Mary Mulligan as the Scottish Labour Party substitute on the Justice Committee.

That the Parliament agrees that Trish Godman be appointed to replace David Whitton as the Scottish Labour Party substitute on the Standards and Public Appointments Committee.

That the Parliament agrees that Elaine Smith be appointed to replace Richard Baker as the Scottish Labour Party substitute on the Subordinate Legislation Committee.

That the Parliament agrees that John Park be appointed to replace Malcolm Chisholm as the Scottish Labour Party substitute on the Transport, Infrastructure and Climate Change Committee.—[Bruce Crawford.]

**The Presiding Officer:** Questions on the motions will be put at decision time.

## Points of Order

17:02

**Jackie Baillie (Dumbarton) (Lab):** On a point of order, Presiding Officer. Further to Alex Neil's earlier point of order on his assertion that he made a submission to NHS Lanarkshire's consultation entitled "A Picture of Health: A Framework for Health Service Improvement in Lanarkshire", information from NHS Lanarkshire suggests that four MPs and seven MSPs responded to its consultation and, try as I might, I could not find his name. Elaine Smith, Karen Whitefield and Cathie Craigie responded, as did our former colleagues Carolyn Leckie and Janis Hughes. Margaret Mitchell and Michael McMahon also responded, but not Alex Neil. Therefore, I invite him to apologise to the Parliament for misleading members earlier today.

**The Presiding Officer (Alex Fergusson):** That is not a point of order.

**Alex Neil (Central Scotland) (SNP):** On a point of order, Presiding Officer. Perhaps Jackie Baillie should do more research, as I submitted evidence as part of Lanarkshire health united. I drafted and led that submission. Unlike Jackie Baillie's Labour colleagues, I stuck by our principle of saving the accident and emergency unit in Lanarkshire when Labour wanted to shut it.

**The Presiding Officer:** That is not a point of order either. I take the opportunity to say that members are themselves responsible for what they say in the chamber. I am not here to act as a policeman of some sort by adjudicating on the accuracy of what is said during exchanges. The fact of the matter is that those points have been raised and are now in the *Official Report*. I hope that members are satisfied at that and that we can now move to decision time.



## Decision Time

17:04

### The Presiding Officer (Alex Fergusson):

There are seven questions to be put as a result of today's business. [*Interruption.*] I hope that members are paying attention, because there are quite a lot of questions to be got through.

The first question is, that amendment S3M-499.1, in the name of Mike Rumbles, which seeks to amend motion S3M-499, in the name of Richard Lochhead, on managing the risk of flooding in Scotland, be agreed to. Are we agreed?

**Members:** No.

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

### FOR

Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Margaret (Glasgow Baillieston) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Foulkes, George (Lothians) (Lab)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 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)  
 Kelly, James (Glasgow Rutherglen) (Lab)  
 Kerr, Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McArthur, Liam (Orkney) (LD)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Tom (Hamilton South) (Lab)  
 McConnell, Jack (Motherwell and Wishaw) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 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)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 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)  
 Aitken, Bill (Glasgow) (Con)  
 Allan, Alasdair (Western Isles) (SNP)  
 Brocklebank, Ted (Mid Scotland and Fife) (Con)  
 Brown, Gavin (Lothians) (Con)  
 Brown, Keith (Ochil) (SNP)  
 Brownlee, Derek (South of Scotland) (Con)  
 Campbell, Aileen (South of Scotland) (SNP)  
 Carlaw, Jackson (West of Scotland) (Con)  
 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)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Goldie, Annabel (West of Scotland) (Con)  
 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)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kidd, Bill (Glasgow) (SNP)  
 Lamont, John (Roxburgh and Berwickshire) (Con)  
 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)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMillan, Stuart (West of Scotland) (SNP)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 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)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Smith, Elizabeth (Mid Scotland and Fife) (Con)  
 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)

**The Presiding Officer:** The result of the division is: For 57, Against 62, Abstentions 0.

*Amendment disagreed to.*

**The Presiding Officer:** The second question is, that motion S3M-499, in the name of Richard Lochhead, on managing the risk of flooding in Scotland, be agreed to.

*Motion agreed to.*

That the Parliament notes that a Flooding Bill will be introduced during this parliamentary session; acknowledges the need for Scotland to take a more sustainable approach to flood risk management in order to tackle the increased risk of flooding associated with issues such as climate change; recognises the importance of the publication of the final report of the Flooding Issues Advisory Committee, which ran for two years, and considers that similar positive engagement with stakeholders, including those who have suffered the effects of flooding, should continue throughout the development of the draft Flooding Bill.

**The Presiding Officer:** The third question is, that amendment S3M-498.1, in the name of Pauline McNeill, which seeks to amend motion S3M-498, in the name of Kenny MacAskill, on penal policy, be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Margaret (Glasgow Baillieston) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Foulkes, George (Lothians) (Lab)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gordon, Charlie (Glasgow Cathcart) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Henry, Hugh (Paisley South) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Kelly, James (Glasgow Rutherglen) (Lab)  
 Kerr, Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Tom (Hamilton South) (Lab)  
 McConnell, Jack (Motherwell and Wishaw) (Lab)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)

McNeill, Pauline (Glasgow Kelvin) (Lab)  
 Mulligan, Mary (Linlithgow) (Lab)  
 Murray, Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Stewart, David (Highlands and Islands) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Whitton, David (Strathkelvin and Bearsden) (Lab)

#### AGAINST

Adam, Brian (Aberdeen North) (SNP)  
 Ahmad, Bashir (Glasgow) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Allan, Alasdair (Western Isles) (SNP)  
 Brocklebank, Ted (Mid Scotland and Fife) (Con)  
 Brown, Gavin (Lothians) (Con)  
 Brown, Keith (Ochil) (SNP)  
 Brown, Robert (Glasgow) (LD)  
 Brownlee, Derek (South of Scotland) (Con)  
 Campbell, Aileen (South of Scotland) (SNP)  
 Carlaw, Jackson (West of Scotland) (Con)  
 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)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Goldie, Annabel (West of Scotland) (Con)  
 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)  
 Hume, Jim (South of Scotland) (LD)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Adam (South of Scotland) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kidd, Bill (Glasgow) (SNP)  
 Lamont, John (Roxburgh and Berwickshire) (Con)  
 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)  
 McArthur, Liam (Orkney) (LD)  
 McInnes, Alison (North East Scotland) (LD)  
 McKee, Ian (Lothians) (SNP)  
 McKelvie, Christina (Central Scotland) (SNP)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMillan, Stuart (West of Scotland) (SNP)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Neil, Alex (Central Scotland) (SNP)  
 O'Donnell, Hugh (Central Scotland) (LD)  
 Paterson, Gil (West of Scotland) (SNP)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Russell, Michael (South of Scotland) (SNP)

Salmond, Alex (Gordon) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Smith, Elizabeth (Mid Scotland and Fife) (Con)  
 Smith, Margaret (Edinburgh West) (LD)  
 Somerville, Shirley-Anne (Lothians) (SNP)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Sturgeon, Nicola (Glasgow Govan) (SNP)  
 Swinney, John (North Tayside) (SNP)  
 Thompson, Dave (Highlands and Islands) (SNP)  
 Tolson, Jim (Dunfermline West) (LD)  
 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)

**The Presiding Officer:** The result of the division is: For 44, Against 75, Abstentions 0.

*Amendment disagreed to.*

**The Presiding Officer:** The fourth question is, that amendment S3M-498.2, in the name of Margaret Smith, which seeks to amend motion S3M-498, in the name of Kenny MacAskill, on penal policy, be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Brown, Robert (Glasgow) (LD)  
 Hume, Jim (South of Scotland) (LD)  
 McArthur, Liam (Orkney) (LD)  
 McInnes, Alison (North East Scotland) (LD)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 O'Donnell, Hugh (Central Scotland) (LD)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Tolson, Jim (Dunfermline West) (LD)

#### AGAINST

Adam, Brian (Aberdeen North) (SNP)  
 Ahmad, Bashir (Glasgow) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Allan, Alasdair (Western Isles) (SNP)  
 Brocklebank, Ted (Mid Scotland and Fife) (Con)  
 Brown, Gavin (Lothians) (Con)  
 Brown, Keith (Ochil) (SNP)  
 Brownlee, Derek (South of Scotland) (Con)  
 Campbell, Aileen (South of Scotland) (SNP)  
 Carlaw, Jackson (West of Scotland) (Con)  
 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)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)

Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Goldie, Annabel (West of Scotland) (Con)  
 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)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kidd, Bill (Glasgow) (SNP)  
 Lamont, John (Roxburgh and Berwickshire) (Con)  
 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)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMillan, Stuart (West of Scotland) (SNP)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 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)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Smith, Elizabeth (Mid Scotland and Fife) (Con)  
 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

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)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 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)  
 Foulkes, George (Lothians) (Lab)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gordon, Charlie (Glasgow Cathcart) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Henry, Hugh (Paisley South) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Kelly, James (Glasgow Rutherglen) (Lab)  
 Kerr, Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Macdonald, Lewis (Aberdeen Central) (Lab)

Macintosh, Ken (Eastwood) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Tom (Hamilton South) (Lab)  
 McConnell, Jack (Motherwell and Wishaw) (Lab)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 Mulligan, Mary (Linlithgow) (Lab)  
 Murray, Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Stewart, David (Highlands and Islands) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Whitton, David (Strathkelvin and Bearsden) (Lab)

**The Presiding Officer:** The result of the division is: For 13, Against 62, Abstentions 44.

*Amendment disagreed to.*

**The Presiding Officer:** The fifth question is, that motion S3M-498, in the name of Kenny MacAskill, on penal policy, be agreed to.

*Motion agreed to.*

That the Parliament believes that Scotland should develop a progressive penal policy which improves public safety, delivers appropriate and proportionate punishment, ensures that the interests of victims and communities are given proper consideration, contributes to reducing reoffending and encourages rehabilitation in order to build a safer and stronger Scotland; recognises that, in the case of some offenders, custody is the only appropriate disposal, and welcomes the proposal to establish an independent commission to consider the purpose and use of prison.

**The Presiding Officer:** The sixth question is, that motion S3M-500, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, on approval of a statutory instrument, be agreed to.

*Motion agreed to.*

That the Parliament agrees that the draft Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2007 be approved.

**The Presiding Officer:** I propose to ask a single question on motions S3M-502 to S3M-515, and motion S3M-525, on membership of committees, and motions S3M-516 to S3M-523, on substitution on committees. If any member objects to a single question being put, please say so now.

There being no objections, the next question is, that motions S3M-502 to S3M-515, and motion S3M-525, on membership of committees, and motions S3M-516 to S3M-523, on substitution on committees, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, be agreed to.

*Motions agreed to.*

That the Parliament agrees that Hugh Henry be appointed to replace Charlie Gordon on the Audit Committee.

That the Parliament agrees that Trish Godman be appointed to replace Dr Richard Simpson on the Audit Committee.

That the Parliament agrees that Claire Baker be appointed to replace Mary Mulligan on the Audit Committee.

That the Parliament agrees that Lewis Macdonald be appointed to replace Iain Gray on the Economy, Energy and Tourism Committee.

That the Parliament agrees that Mary Mulligan be appointed to replace Pauline McNeill on the Education, Lifelong Learning and Culture Committee.

That the Parliament agrees that Michael McMahon be appointed as a member of the Equal Opportunities Committee.

That the Parliament agrees that Malcolm Chisholm be appointed to replace Jackie Baillie on the European and External Relations Committee.

That the Parliament agrees that Dr Richard Simpson be appointed to replace Lewis Macdonald on the Health and Sport Committee.

That the Parliament agrees that Helen Eadie be appointed to replace Karen Gillon on the Health and Sport Committee.

That the Parliament agrees that Rhoda Grant be appointed to replace Malcolm Chisholm on the Health and Sport Committee.

That the Parliament agrees that Patricia Ferguson be appointed to replace Michael McMahon on the Local Government and Communities Committee.

That the Parliament agrees that Des McNulty be appointed to replace Sarah Boyack on the Rural Affairs and Environment Committee.

That the Parliament agrees that Karen Gillon be appointed to replace Richard Baker on the Rural Affairs and Environment Committee.

That the Parliament agrees that Charlie Gordon be appointed to replace Des McNulty on the Transport, Infrastructure and Climate Change Committee.

That the Parliament agrees that Richard Baker be appointed to replace Dr Richard Simpson on the Subordinate Legislation Committee.

That the Parliament agrees that George Foulkes be appointed to replace Irene Oldfather as the Scottish Labour Party substitute on the Economy, Energy and Tourism Committee.

That the Parliament agrees that Richard Baker be appointed to replace George Foulkes as the Scottish Labour Party substitute on the Education, Lifelong Learning and Culture Committee.

That the Parliament agrees that Jackie Baillie be appointed to replace Karen Gillon as the Scottish Labour Party substitute on the European and External Relations Committee.

That the Parliament agrees that Irene Oldfather be appointed to replace Helen Eadie as the Scottish Labour Party substitute on the Health and Sport Committee.

That the Parliament agrees that Marlyn Glen be appointed to replace Mary Mulligan as the Scottish Labour Party substitute on the Justice Committee.

That the Parliament agrees that Trish Godman be appointed to replace David Whitton as the Scottish Labour Party substitute on the Standards and Public Appointments Committee.

That the Parliament agrees that Elaine Smith be appointed to replace Richard Baker as the Scottish Labour Party substitute on the Subordinate Legislation Committee.

That the Parliament agrees that John Park be appointed to replace Malcolm Chisholm as the Scottish Labour Party substitute on the Transport, Infrastructure and Climate Change Committee.

## ICL Factory Explosion (Public Inquiry)

**The Deputy Presiding Officer (Alasdair Morgan):** The final item of business today is a members' business debate on motion S3M-374, in the name of Patricia Ferguson, on the ICL factory explosion.

*Motion debated,*

That the Parliament notes that, three years and three months after the factory explosion that claimed the lives of nine workers, badly injured many more and devastated the community of Maryhill, the companies involved, ICL Plastics and ICL Tech Limited, have pled guilty to breaches of health and safety legislation; recognises the dignified and responsible way in which the families of those involved in this tragedy have conducted themselves throughout this difficult time; notes the support and assistance given by the STUC and the families' lawyers throughout, and further notes the call by the families and their supporters for a wide-reaching public inquiry into the circumstances of this case and looks to the Lord Advocate to facilitate such an inquiry.

17:10

**Patricia Ferguson (Glasgow Maryhill) (Lab):** On 11 May 2004, employees of two companies, ICL Tech and ICL Plastics, arrived for work as usual. It was warm and sunny as the staff made their way into the former Victorian paper-mill to begin another working day. The companies specialised in plastics and plastic coatings, and production was largely carried out on the ground floor, with offices on the second floor.

At approximately 12 noon, the builder Kenneth Murray went into the basement to pick up his tools. He switched on the lights—it is presumed that that simple act was the trigger for the tragedy that became known as the Stockline explosion. What is known for sure is that nine workers died, 33 were injured, some very seriously, and 17, although not injured, were placed at risk of death. One 82-year-old passer-by was injured by flying debris.

For four days, up to 200 firefighters from all over the United Kingdom toiled in dangerous conditions to find those who were missing. For four days, Maryhill Road, normally a busy commuter route, was unnaturally quiet. For four days, the families of those who were missing waited for word of their loved ones. For four days, workers at nearby Community Central Hall did not go home, but stayed at their workplace, offering much-needed support to those who waited and searched. For four days, offers of help poured in from Maryhill and beyond, as people with no direct connection to the tragedy tried to do something to help. Over four days, the death toll rose until, on 14 May, the body of the last missing worker, Tim Smith, was found. Finding Tim signalled that the recovery

exercise had ended and that the investigation would begin.

For over two years, Strathclyde Police, the Health and Safety Executive and the area procurator fiscal's office were involved in a painstaking investigation into the cause of the explosion. What did the £1 million investigation reveal? Could the explosion have been avoided?

In 1969, the company had pipework installed to feed liquefied petroleum gas into the factory from a tank outside in the yard. The installer was a marine engineer, the brother-in-law of the chairman and chief executive of the companies. Whether that installer had any experience of that type of work was disputed in court. What was not in doubt was that the installation did not conform to the regulations that were in place at the time, and that the fittings on the pipe were neither galvanised nor wrapped to prevent corrosion. Five years later, an exposed section of the pipe was buried when the level of the yard was raised. Over the years, that pipe corroded, allowing LPG fumes to enter the basement area that had been created. Kenneth Murray's flicking on of a light switch was enough to cause the catastrophic explosion.

Could the explosion have been prevented? From the evidence that was presented in court, the answer seems to be that over the years a number of opportunities were missed, but which could have made a difference. First, had the pipe been laid according to the regulations that were in force in 1969, it might not have corroded. Secondly, had the pipe remained above ground, its deterioration would have been evident. Thirdly, had routine inspections of the pipe been undertaken, the corrosion could have been identified and the corroded section replaced—at a cost, as was revealed in court, of just £405. Finally, had proper health and safety assessments been carried out over the years, the potential danger of a corroding pipe would have been clearly understood.

When the case came to court, the two companies pled guilty to breaches of health and safety legislation and were found guilty. In fining each company £200,000, the judge said that the fines were not meant to equate to the lives lost, the injuries received or the suffering inflicted. As he remarked:

"These are not things that are capable of being expressed in terms of sums of money."—

a sentiment that the bereaved families share.

How do we ensure that such a tragedy never happens again? The families and their supporters, the Scottish Trades Union Congress, my Westminster colleague Ann McKechin and the thousands of people who have signed the petition

firmly believe that a full judicial public inquiry into all the circumstances of the case is needed.

By law, any death at work is automatically the subject of a fatal accident inquiry but, given that such an inquiry would be relatively limited in scope, we believe that a full inquiry initiated jointly by Holyrood and Westminster is required, not least because health and safety issues and the conveyance of gas through pipes are matters that rest with the UK Government.

We want all the issues that are raised by this case to be aired in public, not just those that we were able to hear about in court. In addition, the inquiry must have the scope to examine whether new legislation needs to be introduced to deal with such situations.

The relatives want an inquiry to consider why the number of accidents and injuries in workplaces in Scotland is higher than anywhere else in the UK and why the number of prosecutions is so low. They also want the inquiry to give due consideration to the level of fine that can be imposed.

The Lord Advocate has said that a decision will be made on this issue by the end of the month and we are grateful to her and to the Procurator Fiscal Service for meeting us. We are also grateful to the First Minister and the Secretary of State for Work and Pensions, Peter Hain, for meeting us in the past few weeks. They have heard directly from the families why a full judicial public inquiry is needed; I hope that they will realise that those families also represent all the other families who have lost loved ones, and those who have been injured at work. They also represent all those who waited, worked and watched with them during what were the longest four days of their lives.

To honour the memory of the nine people who died, we must do all that we can to ensure that such an avoidable tragedy never occurs again. That is why the families' call for a full judicial public inquiry must not go unheeded.

17:17

**Bob Doris (Glasgow) (SNP):** I pay tribute to the work that Patricia Ferguson and others have done in assisting the victims and their families after the terrible events of 11 May 2004. I associate myself with the motion and echo the comments about the dignified and responsible manner in which families who were caught up in this dreadful event have conducted themselves. No one knows how they would cope in such tragic circumstances until they are thrown into them. The motion is trying to ensure that no one else will ever have to experience what these families experienced.

Lessons must be learned, but that cannot happen until all the facts are held up to public scrutiny. The fact that the guilty plea means that fewer lessons can be learned has to be addressed. I agree that a wide-reaching judicial public inquiry into the circumstances of the case will lead to such lessons being learned. I am encouraged that our First Minister, Alex Salmond, has asked the Lord Advocate to consider the matter and that she will report back by the end of the month.

The comment of ICL Plastics on the disaster inadvertently reinforced the need for a public inquiry. The company said:

"Whilst we have pled guilty to the criminal indictment we faced and have apologised unreservedly, we refute the suggestion that our working practices were persistently or routinely deficient or that we treat our employees unfairly."

The company might well refute that suggestion, but that is just one of the reasons why all the evidence that exists must be scrutinised thoroughly and in public. Let us get to the truth; let us have the public inquiry.

At the time of the disaster, the Health and Safety Executive had only 68 inspectors to police 81,000 workplaces, so an inquiry should investigate the relationship between the Health and Safety Executive inspection regime and workplace health and safety regimes, and the effectiveness—or otherwise—of that relationship. A public inquiry is not just about justice for the victims and their families; it is, as I have previously said, about learning the lessons, and ensuring that such an incident cannot and will not happen again.

On justice, I am aware that compensation, whether in cash or any other form, cannot remove or make up for loss and suffering. However, the imposition of two £200,000 fines as the total sum of the consequences for ICL Plastics—for nine workers' lives lost and 40 workers injured—just does not seem to cut it. I understand the reasons behind the limitations on such fines—it was noted in the "The ICL/Stockline Disaster" report that the cost of fines might even be passed on to workers, who are most endangered by safety offences.

An alternative—or an addition—to fining companies would be to have an equity fine system, which has been developed by lawyers in the United States of America. Such a system would target guilty parties effectively and leave at least some form of positive legacy for victims, their families and affected communities. It would allow courts to order guilty companies to issue a quota of new shares to be administered by a state-controlled compensation fund. My colleague Bill Wilson has lodged a motion on equity fines, which I hope that members will have a look at.

However, today's debate is about the call for a public inquiry. I reiterate my support for a wide-reaching public inquiry, and once more I pay tribute to the dignity of the families of all those who were tragically affected by the terrible events of 11 May 2004.

17:21

**Cathy Peattie (Falkirk East) (Lab):** I thank Patricia Ferguson for bringing the debate to the chamber and for her work on the issue.

I welcome the recent independent report on the ICL/Stockline disaster. The Health and Safety Executive has chosen not to comment on the report in detail, but it says that it

"rejects the generalities of the accusations against HSE and its staff."

Whatever the Health and Safety Executive says about generalities, it would be remiss of us not to put the Stockline disaster in the context of what has been called the Scottish safety anomaly. The report highlights the rates of fatal and major injuries for Scotland as compared to those for the UK as a whole: the fatality rates for Scottish employees are on average 58 per cent higher than those for employees in the UK overall. The report states:

"HSE's attempts to explain this 'Scottish anomaly' have produced unsatisfactory conclusions."

The issue has been raised in the Parliament through motions that Cathy Jamieson and I lodged. It has also been pursued by the STUC, which has proposed a commission on health and safety in Scotland to address the problem. The issue is not just about the higher accident rates; there have also been lower prosecution rates and smaller fines.

It is vital that a public inquiry is held into the circumstances and causes of the explosion. I fully support the call for an inquiry and I hope that the remit will be broad enough to allow consideration not only of the specifics and why the company and regulatory authorities failed to prevent the disaster, but of the wider context in which the accident occurred. Only by considering the Stockline disaster and its relevance to the generalities of health and safety in Scotland can we hope to address the unacceptable record and improve the working lives of the people of Scotland.

17:24

**Bill Aitken (Glasgow) (Con):** I, too, thank Patricia Ferguson for bringing the matter before the Parliament. The events at the Stockline factory were truly horrific and it is entirely appropriate that the Parliament takes the opportunity to debate the matter. When people go to their work, they are

entitled to expect that they will work in a safe environment and the relatives of people who go to work have the right to expect that their loved ones will return home safely at night. I pay tribute to the dignified manner in which the relatives of the Stockline victims and those who were injured on that terrible day have conducted themselves since then.

As we know, there was complete deficiency on the part of the company, which had to answer in the High Court for its negligence. It was fined appropriately. However, some questions clearly still require an answer. As Cathy Peattie rightly said, the regulatory authority and the Health and Safety Executive appear to have fallen a great deal short of what we would have expected of them. That did not come out in the court case.

The law is quite simple: in certain circumstances—for example, when a person dies in prison or at work—it is a requirement that a fatal accident inquiry be held by the sheriff in the jurisdiction of where the accident happened. That would be the bottom line in this case. There would have to be a fatal accident inquiry after which the sheriff would recommend where he or she thought that there should be improvements in the way, for example, a particular work process was carried out. In this case, the inquiry would highlight the failures of the inspectorate.

However, the fatal accident inquiry system is not exhaustive. Bill Butler could confirm that the Justice Committee has considered certain aspects of the operation of the FAI system. We are awaiting responses from the Executive. It is not beyond the bounds of possibility that a much fuller inquiry will be carried out into the operation of legislation that is now more than 30 years old. We need to know whether that legislation is still effective and is still compatible with changed times. We have to learn the lessons of Stockline, but it is doubtful whether the existing system of fatal accident inquiries would allow a satisfactory examination.

I am content to leave the matter in the hands of the Lord Advocate. However, if there were any dissatisfaction with the approach taken to any inquiry held by the sheriff, I would not see any problem in extending the inquiry along the lines that are suggested in Patricia Ferguson's motion.

This is a sombre debate. Matters of this type will always be tinged with sadness. If there are lessons to be learned, we must learn them. I am content to leave it to the Lord Advocate to determine the way in which an inquiry would take place. However, clearly, the views of the relatives have to have primacy.

17:28

**Sandra White (Glasgow) (SNP):** I thank Patricia Ferguson for securing this very important debate. I pay tribute to her tenacity in pursuing justice for the families and others who have suffered greatly from this terrible tragedy. She has shown us all what an MSP for an area can do when a tragedy such as this one happens. She was one of the first ones down there—I was there as well—and I congratulate her on all the hard work that she has done.

I also want to praise many individuals and groups—for example, the fire brigade, the ambulance crews and the workers of Community Central Hall. In particular, I praise Gary Gentle for the excellent work that was done and for the comfort that was provided to many people. As Patricia Ferguson said, Community Central Hall in Maryhill was open for 24 hours on those days. Staff sometimes went for 24 hours, or even longer, without any sleep, just so that they could offer food, tea and coffee and could provide basic comfort. They set up an incident room so that people could have access to emergency telephone calls from the police and the ambulance service. Those people cannot be praised highly enough for the comfort that they gave to suffering people.

I went along—Patricia Ferguson was there too—to talk to people who did not know what had happened to their family members. Nobody knew who had been involved, and nobody knew who would come out alive and who would come out dead. Speaking to those people was gut wrenching.

The comfort that was provided by ordinary individuals as well as by groups was something to see. Patricia Ferguson mentioned someone who was killed in the explosion who was an acquaintance of my brother. I was not directly affected as relatives were, but I know exactly what people were going through. That is why I signed the motion; I also signed a petition on the matter, and I whole-heartedly support a full public inquiry into the disaster.

Patricia Ferguson went into great detail about the evidence that has emerged. I believe that the Stockline disaster was caused by years of neglect by the company. The Government watchdog was meant to regulate the factory but, according to reports out today, it did not do so in the proper manner. According to the *Sunday Herald*,

"Eight experts from four universities have condemned ICL Plastics and the Health and Safety Executive ... for failing to prevent the gas explosion".

Those are not my words but the words of experts, who said that conditions in the factory were poor, safety rules were broken and corners were cut to



save money. That is why we need a public inquiry. Lots of questions need to be answered, and we need to ensure that such a tragedy does not happen again. In a public inquiry, questions would have to be asked of the HSE's role in the matter. Were assessments properly carried out? Were workers' concerns listened to? Should spot checks be carried out by the HSE? All those issues have to be raised, and only a public inquiry will bring the truth out.

The families of the people who died in this terrible tragedy deserve to know the truth. I urge the minister to press for a public inquiry.

17:31

**Robert Brown (Glasgow) (LD):** I join other members in thanking Patricia Ferguson for securing the debate and for speaking so movingly about the events of three years ago. I apologise if I am unable to stay until the end of tonight's debate.

Some members have touched on the harsh reality behind the debate: Scotland appears to have a substantially worse health and safety record than the rest of the UK, with a death and injury toll that is still far bigger than it needs to be. Some industries are worse than others. Over the years, as a solicitor handling accident claims, I have been in factory premises representing both pursuers and insurers. I have had the opportunity to see a snapshot of what goes on. It is fair to say that, even in my experience, the difference between the best firms and the worst firms is stark. It is also true that many accidents are predictable and avoidable.

Like other members, I visited the site of the Stockline disaster just after the accident. I saw for myself the extent of the devastation, and the dedication and professionalism of the chief fire officer—or deputy chief fire officer, as he was then: Brian Sweeney and his staff. I have had the chance to read both reports on the criminal court case, in which the judge, Lord Brodie, described the breach of health and safety laws as

“at the lower end of the scale”.

The independent report produced by the Universities of Strathclyde and Stirling paints a rather different picture. It describes an authoritarian style of management, an absence of employee consultation, high risks posed by the presence of many dangerous chemicals, homemade and antique equipment, a lack of a health and safety committee, and a lack of risk assessments required under the control of substances hazardous to health—or COSHH—regulations.

Even more worrying, as Bob Doris mentioned, is the fact that the report suggested that HSE

inspectors were unable to comprehend the complexity and gravity of the hazard to which workers in the plant were exposed. It also touched on the numbers to which Bob Doris referred. There were reports of a range of industrial diseases caused by exposure to the plastics chemicals, and a suggestion of structural issues with the building, to say nothing of the apparent lack of training provision and inadequate extraction equipment.

The report is compelling and hair-raising. I am not qualified to judge its accuracy and comprehensiveness—as I understand it, it was not designed to provide a causal link to the accident—but it casts a cruel light on the state of affairs at Stockline before the disaster, which was the worst since Piper Alpha. To my mind it provides a compelling case not just for a public inquiry but for a wide-ranging judicial inquiry that can consider those matters in context. Such an inquiry should not be limited to the accident; it should consider the more general implications for accident prevention and good practice, because I suspect that Stockline was not an entirely untypical industrial unit in Scotland.

In my experience, bad health and safety practices are sometimes associated with declining businesses that lack the cash, the insight or the capacity to modernise processes and equipment or to move to more modern, purpose-built premises. That is a challenge that we need to address as a society through the structure of any grants or support that might be available, but the suggestion is that Stockline did not fall into that category and that the parent company was cash rich. That brings us back to the HSE inspectorate. Responsibility for the HSE is reserved to Westminster and any public inquiry should involve the United Kingdom Government as well.

The facts—a £400,000 fine, nine people dead and 33 people injured—are a telling commentary on some aspects of the way in which we approach things in modern Scotland. A wide-ranging judicial inquiry should be carried out. I am keen to support Patricia Ferguson's motion.

17:35

**Karen Gillon (Clydesdale) (Lab):** I join others in congratulating Patricia Ferguson on securing this important debate, although I am sure that it is a debate that she would have preferred never to need to bring to Parliament.

Like others, I pay tribute to the dignity with which survivors and their families have conducted their campaign and have sought to bring those who are responsible to account. None of us in the chamber can begin to imagine the emotions that they have experienced—the grief, the frustration and the

despair. We cannot imagine the anger that they must feel at the fact that their loved ones went to work in the morning and did not come back at night. As Bill Aitken rightly said, we should all be able to expect that our loved ones will return to us.

As members will be aware, I have long had an interest in corporate culpable homicide. It began after the deaths of four of my constituents in a gas explosion in 1999. The similarities between that case and the Stockline case are, quite frankly, alarming. Dangerous, explosive gas leaked from a pipe that was not properly maintained into a building that contained people, something triggered an explosion and innocent people died.

Stockline, like Transco, might not accept that anything in their working practices led to the tragedy, but—call me old fashioned if you like—I believe that a pipe needs to be maintained over a period of time to ensure that it is safe and secure. I do not share the views of those companies and neither did the courts. However, in this case, the absence of a full trial means that the full facts have never been explored and tested. They have never been put through the wringer of public scrutiny in a way that will enable people to understand why their family members did not return home that night and why they live with the physical and mental injuries that that explosion inflicted on them.

I support Patricia Ferguson's call for a joint public inquiry by the UK and Scottish Governments. There have most certainly been failings in the way the company conducted itself and in the way the HSE managed the case. We need to learn the lessons.

For too long, Scotland has been the capital of industrial deaths in Britain. This Parliament owes it to the people who have died in this case, in the Transco case and in other cases to ensure that the lessons are learned and that those who are responsible are held to account. A full public inquiry in this case will give us an opportunity to do that. The UK Corporate Manslaughter and Corporate Homicide Bill provides a new legal framework, but I remain to be convinced that it is sufficiently robust to deter employers who are hell-bent on putting profit before public safety. This Parliament might, in time, need to act for itself.

17:39

**Hugh Henry (Paisley South) (Lab):** I, too, pay tribute to Patricia Ferguson for enabling this Parliament to express not only its concern but its anger about what happened in this tragedy. The tragedy affected the people in the factory, but it is not just a Glasgow issue—there are families in my area, Renfrewshire, who also grieve as a result of that dreadful disaster.

As other members have said, one of the factors that has marked what has happened since the tragedy is the dignity of the survivors and the families. Another is their determination—ably supported by Patricia Ferguson and the STUC—to see a number of developments: they rightly want justice for themselves and for their loved ones, but they also want to ensure that such an event never happens again. They want to see lessons being learned so that others will not have to suffer as they have suffered. We can do a small thing to help them get the reassurance that others will not suffer, but we cannot directly and immediately offer them a solution.

Robert Brown outlined some of the dreadful things that were done—or not done—in the factory but, unfortunately, the legal remedies are complex. A great deal of deliberation and debate will be required to resolve them. They cannot be resolved by the Parliament or by the Scottish Executive or Government on its own—something needs to be done in partnership with the UK Government. That is why Patricia Ferguson is right to call for a full judicial inquiry. We need to know all the circumstances of the tragedy. We need to know what happened and why it happened. We also need to shine a light on the way forward. We must look into the dark recesses of our legal system to see what can be done and how something can be changed to ensure that others do not suffer in the future.

That is easy to say—we all made similar statements when Karen Gillon raised the Transco tragedy. We all said that something like that should never happen again. Not only did it happen again, it happened on a much bigger scale. God help us as to what might happen in the future if we do not learn the lessons and apply our minds to coming up with suitable remedies.

Patricia Ferguson is right to say that a full judicial inquiry should be held to give us the framework for looking for solutions to give other workers the assurances that they deserve. I think that that can be done, but it is a matter of will. I am heartened by the support from across the political parties. This is not a party political issue. I am heartened that so many people are speaking with one voice to say that we owe it to those who have suffered to ensure that something comes from this.

17:43

**The Minister for Community Safety (Fergus Ewing):** Patricia Ferguson eloquently described the tragic events of 11 May 2004 and the immediate aftermath. It is clear that she has discharged diligently and with dignity her duties as the constituency representative of many of those involved. It is appropriate for me to pay tribute,

too, to the member of Parliament, Ann McKechin, and to Ian Tasker of the STUC for the considerable work that they performed throughout and in the years subsequent to the tragic events. The tragedy appears, from the very fact of the guilty pleas, to have been avoidable.

I join all other members in paying tribute to the outstanding work of the emergency services in the immediate aftermath—not only the fire, police and ambulance services but the health workers in Glasgow's hospitals, who I understand undertook a mammoth effort to deal with the human carnage.

The First Minister stayed to hear Patricia Ferguson's speech. Unfortunately, he has had to leave to attend to other duties, but he told me that yesterday evening he personally met the families involved. As members would expect, he has taken a personal and very close interest in the outcome of these matters.

Following the conclusion of the criminal proceedings, the Lord Advocate decided that it would be appropriate to hold an inquiry in public into the circumstances surrounding the explosion at the ICL factory on 11 May 2004. The Lord Advocate must decide on the type of inquiry. I know that Patricia Ferguson, along with Ann McKechin and others, has met the Lord Advocate and made representations about the inquiry's scope and remit.

As Patricia Ferguson knows, the decision is not for me but for the Lord Advocate to take. I wanted to inform the Parliament about the decision clearly, so I can quote that

"The Lord Advocate intends to make arrangements for the families to be notified of her decision on which type of Inquiry is to be held before any formal public announcement is made."

As members may be aware, three kinds of inquiry are being considered. The first is an inquiry under the Health and Safety at Work etc Act 1974, which the relevant UK department would hold. The second is a fatal accident inquiry under the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976, which the Crown would lead. The third option is to hold a joint inquiry with UK ministers under the Inquiries Act 2005.

The Lord Advocate has met Lord McKenzie, the UK minister with responsibility for health and safety, to discuss the inquiry options that are available and to obtain his views on the possibility of inquiries under the 1974 act and the 2005 act. As Patricia Ferguson knows, the Lord Advocate has also met the families of victims and of survivors of the tragedy to listen to their views on the type of inquiry that they feel should be held and on the matters that they believe should be aired in public.

In preparing for the debate, I studied yesterday evening a report prepared by the Universities of Strathclyde and of Stirling on the ICL/Stockline disaster—Robert Brown and others referred to the report. It is correct for me as part of the Scottish Government to say that in referring to the report, I do not prejudge any of the issues that are involved or express any view on the Government's behalf on the report's contents. However, anyone whose heart is not made of stone could not but be moved by some of the report's contents and by the chilling narratives in it from some of the workers.

As members have correctly identified, it is clear that a number of questions need to be pursued in the inquiry. They include questions about exposure to chemicals such as styrene and trichloroethylene, about ventilation—or the lack of it—in relation to exposure to hazardous chemicals and about the Health and Safety Executive's role. Having read the whole report yesterday evening, I had better say no more in that regard. It is clear that all those issues must be fully investigated.

The explosion was one of the most serious industrial tragedies that Scotland has seen. The Government and the First Minister are determined that an inquiry should be held, which will provide a proper focus and a full opportunity to answer the questions that members have been right to raise in the debate and will ensure in so far as is possible that such an incident never occurs again.

*Meeting closed at 17:49.*



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